

**PENNSYLVANIA HOUSE OF REPRESENTATIVES**

**LOCAL STATE GOVERNMENT COMMITTEE**

**TESTIMONY OF PETER SPEAKS**

**SEPTEMBER 19, 2012**

Good afternoon, my name is Peter Speaks and I currently have the privilege of serving in the state legislature as Special Counsel to State Senator Vincent Hughes, Democratic Chair of the Appropriations Committee. I am appreciative of the opportunity to present testimony in support of the legislative package of bills related to small minority, women, veteran and service disabled-owned and disadvantaged businesses. As the former Deputy Secretary and Advisor to the Governor for Minority and Women-Owned Business Development, this is an issue about which I am very passionate.

**OVERVIEW**

Let me begin by saying that small minority, women and veteran-owned firms are important economic drivers and represent the most promising segment of our state's economy. These businesses also create jobs and contribute significantly to the economic and social stability and well-being of our communities and the Commonwealth as a whole.

To give this issue some historical context, the Commonwealth's efforts in earnest to eliminate barriers and create economic opportunities in state contracting for minority, women and disadvantaged businesses actually goes back quite a number of years. If I may, I will give a very quick timeline as to how we got to House Resolution 78 which was the precursor to the current legislative package that is before this committee today; and importantly, why it's so important to continue to move the ball forward by promoting economic opportunities for all segments and markets of Pennsylvania's economy.

In 2001, an audit of the state's Minority and Women Business Program Program by the Department of the Auditor General found that the Commonwealth had a very weak commitment to minority and women business development. The audit made over 30 recommendations to improve state contracting opportunities and to help level the playing field for minority and women-owned businesses.

In 2003, a number of the audit recommendations and other reforms were implemented into the Commonwealth's Minority and Women Business Program. As a result, the overall minority and women participation in state contracts increased from less than 2% in 2003 to over 17% in 2010; and in some areas, the participation level was even higher.

### **Disparity Study**

In 2008, the Commonwealth released its first ever disparity study which looked at state construction projects over a three year period to determine whether [disadvantaged business] participation levels were commensurate with the availability of these businesses to perform the work.

The disparity study found that there was a statistically significant disparity in the award of prime and subcontracting opportunities to minority and women-owned firms. Importantly, however, -- And this is why this is again why this legislation is so important --the [disparity] study provided clear information on the many barriers still facing minority, women and disadvantaged firms, such as bonding requirements and financing. The study also set forth a number of recommendations to improve the commonwealth's overall program.

### **House Resolution 78**

In 2009, the evolutionary process continued when House Resolution 78 was finally introduced and established the House Select Committee on Minority, Women and Disadvantaged businesses. The committee later produced a report in September 2009, which included 16 sets of recommendations to ensure a level playing field and continued participation in state contracting by disadvantaged small businesses.

I had the opportunity of attending and participating in the public hearings that were held throughout the Commonwealth with input from the select committee, business owners and other stakeholders. Some of those recommendations included the following:

- Establishing an aspirational targets of 25% on procurement and construction contracts;
- Increasing the employee size from 100 to 250 under the definition of a “small business”
- Prompt payment and good faith requirements;
- Establishing a statewide bonding program;

- Establishing a Small Business Reserve Program;
- Establishing a Mentor/Protégé Program.

## **Current Initiatives**

### *Small Business Reserves*

In 2012, the Small Business Procurement Initiative was implemented by the Department of General Services (DGS). The idea around the Small Business Procurement Initiative to promote greater opportunities for all small businesses, including minority, women, veteran and service-disabled veteran-owned businesses by setting aside certain procurements or creating – if you will – a sheltered market for these businesses to bid as prime contractors.

In fact, this initiative, with the exception of the veteran's piece, was actually formulated and piloted several years ago when I was at DGS, and after an extensive review of several other states that had successful Small Business Reserves or Initiatives. I would note, however, that the piloted version and one of the key provisions of the proposed legislation before this committee provides for each agency and state-affiliated agencies to place 10% of their procurement dollars into a small business reserve, while the current DGS policy does not have a percentage amount.

Currently, the Small Business Procurement Initiative, along with the changing of the name of the Bureau of Minority and Women Business Opportunities to the Bureau of Small Businesses was purportedly to reflect a more race and gender neutral program. Without going into the legal and policy analysis on race and gender neutral versus race and gender conscious programs, it is important that the Commonwealth not take attention away from minority, women and now veteran-owned businesses, and continue to do everything to develop and grow these businesses, many of which are positioned to go to the next level.

### *Small Veteran and Disabled Veteran-owned Businesses*

As mentioned, the Veteran-owned businesses and service-disabled veteran-owned businesses have also been added to the Commonwealth's program, which I'm glad to see, as I had strongly advocated and written a policy paper supporting the inclusion of a veteran and service disabled veteran-owned business program in the Commonwealth's procurement process, especially since these businesses were part of the education and outreach efforts that were being targeted several years ago

under the stimulus package. And I may also add that it was also just the right thing to do given the sacrifice and service to our country by these brave men and women.

### **Conclusion**

Over the past ten years, the Commonwealth has come a long way in opening doors of opportunity for minority and women, and now veteran and service disabled veteran-owned firms in state contracting. With that being said, there is still much work to be done and there is still a long way to go to improve the state's program, particularly in the areas of bonding, access to capital, enforcement and contract compliance. As DGS has correctly noted, and as the Secretary has even testified about during budget hearings, further efforts must be made to ensure that subcontractors are being paid the actual or full contract amount to which they are entitled.

Minority, Women and Veteran business development is one of the most important economic issues facing our government and legislature today, especially during these difficult economic times. I am not at all suggesting that these businesses should rely solely on state contracts, nor do they; and they would be the first to tell you that they do not; But the legislature can and must continue to help level the playing field and create opportunities and partnerships with diverse businesses through proactive measures, and by supporting the important package of bills before this committee.

Thank you....