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**TESTIMONY PRESENTED**

**TO THE**

**NEW YORK STATE**

**DIVISION OF THE BUDGET**

December 18, 2008

Empire State Plaza  
Meeting Room 1

Presented by  
Louis J. Coletti  
President & CEO



**GOOD MORNING AND THANK YOU FOR THE OPPORTUNITY TO  
PROVIDE THIS TESTIMONY ON THE STATE'S BUDGET PRIORITIES.**

**MY NAME IS LOUIS COLETTI AND I AM THE PRESIDENT OF THE  
BUILDING TRADES EMPLOYERS' ASSOCIATION OF NYC. WE  
REPRESENT 26 TRADE CONTRACTOR ASSOCIATIONS COMPRISED OF  
1,500 CONSTRUCTION MANAGEMENT, GENERAL AND  
SUBCONTRACTORS WHO EMPLOY OVER 125,000 PROJECT MANAGERS  
AND MEMBERS OF THE BUILDING TRADE UNIONS.**

**WE RECOGNIZE THAT NEW YORK STATE FACES A SIGNIFICANT  
CHALLENGE CLOSING A \$ 4.3 BILLION BUDGET GAP FOR 2008-2009.  
THEREFORE OUR RECOMMENDATIONS AS IT RELATES TO ECONOMIC  
DEVELOPMENT ARE BASED UPON THE FOLLOWING PRIMARY  
OBJECTIVES:**

- 1) EXPEDITE IN EVERY WAY IT CAN THE START OF  
MAJOR PUBLIC AND PRIVATE CONSTRUCTION  
PROJECTS IN ORDER TO GENERATE THE JOBS AND  
TAX REVUENUE THAT HELP CLOSE THIS GAP.**

**2) SPEND PUBLIC MONEY IN A WAY THAT  
WILL LEVEL THE PLAYING FIELD FOR BUSINESSES  
WHO COMPLY WITH THE LAW AND GENERATE NEW  
TAX REVENUES BY ENFORCING EXISTING LAWS  
THAT WILL CREATE ADDITIONAL REVENUE FOR  
NEW YORK STATE.**

**3) INVEST STATE FUNDING IN AREAS THAT WILL  
CREATE A RETURN ON INVESTEMENT TO THE STATE  
IN TERMS OF GENERATING NEW REVENUE.**

**WITH RESPECT TO EXPEDITING PUBLIC AND PRIVATE CONSTRUCTION  
PROJECTS, WE WOULD URGE THE GOVERNOR TO EXPEDITE DECISIONS  
ON MAJOR PROJECTS LIKE THE JAVITTS CENTER, MOYNIHAN STATION  
AND MTA CAPITAL PROGRAM IN ORDER TO CREATE THE JOBS AND  
RELATED TAX PAYMENTS THAT COME WITH THEM.**

**WE STRONGLY URGE YOU TO CONSIDER PUBLIC PROCUREMENT  
REFORM AS A TOP PRIORITY. TODAY, THAT PROCESS IS COSTING  
STATE GOVERNMENT MILLIONS AND MILLIONS OF DOLLARS BECAUSE  
OF THE NEED FOR CONTRACTORS TO BUDGET ADDITIONAL COSTS IN  
THEIR BID DOCUMENTS CAUSED BY HOW THEY MUST DO BUSINESS  
WITH CITY AND STATE AGENCIES.**

**SOME OF THOSE CAUSES INCLUDE A NO DAMAGES FOR DELAY CLAUSE AND OTHER RESTRICTIVE LANGUAGE IN CONTRACT DOCUMENTS, LATE PAYMENTS, DECISION MAKING THAT DELAY PROJECT SCHEDULES AND INCREASES COSTS. CONTRACTORS COMPETING FOR PUBLIC PROJECTS TODAY MUST CONSIDER THESE FACTORS AND PUT A PRICE ON THEM WHEN THEY SUBMIT A BID—THEIR FAILURE TO DO SO CAN BANKRUPT THEIR COMPANY.**

**FAILURE TO EFFECTIVELY REFORM THE PUBLIC PROCUREMENT PROCESS WILL ALSO CONTINUE TO COST THE STATE MONEY AS FEWER AND FEWER COMPANIES COMPETE FOR PUBLIC PROJECTS. THAT IS HAPPENING TODAY. THERE ISN'T A WEEK THAT GOES BY THAT I DON'T RECEIVE A CALL FROM A STATE OR CITY COMMISSIONER ASKING HOW TO ENCOURAGE BTEA CONTRACTORS TO COMPETE FOR PUBLIC WORK. WITHOUT MAJOR PROCUREMENT REFORM IN A STRONG PRIVATE SECTOR MARKET, CONTRACTORS WILL ALWAYS OPT FOR THE PRIVATE SECTOR WHERE THEY ARE RESPECTED IN TERMS OF SHARING THE RISK, PAID ON TIME, CAN GET THE PROJECT COMPLETED AND MOVE ON TO THEIR NEXT JOB.**

**OVER THE LAST SEVERAL YEARS SERIOUS CUTBACKS IN STATE AGENCIES FOR ENFORCING THE LAW IN TERMS OF EMPLOYMENT STANDARDS HAS CREATED A STRONG UNDERGROUND ECONOMY IN 3**

**CONSTRUCTION AND COST STATE GOVERNMENT SOME \$600 MILLION  
IN TAX REVENUES.**

**THE NEW YORK CITY CONSTRUCTION INDUSTRY EMPLOYS OVER  
200,000 WORKERS—AN ESTIMATED 50,000 MORE THAN APPEAR ON THE  
OFFICIAL GOVERNMENT PAYROLL JOB NUMBERS. NEARLY ONE IN  
FOUR NEW YORKD CITY CONSTRUCTION WORKERS ARE EITHER  
MISCLASSIFIED AS INDEPENDENT CONTRACTORS OR EMPLOYED BY  
CONTRACTORS COMPLETELY OFF THE BOOKS. IN 2005 IT HAS BEEN  
ESTIMATED BY THE FISCAL POLICY INSTITUTE THAT THE LOSS IN TAX  
REVENUE WAS \$500 MILLION—AND THAT FIGURE IS EXPECTED TO  
INCREASE TO \$560 IN 2008. THESE COSTS ARE:**

- 1) \$ 272 MILLION IN UNPAID LEGALLY MANDATED PAYROLL  
TAXES FOR SOCIAL SECURITY AND MEDICARE.**
  
- 2) \$148 MILLION IN HEALTH CARE COSTS SHIFTED ONTO THE  
WORKERS THEMSELVES AND OTHER EMPLOYERS THAT  
PROVIDE EMPLOYEE HEALTH INSURE.**
  
- 3) \$ 70 MILLION IN LOST PERSONAL INCOME TAXES BECAUSE  
THERE IS NO WITHHOLDING FOR UNDERGROUN ECONOMY  
WORKERS PAID OFF THE BOOKS.**

**GOVERNOR SPITZER HAS RECENTLY CHARACTERIZED THE PROBLEM AS "RAMPANT AND EPIDEMIC". WE RECOMMEND THAT DURING THIS BUDGET PROCESS, THE NEW YORK STATE DEPARTMENT OF LABOR BE PROVIDED THE FUNDING NECESSARY IN TERMS OF NEW INSPECTORS TO ENSURE THAT COMPANIES OPERATING IN SUCH A MANNER ARE CAUGHT AND FORCED TO PAY GOVERNMENT THE TAXES THEY OWE ACCORDING TO THE LAW.**

**WE WOULD ALSO RECOMMEND ADDITIONAL FINANCES BE APPROPRIATED TO INCREASE THE CAPACITY OF SMALL, MINORITY AND WOMEN-OWNED BUSINESSES IN ORDER TO COMPETE IN THE STRONG CONSTRUCTION MARKET WE HAVE IN NEW YORK CITY.**

**THE GOVERNOR AND LT. GOVERNOR HAVE STATED THIS IS A MAJOR PUBLIC POLICY PRIORITY--AND IF WE ARE TO ACHIEVE THIS GOAL, IT WILL REQUIRE ADDITIONAL FUNDING.**

**FIRST, WE WOULD SUGGEST A MINIMUM ALLOCATION OF \$ 2 MILLION BE APPROPRIATED TO THE EMPIRE STATE DEVELOPMENT CORPORATION FOR THIS PURPOSE. THIS AGENCY HAS BEGAN A MAJOR INITIATIVE IN THIS AREA AND IT WILL REQUIRE ADDITIONAL RESOURCES TO IMPLEMENT AN EFFECTIVE STATEWIDE PROGRAM. 5**

**SECOND, THE STATE SHOULD CREATE A CAPITAL GROWTH FUND FOR SMALL, MINORITY AND WOMEN-OWNED FIRMS WHICH SHOULD BE TARGETED TO CONSTRUCTION COMPANIES IN ORDER TO ASSIST IN PROVIDING THOSE FIRMS THE FINANCIAL CAPACITY TO COMPETE IN THIS MARKET. STATE GOVERNMENT SHOULD PROVIDE \$ 5 MILLION AND THE GOVERNOR SHOULD REQUIRE THE PRIVATE SECTOR FINANCIAL COMMUNITY TO CONTRIBUTE AT LEAST AN EQUAL AMOUNT OF FUNDING. THE FUND SHOULD BE ADMINISTERED BY THE EMPIRE STATE DEVELOPMENT CORPORATION.**

**VIRTUALLY EVERY STUDY INDICATES CLEARLY THAT ONE OF THE MAJOR OBSTACLES TO GROWING SMALL, MINORITY AND WOMEN-OWNED CONSTRUCTION FIRMS IS THE INABLILITY TO ACCESS TO CAPITAL. IF WE ARE TO BE SUCCESSFUL IN EFFORTS TO ACHIEVE THIS GOAL—THE ESTABLISHMENT PF SUCH A FUND MUST BE GIVEN THE HIGHEST OF PRIORITIES.**

**THINK OF THIS CONCEPT AS SIMILAR TO THE COMMUNITY BANKING REINVESTMENT LEGISLATION THAT NOW AFFORDS INDIVIDUALS WHO PREVIOUSLY DID NOT HAVE ACCESS TO THE MORTGAGE MARKET TO NOW HAVE THAT OPPORTUNITY.**

**WITHOUT ACCESS TO CAPITAL, IT IS IMPOSSIBLE FOR THESE FIRMS TO TAKE ADVANTAGE OF THE STRONG CONSTRUCTION MARKET AND THE OPPORTUNITY TO GROW THEIR FIRMS. WITHOUT THEIR GROWTH, THERE IS QUESTION AS TO WHETHER THE INDUSTRY HAS THE CAPACITY TO MEET THE MARKET DEMAND AND AT WHAT COST.**

**ONE LAST POINT, THE DEPARTMENT OF LABOR SHOULD ALSO BE ALLOCATED APPROPRIATE FUNDING FOR NEW INVESTIGATIVE STAFF TO ENSURE APPRENTICE PROGRAMS ARE COMPLYING WITH STATE LAW. THE DEPARTMENT HAS TAKEN THE FIRST STEP IN PLACING A MORATORIUM ON APPROVING NEW PROGRAMS. NOW IT NEEDS THE PERSONNEL TO ENSURE PROGRAMS THAT CURRENTLY EXIST ARE COMPLYING WITH THE LAW.**

**THANK YOU FOR THE OPPORTUNITY TO OFFER OUR RECOMMENDATIONS.**