

TO: THE COMMON COUNCIL

DATE: June 21, 2007

FROM: THE DEPARTMENT OF
AUDIT & CONTROL

SUBJECT: Diversity Hiring Goals
Item No. 105, CCP, 5/29/07

We have received the Council's resolution pertaining to a desire to make the Department of Community Services and Recreational Programming, Office of Contract Compliance (OCC) the signatory on all payouts on contracts over \$8,000 on City projects, along with other contract compliance duties. The following is our response.

The premise of the resolution suggests that there is no mechanism in place to enforce compliance with minority and women business enterprise (MWBE) hiring goals. It would seem that the first order of business would be to fund or otherwise provide appropriate staffing for the Office of Contract Compliance to do what it was originally mandated to do.

The second "Resolve" wants the OCC to conduct compliance reviews on all contractors and vendors with contracts over \$8000 to determine compliance with MWBE goals. Not all contractors and vendors are subject to MWBE rules, regardless of the contract amount. Given the number of contracts processed by the City of Buffalo every year, staffing at OCC would be the primary question.

The third "Resolve" seeking to debar contractors in violation of MWBE hiring goals should be forwarded to the Law Department for comment. Failure to meet goals is not necessarily a violation of the contract; any penalties should be laid out in the agreement beforehand. Goals are not quotas and cannot be treated as such. The City does possess debarment powers under the Charter Section 10-34 for proscribed reasons. At best, a Charter amendment may be necessary to add this as an allowable reason to debar or suspend.

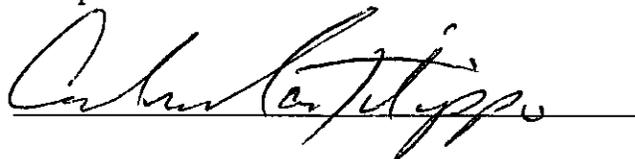
The Division of Audit reviews all contracts, along with the Law Department and the department that engaged the contract. As the law currently stands, these reviews are sufficient to ensure the interests of the City of Buffalo are protected. If the OCC is properly staffed, it can perform its duties as originally intended.

If you have any other specific inquiry of the Department of Audit and Control, please feel free to let us know.

DEPARTMENT HEAD: Andrew A. SanFilippo

TITLE: Comptroller

SIGNATURE:



A handwritten signature in cursive script, appearing to read "Andrew A. SanFilippo", is written over a horizontal line.