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# *Committee Meeting*

of

## SENATE LEGISLATIVE OVERSIGHT COMMITTEE

*"Testimony from the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Labor and Workforce Development, and the State Auditor regarding the American Recovery and Reinvestment Act (ARRA) -- Weatherization Assistance Program administered by the Department of Community Affairs."*

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**LOCATION:** Committee Room 4  
State House Annex  
Trenton, New Jersey

**DATE:** December 13, 2010  
10:00 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Senator Barbara Buono, Chair  
Senator M. Teresa Ruiz, Vice Chair  
Senator Sandra B. Cunningham  
Senator Paul A. Sarlo  
Senator Thomas H. Kean Jr.  
Senator Joseph M. Kyrillos Jr.



### **ALSO PRESENT:**

Matthew T. Szudajski  
Luke E. Wolff  
*Office of Legislative Services*  
*Committee Aides*

Jason Redd  
*Senate Majority*  
*Committee Aide*

Frank Dominguez  
*Senate Republican*  
*Committee Aide*

***Meeting Recorded and Transcribed by***  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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## TABLE OF CONTENTS

	<u>Page</u>
Stephen M. Eells State Auditor Office of the State Auditor	3
Lori Grifa Commissioner New Jersey Department of Community Affairs	20
Ana Montero Assistant Director Office of Grants Operations New Jersey Department of Workforce and Labor Development	56
<b>APPENDIX:</b>	
Testimony submitted by Stephen M. Eells	1x
Testimony submitted by Lori Grifa	2x
Testimony submitted by Ana Montero	7x
pnf: 1-69	

**SENATOR BARBARA BUONO (Chair):** We are just about to start the Senate Legislative Oversight Committee Hearing regarding the ARRA-funded Weatherization Program and how it's been implemented in New Jersey. We are just waiting-- I see members are filing in now.

We'd like to begin by saying this is, obviously, the last Committee meeting that we will have in the calendar year, and it has been-- As the year draws to a close, just let me say that it has been fascinating to serve as Chair of the Senate Legislative Oversight Committee. And I thank Senator Sweeney for giving me this privilege.

We are here to discuss the Federal Weatherization Program. We've worked for so many years here in New Jersey to increase what we get back from Washington. And we need assurances-- Part of why we're here today is that we need assurances that we are fixing issues related to this program so that we don't squander or be forced to end this program and send dollars back to Washington. Because the people of New Jersey need a real break, and this program could provide that to them.

Today's hearing we'll hear from-- It will be a rather abbreviated hearing; we do have a caucus and a full legislative session this afternoon. So this morning will be just hearing from the Commissioner of the Department of Community Affairs, Lori Grifa; the State Auditor, Steve Eells; and, representing the Department of Labor and Workforce Development, Ana Montero.

Today's hearing, as I said, will focus on the Weatherization Assistance Program, whose funding level was increased 10-fold as a result of an infusion of ARRA money. The Weatherization Program was-- It's existed, as you all know, for many years, but in a much more meager form.

I think as far back as 2004 it was a \$5 million program; in 2009 it was an \$8 million program. And so what happened is that, based upon a formula, New Jersey was able to draw down an ARRA allocation of \$118.2 million from the Federal Department of Energy. So it's an increase, obviously; it's an exponential increase of 10-fold. The State has have been given about half upfront, with the understanding that it would receive the other half if we demonstrated progress by weatherizing 30 percent of the 13,381 units we promised to weatherize by December 31, 2010. To date, the State of New Jersey has received \$64 million.

So today we're here in recognition that the Federal Recovery Act money is, after all, taxpayer dollars. And it's our role to make sure they're spent according to appropriate eligibility criteria and in a timely fashion. The DCA, particularly, through Commissioner Lori Grifa, has been receptive to the audit, which we will hear about -- actually, two audits that were done by our State Auditor, Steve Eells -- and has cooperated with many of the recommendations of the Auditor.

But as I said, the Weatherization Program expanded overnight, and we just want to make sure that we have a system in place to move forward quickly so that we're able to draw down the second half of the remaining Federal dollars.

From Commissioner Grifa's response to the two audits, it's clear that the DCA is committed to the program and to drawing down the remaining dollars. We just need to make sure that there's a clear plan to capture the remaining Federal dollars. We don't want to lose an opportunity to put people back to work, to create a career path in energy

efficiency and green technology by utilizing the \$4 million that is available for training, as well.

And let's not forget about the overall intent of ARRA, which was to provide a needed boost to the economy by putting people back to work. So let's take full advantage of the Federal dollars. And that will also, at the same time, help to ensure that our most vulnerable are provided help heating their homes more cheaply and more efficiently this winter.

So with that opening statement, I would like to now call up to the microphone, Steve Eells, our State Auditor. And you are welcome to bring anyone else along with you.

Steve has provided his testimony to the Committee and it has been distributed.

Good morning.

**STEPHEN M. EELLS:** Good morning.

Madam Chair, members of the Committee. I wish to thank you for inviting me to answer questions regarding the Office of the State Auditor's audit reports involving the State's ongoing implementation of the American Recovery and Reinvestment Act -- ARRA -- Weatherization Assistance Program.

The program is not new. The State has received Federal funding in the \$4 million to \$5 million range for several years for weatherization programs. What is new is the ARRA program; the level of Federal investment that was made: approximately \$119 million. The grant is proposed to run from April 1, 2009 through March 31, 2012 -- a substantial increase in size and the expectations of the program.

Based upon the significant increase in funding, we determined that an appropriate amount of risk existed to warrant the inclusion in that audit plan, and thus we have developed a plan which would address the grant through the completion of approximately four audits -- two of which now have been completed.

We decided to audit eligibility first to ensure that those served by the program were appropriately documented as qualified. Based upon the findings and recommendations of that report, significant improvements were necessary and have been made to the eligibility determination process. Next, we focused on the administrative and program costs of the local and community-based agencies. While we found controls to be suitably designed to determine the propriety of administrative and program costs, the controls were not being effectively implemented in the area of program costs. We noted documentation was lacking or missing and that required inspections were not being completed.

We have planned two additional audits of the program. Currently we are auditing the New Jersey Community Action Association, a nonprofit which works with the Department in the area of program advertising and community outreach for the various weatherization programs, including the ARRA funds. Our final audit will review the allocation of ARRA weatherization funds made for the purpose of weatherizing multifamily housing complexes, which have been distributed to the New Jersey Housing Mortgage and Finance Agency and various other weatherization agencies.

It should be noted that throughout the review of this grant program, the Department has been extremely cooperative and proactive in

acting on our findings and recommendations, in many cases taking corrective active action prior to the public report being issued.

And with that, I will answer any questions that the Committee has.

SENATOR BUONO: Thank you, Mr. Eells.

I had some questions. I wanted to kind of go through your two audits, picking out a few points I wanted to clarify and emphasize; and maybe add a couple of questions as well.

I'm looking at the first report, the one that covers the period from April 1, 2009 to December 4, 2009. And I'm looking at page 2, and on page 2 you have a pie chart. And it indicates that the Department of Community Affairs has been allocated \$9,823,000 for administration. Do you know what that's been utilized for? Are you looking into that?

MR. EELLS: We will look into that. That's part of administrative costs that we would do as part of looking at the Department on a statewide basis. It's not something that we've audited, but that's basically their administrative cost in the implementation of these programs, as well as there's always an administrative grant piece -- that's with any Federal grant. And that's the Department's piece of that.

The way we attack those types of expenditures in departments: We look at department-wide administrative costs. It takes into account allocation toward Federal; also toward State. So we do that, when we do the Department, on an administrative basis statewide. It would include Federal grants.

SENATOR BUONO: Okay. And your report indicates that, for example, the maximum assistance housing unit -- per housing unit, rather -- was \$2,500, and that's been increased to \$6,500.

MR. EELLS: That's correct. The prior weatherizations were approximately \$2,500 and now the maximum is up to \$6,500. There can be waivers to that; they can get a waiver if a project warrants so and would go over the \$6,500 -- they can come in and get a waiver to that, but that would be specialized. They're supposed to stay within the \$6,500.

SENATOR BUONO: Now, I know you said that there were problems, at least with your first-- Your first audit focused on the issues of determining eligibility. And it seems to me that -- in fact, you note this in your report -- that there has been a long-standing inconsistency in the Federal DOE guidelines for determining applicant eligibility. In fact, it dates back to 1998.

MR. EELLS: Yes.

SENATOR BUONO: Why do you think that was never picked up before?

MR. EELLS: The size of the program-- Not that a \$4 million or \$5 million program is smaller, but it does fall under being a major program in the Federal single audits. So the actual program details, until it was magnified with this significant grant amount that came in -- it's not something that came to their attention. It certainly was something that did come to our auditor's attention now, because there were inconsistencies in the ability to determine somebody's eligibility. Sometimes you were forward looking with their income -- someone just lost their job. You would look forward just to say that they don't have any income coming in so they



qualify. In some of the cases you saw in the report, that could be an individual who's a seasonal-type of individual. Maybe they work 10 months out of the year. They could be a \$100,000 a year individual. If you don't look back and look at a tax return that encompasses an entire year, you really don't get a good income picture. And it was really inconsistent, the rules -- both at the Federal level and the State compliance -- with that, as to whether you should look forward, look back -- and agencies were doing it both ways. You could see advantage could be taken of the program just looking forward. For example: A 10-month employee, a teacher, could come in; as of July 1 they're not getting a check, they're not going to get a check until September. So forward looking, they have no income until September.

SENATOR BUONO: So the contradictory, really, guidelines from the Federal government, then, necessarily found its way down to the DCA, which then resulted in inconsistent guidance from the DCA to the community providers. So it's really a perfect storm for something to go amiss. I find it's very common in these hearings -- people like to point fingers at one another. But it seems as though, in this case, there's a multiplicity of factors that contributed to this program not working appropriately and not working according to a schedule, a better schedule. We'll get to that later on.

There was also an issue of -- that the DCA had not taken advantage of an agreement that they currently have with Department of Labor to electronically access wage and unemployment information by using Social Security numbers.

MR. EELLS: Correct.

SENATOR BUONO: The Federal government did-- Which I think is incredulous, that the Federal government didn't require that the CAPs take Social Security numbers. How could you possibly-- How can you confirm what a person's making, whether or not they're receiving unemployment, without a Social Security number?

MR. EELLS: It's very difficult without being able to track that information.

There are a lot of different agencies that are not aware that they can go out and get memorandums. Tax return and Social Security information is very touchy. I mean, it is personal, identifiable information and you need to be very careful with that information. With that being said, if you are going to have these requirements, these eligibility requirements, tied to income, tied to family size, these types of identifying information are a necessity for any program to nail down that somebody is eligible or not. I mean, that information is all tied to the types of identifiers.

SENATOR BUONO: So now that the Department does require Social Security numbers-- Well, I can ask the Commissioner that. You're looking at me like you don't know the--

MR. EELLS: I know that they were going to look into getting a memorandum of understanding to get that information.

SENATOR BUONO: Okay.

MR. EELLS: Whether that's been accomplished yet, I'm not sure.

SENATOR BUONO: Okay, I'll ask that later on.

I'm just going to go into your second audit, if I may, briefly here -- the one that covers the period from April 1, 2009 to July 30, 2010.

And one of the points that I wanted to focus on was on page 7 where you talk about the timing of payments to community providers. And I know that prompt payment has and continues to plague this program. Do you have any insight on that?

MR. EELLS: It was more of a matter of putting the resources forward to make sure that the financial reports drawing down funds could go forward. Inspections need to be completed at a certain level, so those inspections not being completed were holding up the ability to draw down those funds and the timing of those funds. And as you can see, some of those FSRs were taking a while to process. It was really around the timing of the inspections being completed so that they could, basically, approve those expenditures for draw.

SENATOR BUONO: Do you feel that the DCA has enough inspectors to go out and do the file inspections and the site inspections right now?

MR. EELLS: I would say at the beginning of this program they did not. Again, that's some corrective action, I think, that's part of their response. I wouldn't want to say they have it now, because we haven't gone back and checked that. Initially they did not.

SENATOR BUONO: Is that something you will be going back to check when you do your follow-up?

MR. EELLS: Yes, yes -- absolutely.

SENATOR BUONO: When will that be?

MR. EELLS: All of our reports are part of an annual follow-up that we do to the Legislature. So the first report eligibility does fit into that timeframe. This second report will be part of the next annual follow-up. So we will have a follow-up on eligibility that will be issued to the Legislature. We do that process during the month of January, early February. We'd like to get the report to the Legislature prior to your budget hearings in the April-May timeframe, so our report usually comes out to you in early March.

SENATOR BUONO: I know, from talking to individual community providers, that does continue to be a significant problem in terms of cash flow. But I can ask the Commissioner a little bit more about that later on.

Can you tell me-- It seems to me -- and again, I can ask the Commissioner these questions -- that the Department's corrective action focuses a lot on empowering and training the individual monitors, the contract monitors. Is that synonymous with a contract manager? Because this is an issue that has arisen time and time again when the Treasurer comes before this Committee, and we discuss procurement issues and how these contract managers are just designated as somebody in a department who receives no training, no oversight, no direction, no support. And, therefore, the contracts just sort of fall apart, aren't monitored, and there are overruns or they're not effectively carried out. Is that a fair comparison -- that these monitors would be seen as?

MR. EELLS: Yes, I think it is a fair comparison. They are the project managers. And for DCA, the funds are going out to the local level. So these are the individuals that they have to rely to be compliant with the

project and with the compliance that's required by the Federal government. So it is critical that these individuals have that level of training and are aware of the rules that they need to follow.

SENATOR BUONO: Yes, I think that's key. I see that the DCA-- Part of their corrective plan is they put together a new management team to strengthen the DCA's oversight, and enforcement, and accountability. And I think that that is so key. The role of monitors -- can you tell me a little bit about what they'll do? I know in one case, for example, just in terms of completeness of applications, there was an unevenness about how complete some of the applications were. Can you explain to me, in terms of that example, how it would work to have a monitor exert better oversight on completeness of the contracts?

MR. EELLS: It's my anticipation that they will actually go out to that agency and make sure that they are bringing in-- They'll actually review some of their applications -- make sure that they address the areas of weakness, areas that aren't being completed, if the timeliness of inspections are not being completed. They're just an oversight of that local level to make sure that -- they'll be reviewing their cost and expenditure reports to make sure the appropriate items are there; and if there are questionable items, make sure the proper Federal approvals are garnered before purchase is made. Some of those control weaknesses -- they'll be the oversight, the eyes for upper management of DCA to make sure that that information is there, and where it's lacking to make sure corrective action occurs.

SENATOR BUONO: Was it part of your recommendation that the DCA hire an accounting firm to help them identify questionable practices, costs -- or did they just do that on their own?

MR. EELLS: It is a means of monitoring that they've taken on. It was not a recommendation of ours. Obviously, our recommendation was monitoring needed to be enhanced. There were too many control items falling through the cracks, too many expense reports not being reviewed. So again, this is going to give them a presence at the local level to look at the expense reports, to look at the validity of the cost items, the inspection reports. Again, it's not-- We would suggest that the monitoring needs to be increased. This was, I believe, their means for accomplishing part of that.

SENATOR BUONO: Now, when you came into my office, you focused-- You directed my attention to an appendix at the back of the first audit, and it had to do with -- I think the way you described it was *progressive compliance*. And is that the first audit? Yes?

MR. EELLS: The second audit.

SENATOR BUONO: It's the second audit.

MR. EELLS: It would be more with the local agencies. It was basically showing a--

SENATOR BUONO: Right. Can you tell me about that? Can you describe what you have there in the appendix?

MR. EELLS: The report basically comes from the-- It shows you the different local agencies that are involved in performing the weatherization work. It shows their grant award and, basically, from the same system, it shows their expenditure process. Then it shows projected units. And most critical is the last two columns: the projected units, per the State plan, that that agency is going to complete; and then it shows you where they are based on the HESWAP system, which is the-- That's the actual application process system. It shows an application from the point it

comes in, all through completion. It shows the inspections. That system is what they use-- It's recorded; it's what they use to show where they're at as far as completion.

SENATOR BUONO: And so we'll hear from Commissioner Grifa where they are in terms of reaching the target of 30 percent of units being constructed by December 31 as a condition for drawing down additional Federal dollars. But these numbers that you have appended are as of July--

MR. EELLS: July 30.

SENATOR BUONO: July 30.

MR. EELLS: July 30 -- correct. July 30, 2010.

SENATOR BUONO: July 30. You don't have anything more current?

MR. EELLS: I do. I haven't audited those so-- I mean, I do have something more current; my auditors did take a report as of last Thursday.

SENATOR BUONO: Could you share that with the Committee?

MR. EELLS: There is significant improvement.

Just looking in terms of where that report is -- this is as of December 9; I believe it was last Thursday -- 2,566 is what we're showing as total units, per that report. The one question I have -- and, again, it would be more of a question for the Department, since this is their report -- is we're not showing anything on the multifamilies yet from housing boards.

SENATOR BUONO: The HMFA? Yes.

MR. EELLS: So depending on where they are-- I don't know if it's just a matter that their information hasn't been uploaded into HESWAP; they may have completed units, and I'm sure the Department is probably-- That's our last audit area that we're going to.

SENATOR BUONO: HMFA.

MR. EELLS: Right. And this district--

SENATOR BUONO: So you don't know whether-- Because I know \$30 million was allocated to them as well, right?

MR. EELLS: Thirty million-- Yes, I mean, they're not even telling me how many. I guess we had-- In one of the reports, we had an estimated number that they were going to put down. There are 2,000 to 3,000 units, I believe, for the multifamily.

SENATOR BUONO: Can you speak up? They're having a--

MR. EELLS: I believe there are 2,000 to 3,000 units that they're going to be completing.

SENATOR BUONO: That's it? Wow.

MR. EELLS: I'm sorry-- It's 3,877 units. That's in the second report in the background.

SENATOR BUONO: Okay.

MR. EELLS: That's the anticipated for them. So if they have--

SENATOR BUONO: What page are you on in that report?

MR. EELLS: Page 2. It's the paragraph right before the Objectives. We'll start at the bottom. It shows you-- Again, this is a plan -- this is from the plan, so-- But they were scheduled to weatherize approximately 3,877.

SENATOR BUONO: Hmm; okay.



So can you just refresh my memory in terms of the follow-up audit? You're doing a follow-up audit on-- Because you have several audits. With respect to your first one, which focused on eligibility criteria: You're following up on that when?

MR. EELLS: That will be in January. And at the end of this month, or in January, we'll follow up on the corrective action taken by the Department. And it will be part of a March report that goes to the Legislature.

SENATOR BUONO: Okay.

Do you have any-- Is there any level of cooperation between your office and the New Jersey Recovery Accountability Task Force? Do you interact with them at all?

MR. EELLS: We had met with them early on in the ARRA program. They're aware of how we go about devising our audit plan, and how we would include ARRA funds. I basically described to them that our plan is risk-based, so we look at the State as a whole on an annual basis and develop our audit plan as to where we're going to be spending our resources.

If we can integrate, if we-- For example: We are doing ARRA money in the Department of Transportation.

SENATOR BUONO: I was just going to ask you if you're into any other areas. Okay.

MR. EELLS: We had some bridge and infrastructure maintenance work that we were going to do -- some audit work -- over those programs. And there are ARRA funds that are there. So what we're doing is integrating the Federal ARRA funds into the control work that we would do over the State funds as well.

SENATOR BUONO: And when is that audit due? Do you have any date for that?

MR. EELLS: That audit should be due in the early part of next year -- I believe February-March it should be coming out.

SENATOR BUONO: Now, the New Jersey Recovery Accountability Task Force -- it's a mouthful -- and who's on it? Isn't that headed up by the Comptroller, Matt Boxer?

MR. EELLS: I believe the Comptroller is the co-chair, as well as the Chief of Staff in the Governor's Office.

SENATOR BUONO: And Rick Fair, former Auditor, is on it?

MR. EELLS: The former Auditor was on that as well -- or is on that as well. I believe he still is.

SENATOR BUONO: So have they reached out to you at all regarding the information contained in this audit, or in your audits?

MR. EELLS: They reach out when they have questions. I make sure that-- I mean, Matt Boxer, the Comptroller, gets a copy of every one of my reports. He's part of the distribution, so that was my feeling as far as making them aware of different ARRA reports that -- different programs that we audit. So that's how they're notified. They haven't reached out as far as having questions. They did-- I believe the eligibility report they actually posted on their website. I don't know whether they've done the second one. So they do put the information out there. They are receiving it, they are seeing it.

We haven't had any detailed meetings since. The Comptroller has a-- Part of their legislation is to coordinate audits with the State Auditor so, again, they get my audit plan every year; they know the areas

we're going into. Whether Matt's passing that on to that transparency board, he may have. He has the information on where we're going to be. It's just part of our normal operations.

SENATOR BUONO: Now, I know that the-- As one of the conditions of receiving these ARRA funds, there is a Federal requirement for a livable wage. Can you detail for the Committee the issues that arose surrounding that in your audits?

MR. EELLS: The issues that we had with--

SENATOR BUONO: The Davis-Bacon--

MR. EELLS: --the Davis-Bacon Act-- Basically, we found where the control was tighter to the agency -- the weatherization agency-- There are two forms of weatherization agency: There are those that actually do the work themselves -- they don't contract it out, they're not outside contractors that they contract with separately to come in and do the work. They have their own construction individuals, plumbers--

SENATOR BUONO: Are they the larger ones, I would assume? Or it's not relative?

MR. EELLS: I'm not sure, in terms of size.

SENATOR BUONO: Okay, all right.

MR. EELLS: It's only about two or three that have that design.

SENATOR BUONO: And who are they?

MR. EELLS: Primarily-- I can get you that information.

SENATOR BUONO: Okay.

MR. EELLS: I don't have that in front of me.

But there are about two or three that do it that way. We found those to have control over the wages they were paying. It was the ones who had to do the outside contracting--

SENATOR BUONO: Contracting out, yes.

MR. EELLS: They had issues with some of the wages being paid there. And, again, it was just a matter of closer monitoring when those contracts are let and drawn.

SENATOR BUONO: Right.

What about some of the issues with respect to expenditures in excess of \$5,000? For example, where the necessary documentation or approval from the Federal government wasn't obtained. Can you explain, a little bit, the issue surrounding that and what you uncovered?

MR. EELLS: The issues were, those types of expenditures require Federal approval. The asset being purchased requires a documentation as far as ownership; there needs to be a lien. When you purchase an asset of that level, basically it's the agency buying it but it's the property of -- it still needs to be in DCA's name. So vehicles of that sort need to be properly registered and -- registered with the Department, the first lien holder. And what we were finding was we didn't see the Federal approvals in some cases; we were seeing that some of the approvals were being done after the fact. Those approvals should be sought before the purchase is made. And we didn't see the-- In some cases, we didn't see the Department being the lien holder, the first in line, with those types of assets. They're significant purchases; those assets are going to last a while, certainly longer than this grant period. So that's why they needed to be-- Again, the rules of compliance -- they needed to be licensed and registered

in those forms, and we weren't seeing that. And that information is supposed to pass, again, to the Department.

So again, it was a matter of monitoring. Those cost reports that would have those types of expenditures on them just weren't-- That information wasn't funneling on.

SENATOR BUONO: That's a matter of monitoring. But in the case of, for example, allowable costs -- allowable administrative costs -- there really isn't clear guidance from the Federal government on that, is there?

MR. EELLS: No, there's not. It's really left more to the State, to the Department, to give a closer guidance as to what they want as far as monitoring notes. We did find the Federal rules to be very lax. They're not very detailed; they're kind of open-ended.

SENATOR BUONO: And how do you feel that the -- in your estimation, how the DCA is handling-- Obviously, the burden falls on the State, then, to pick up the slack and to-- In your estimation, how has our Department of Community Affairs addressed that gap?

MR. EELLS: Well, as I said, they've been very, very proactive. You mentioned the training; I mean, that would be part of that training -- to make sure that the local agencies -- the weatherization agencies -- are aware of what their responsibilities are when they make these kinds of purchases and that they do need to have these things approved ahead of time. And that's all part of the training and the monitoring that DCA is putting in place. Again, I don't know whether it's working or not until we go back and audit it again, but I believe they've been very proactive in trying to address those weaknesses in the monitoring.

SENATOR BUONO: I have nothing further.

Thank you, sir. And you're going to give me that-- You're going to provide us, the Committee, with that information I had asked you -- the two agencies that you had referred to.

MR. EELLS: There are either two or three that-- I'll get you that information.

SENATOR BUONO: All right, thank you.

MR. EELLS: Thank you.

SENATOR BUONO: Commissioner Grifa, come on up.

And if there is anyone else who you would like to bring with you, that's perfectly fine.

And I have to tell you: When I read your response, it was a welcome response, I have to tell you. I have yet to read a response-- I've read a lot of these audits and I've read a lot of responses, and I'm not always happy with the response. But I have to say that when you said, "We concur with the recommendations, and here's what we're going to do, and some have already been implemented," it was a welcome change. So thank you.

**COMMISSIONER LORI GRIFA, ESQ.:** Thank you, Senator.

Good morning, Senator Buono and members of the Committee.

Thank you for your kind words, Senator, and thank you for the opportunity to appear before this Committee today to talk to you and specifically address the issues that have been presented, most recently in the second audit report of the Department's American Recovery and Reinvestment Weatherization Assistance Program.

I know the State Auditor's report has sparked many questions and generated much commentary. There's confusion and some misinformation that is circulating around the State, and I certainly welcome the opportunity to appear before you and report the actions being taken at the DCA to quickly and effectively address the issues identified in the State Auditor's report.

As you know, in 2009 -- before the current Administration took office -- New Jersey received an unprecedented allocation of nearly \$119 million in ARRA funding for our Weatherization Program. Senator Buono, you correctly point out that in 2004 this program was funded at the level of \$5 million; in 2009, prior to this award, it was merely a \$9 million program; and virtually overnight it went from \$9 million to nearly \$119 million.

As a point of comparison, the typical -- for the lifespan of the program -- the typical Federal Weatherization Assistant Program grant ranged from \$5 million to \$10 million per year.

Because of the significantly larger grant, it was necessary to analyze the current delivery system and determine the organizational and production capacity to effectively administer the grant. The Department set an ambitious goal -- and reported this goal to the Department of Energy -- of weatherizing 13,000 units in three years at an average cost of \$6,500 per unit, under the ARRA guidelines.

The rapid expansion of this program in 2009 to meet tight Federal timelines unfortunately exposed a number of weaknesses in the DCA's monitoring and record-keeping protocols.

Also compounding the situation was a prolonged hiring and promotional freeze instituted by the prior Administration that precluded

the DCA from appropriately staffing up to manage this program, even though there was an administrative budget tied to these ARRA monies; that the hiring freeze was ironclad, and we were simply not permitted to increase the size of our staff. As a consequence, we were unable to serve the immediate needs of this project.

However, I'm pleased to report that under my direction these shortcomings have been or are in the process of being remedied.

Let me make clear to this Committee in as plain of terms as possible: My overarching goal and commitment is to ensure transparency and accountability for every one of these Federal dollars spent, as well as all the State dollars that have flowed through my office.

So I'd like to take an opportunity to highlight a few actions we've taken recently to ensure the taxpayer's money is invested wisely in this Weatherization Assistance Program.

First, as a consequence of the first Auditor's report which was revealed in March, we learned that our program eligibility controls and managerial issues in the Weatherization Program were troubled, and two of the most senior program supervisors were replaced and another was reassigned. In addition, stricter procedures were introduced to ensure that cost controls were effectively implemented.

Second, an outside accounting firm was engaged by the DCA in May of this year to conduct an ongoing review of the fiscal integrity of each of the 23 local weatherization agencies that are our partners in administering this program. As part of each local agency review, DCA has and will continue to take actions necessary to make certain that corrective measures are implemented immediately.



And finally, although the DCA's program controls were appropriately designed, we agree with the State Auditor's findings that they were not properly executed internally. With the reorganization of our Weatherization Unit, the DCA has already strengthened the administration of the program to achieve greater accountability. Additionally, the weatherization field staff will now be aggressively monitoring each local agency to assure compliance with the audit recommendations and new protocols established by the DCA.

Senators, as you are clearly aware, in order for the State of New Jersey to successfully weatherize the appropriate number of households in each of our service areas, the State had to take immediate action. Those actions were not arbitrary or capricious, but were necessary steps to help the New Jersey Weatherization Program recover from a shaky start and successfully reach its goal.

As you understand, continued delays in production by several of the agencies were simply unacceptable and it placed the residents of New Jersey at risk of not receiving this important benefit, a benefit to which they are entitled. And it jeopardized the Department's ability to secure the additional Federal funding pledged at the outset of the grant.

Let me assure you that all the information and data reported by the agencies was thoroughly reviewed. Agencies that had not reported at least 15 percent of their production obligations were sent letters indicating they were to complete all units for which an audit had been conducted, and to take on no additional work at this time.

In short, the Department has agreed to honor the costs of all units produced thus far, as well as all those units that they identified in their pipeline as in post-energy audit phases.

That being said, this corrective action, I must say, has met with some complaints -- complaints by our grantee supports, but also I've had numerous inquiries from members of the Legislature. I would advise you that those inquiries very often centered on the grantee and not on the citizens within the legislative district. My number one commitment is to those people who are eligible for this benefit. And to the extent that we have grantees within the program that are simply incapable or unwilling to meet production guidelines, we were unfortunately required to ask them to leave our program.

The recent changes in the funding to these agencies is a result of six months of effort by the Department to remedy this low productivity. As an illustration, here are just a few of the progressive compliance protocols that we implemented in order to provide a fair warning to all of the grantees, but to those agencies in particular that were in jeopardy of not achieving their production goals.

The Department's Director of the Division of Housing and Community Resource, the Division that hosts the Weatherization Program, met with all the weatherization managers in April 2010, at which time they were informed that their production levels were lagging and were unacceptable, and had to be improved. Technical assistance was offered in order to mitigate any obstacles and to streamline procedures.

Additionally, as a follow-up, seven of our poorest performing agencies received letters expressing the Department's concern regarding

their production levels. Specifically, that letter stated that the agency “had failed to make satisfactory progress towards completion of the terms set forth in their grant agreement,” and it also required each of those agencies to provide a corrective action plan in order to right the course.

The Division again sent a letter to weatherization agencies in September 2010, setting forth a target production of 40 percent of their total goal and that they should be able to demonstrate that to us by October 20, 2010.

And finally, our weatherization team met with each of these agencies individually in the first two weeks of October in order to discuss specific issues and identify any obstacles related to their administration of the ARRA funds, and to move them towards their production goals.

As you can plainly see, every effort was made to ensure that agencies met their compliance goals.

Additional measures have been undertaken by the Department in order to ensure that the program at large is managed responsibly, with more appropriate oversight and direction to the participating nonprofit organizations. That includes monthly meetings between DCA staff and weatherization agencies; a rapid response mechanism whereby the newly installed management team at the DCA is speaking with agencies to address specific issues on a more frequent, almost daily basis; leveraging and adopting best practices in existing weatherization agencies, which will now be implemented throughout the program. For example: The program recently adopted a uniform file format which will enable State monitors to work more effectively and efficiently, given the increase in unit production. Other policies have been developed and adopted in order to ensure the

uniform processing of applications for eligibility, and to improve the flow of funds to our weatherization agencies.

I want to assure you, Senator, and the other Committee members as well, that the communities served by the nonprofits who have had their funds rescinded will still have the same number of homes weatherized in the community as originally planned.

We plan to hold a public hearing on Friday to take testimony regarding proposed funding increases to those agencies that have demonstrated great success and are well on their way to meeting or exceeding their present goals. The DCA has invited agencies with production levels of 30 percent or greater to submit written requests for additional funding, and to demonstrate their capacity to increase their service area and take on more unit production.

Requests for additional funding were submitted to the DCA pursuant to our invitation on Friday, December 3. The DCA staff reviewed each request, along with other factors such as past performance, including quality of work, timeliness of reporting, and production level, current expenditure levels, and other relevant factors. We also considered the ability of these agencies to provide services to their neighboring communities.

The results of the request for additional funds were posted on the Department's website on Tuesday, December 7, in anticipation of a public hearing on Friday, December 17.

In addition to the weatherization work being performed by these outside agencies, I am happy to report that DCA's affiliate agency, the New Jersey Housing and Mortgage Finance Agency, will also be performing

weatherization services under ARRA funding, and on December 9 a grant of \$30 million was made from the DCA to the HMFA for the allocation of weatherization of nearly 4,000 units of multifamily houses -- units which are a significant, long-range State investment.

The NJHMFA is projecting in excess of 750 units to be weatherized in Camden and Atlantic Counties alone, 1,200 units in Essex County, and 160 units in Hudson County.

DCA will continue to assess the areas of need in order to ensure that the maximum and fair number of households are provided weatherization throughout the entire state. This will be accomplished by expanding the service areas of current agencies through services either provided by the NJHMFA or installing new agencies -- such as the recent award to Isles, Inc., a nonprofit that has significant weatherization experience and will be providing service in Mercer County.

I would tell you, Senator and Committee members, that in the last eight weeks we've spent considerable time, and energy, and resources in trying to right the course of this troubled program.

In closing, I really am pleased to report to you some of our early successes. First, our production has increased significantly. From January through September 30 of this year we were averaging 129 units per month; and now, with the new management team in place, we are averaging 715 units per month. Indeed, this program has weatherized over 1,500 units in just the past two months -- more than the number of units that were weatherized in the entire previous year. We have 3,237 units that have been audited and are awaiting weatherization, and we have another 7,344 in the pipeline.

We are experiencing this significant, positive trend, and we're now averaging more than 700 units a month. I am pleased to report that as of last Thursday -- in just two weeks of this month -- we have weatherized 392 units. Our total production to date is 2,883. When combined with those audited units that are awaiting weatherization, that brings us to over 6,000 -- which brings us to nearly the 50 percent mark, and will ensure that we meet the criteria by year end to be eligible for the second draw of \$64 million of Federal funding.

I hope my testimony will help you address your concerns about this program. Certainly at the DCA we share your concern. We also share an acute awareness that I know the members of this panel have for those in need, particularly as we get into the cold weather months and utility bills eat up far too much of anyone's budget.

Please be assured we are doing our best to ensure that we run the program effectively, but, more importantly, with transparency and accountability; and that we spend scarce Federal dollars wisely and we maximize the benefit to those in need in New Jersey.

Thank you for your time. I'd be happy to take any questions you might have.

SENATOR BUONO: Thank you, Commissioner. I appreciate your testimony. And you anticipated my first question: I was going to ask you, what percentage of units has the State weatherized under the program, and have we reached, or do we expect to reach the 30 percent mark by the end of December in order to draw down the second 50 percent of Federal ARRA funds?

COMMISSIONER GRIFA: Absent some unforeseen development, we should make that deadline, in as much of our productivity has increased by seven-fold on a monthly basis.

SENATOR BUONO: What happens if we don't? I mean, do we lose the money, or do they withhold it and then we can apply for it once we get to that point?

COMMISSIONER GRIFA: Well, the commitment of the grant program is that we would achieve 30 percent of the total units -- anticipated 13,000 -- by date served. And then having reached that goal, we would reapply for the second portion of funding, approximately \$64 million. And that application would take place early next year.

I'm happy to report that we believe we will be far in excess of that 30 percent mark; so to the extent that they can withhold that money, I'm not sure if there would be an opportunity for appeal or not, but certainly we would explore every effort to make sure we maximize our eligibility for Federal funding.

SENATOR BUONO: So you actually have to apply for it again.

COMMISSIONER GRIFA: That's my understanding, yes.

SENATOR BUONO: Do you know if the application process is the same as -- that you have to have a State plan, you have to go through the exact same steps? Are you aware--

COMMISSIONER GRIFA: As far as I understand -- and I'm really not a student of the application, so if I misspeak, I will report to you in writing -- I understand it is merely a renewal, and an establishment that

we've met the predicate guidelines in order to determine our eligibility for the subsequent funding award.

SENATOR BUONO: So -- and kind of jumping to the end, and I'm going to lead up to it -- but it's my understanding from your testimony that you're talking about an RFP, and designating additional agencies to fill the gap left by some of those that have been already involved in this program. So you believe that the current structure, as it stands, will produce the 13,000-and-change units that need to be retrofitted?

COMMISSIONER GRIFA: Yes, in a couple of ways: One, we are encouraging the successes of those entities within the program by increasing their funding. Two, we have the HMFA coming online, which we will expect will -- whether it's going to be 4,000 or 30 percent of our production right there. Three, we are opening the doors to additional providers. There's a rather complicated certification and qualification process. It is governed by Department of Energy guidelines, but we do administer it. It does require public hearings, so we will open the doors to newcomers to the extent that they meet those criteria, and such that they can come in and make sure that, on a geographical basis, we are able to provide this service to as many needy New Jersey families as possible.

SENATOR BUONO: I see that there is an RFP as of December 17.

COMMISSIONER GRIFA: It's a hearing.

SENATOR BUONO: A hearing?

COMMISSIONER GRIFA: That hearing is, essentially, to formalize our invitation and commitment to up the funding of those already in the program which have exceeded their share of the 30 percent



goal. We have some agencies that are performing remarkably; we have others that were performing abysmally. Unfortunately, we had some that had really not even weatherized a single unit, despite having been in the program over a year.

SENATOR BUONO: And I see that on the RFP it proposes increasing funding to Bergen CAA, Ocean, PRAB, Proceed, United Passaic Org, and DCA Set-aside. And so there will be a hearing on December 17. Okay.

COMMISSIONER GRIFA: Yes, that's correct.

SENATOR BUONO: Okay.

I wanted to talk a little bit-- I know it's a small part of the overall grant, but I wanted to talk about the \$4 million that's designated for training. Can you speak to that somewhat? I know the Department of Labor has asked the-- There was a consortium of sorts in place, and I wonder if you could talk about that, and what the role of the consortium is, and what has been asked of them.

COMMISSIONER GRIFA: I might have to be a little more general than that.

SENATOR BUONO: Okay.

COMMISSIONER GRIFA: The training element of this program took place before I undertook my present position, and the training element was designed to provide a baseline of qualifications for people who could go out and get these jobs. And I think it was a 10- or a 12-week program; it was pretty intense, and it was relatively broad-based inasmuch as it was not simply weatherization skills, but employability skills. And the wonderful aspect of this program is that the Davis-Bacon element,

which would provide that-- You would receive a living wage if you were to receive such a job. So I think 225 or 250 people were trained; I know the goal was much, much higher. I don't have an explanation as to why the pool of trainees did not reach its goal, because that's really outside of the area of my vision.

SENATOR BUONO: I think it was actually 180--

COMMISSIONER GRIFA: But I do know that remarkably few were hired. And I have had meetings with folks from -- the trainers of that program; and I believe we also had meetings with some of the agencies to try to find out why they're not hiring those folks. And I have yet to be able to really develop a firm understanding of what that rationale is. It's been disappointing.

SENATOR BUONO: I've been trying to piece it together, Commissioner, and this is what I've-- And maybe I'm wrong, but this is how I see it: Under the previous Administration, there was a definition of a *responsible contractor* that was imposed in May 2009. It was included in the original version of our State plan to the Feds. It required the use of responsible contractors, and it seems to me that there was a hazy interpretation. And there are those -- a significant number of people, I think, interpreted it that they had to actually hire-- Even if they had enough folks on staff, this agency would have to go out and hire 50 percent from the program -- the training program -- that was being run by the consortium and the DOL. And I think that -- I don't know if that was a misinterpretation or not, but I think that the-- I don't know if I'm being clear, but it said in the application -- the language was that the agencies "will utilize a workforce that was comprised of 50 percent of new staff who

are graduates of the Weatherization Training Program.” They had to be newly trained and had never worked in the industry before, and who were from economically distressed areas. My understanding is that many in the private sector weren’t interested in doing this; in short, they weren’t interested in participating and going out, even though-- Is that a correct? I know it’s been changed; you issued a bulletin that clarified that.

COMMISSIONER GRIFA: There were some issues with the responsible contractor language. Clearly the hiring did not take place, because we had people who received certifications and they were not hired. I have participated in those meetings myself; I did not delegate that to staff, and to ask such questions.

And so what the intention I have, Senator, in all due candor or a personal level, is I have contractors-- These agencies that are outside of the DCA, they are subgrantees. And some of them -- about 30 percent of the pool -- are not even close to making their productivity guidelines. And so my first question is: Are you sufficiently staffed internally? In other words, have you hired people on your own payroll such that you could improve the service, the timeliness, and the scope of the service you’re providing? And then, they have the ability under the grant to contract out further.

So whether they would hire internally onto their own staff some certified person, or they would further engage another contractor which might be able to hire those persons, that was not happening. And, in turn, they had low productivity. So in the absence-- Productivity and the deliverable of this important service to people in need is my number one goal, along with accountable and appropriate expenditure of these dollars.

So for the entities that, through lots of handholding and remedial efforts, were unable to step up and meet productivity goals, who were not hiring certified people, who were not spreading it out--

Our goal is to create jobs; and if it's not in a community-based organization, it could certainly be with a subcontractor within the community that could also hire. It's when none of these things are happening, we felt it important to really make a change to the pool of entities that we were doing business with. It's been frustrating. I don't have any explanation for why they're not hiring people.

SENATOR BUONO: I'm trying to figure that through as well. And it seems to me that there were a lot of reporting requirements -- a lot of additional requirements -- as a result of accepting this Federal money. And these are community providers that have been around for 40 or 50 years, and yet some of them have maybe never gone out to bid, let alone have to be inundated with the paperwork I would assume that's associated with this Federal money.

COMMISSIONER GRIFA: We have heard-- And, by the way, it wasn't just community-based organizations that were troubled. Some of our county providers were equally troubled. And we have heard complaints that the paperwork was onerous. But I would suggest to you, Senator, that the entities that we were doing business -- we are and were doing business with -- received lots and lots of government funding, either from the State or from the Federal government, and it's not completely unknown to them that these paperwork requirements are rigorous. I'm not saying it's easy, but it should not have been completely foreign to them.

SENATOR BUONO: But I guess the things is, if I were an agency and I had to go out-- I already had a staff in place that were able to work in the program in its current form, and I was required to go out and still hire 50 percent from this training program, I don't know if I'd have a great incentive to do so if the program was only in place for three years. I don't see what the incentive is.

But anyway, it seems as though this has been rectified. My understanding, again-- Now, the 2010 version of your plan with the Feds removed the requirement, as I read it, to hire 50 percent new employees who were graduates of the DOL training program, and it was replaced by a Weatherization Bulletin No. 501A requirement: "That each bidder must agree that," and I emphasize, "all *new* weatherization employees hired shall be graduates of the Weatherization Training Program." So it clarifies that the requirement to hire from the Weatherization Training Program is applicable only to new employees. Or to put it another way: If a new hire is needed for the work, that new hire must come from the training program. So only new employees need to be gleaned from that.

So I just want to make sure I understand: So if an agency has sufficient staff, they can now use that staff, and only if they need to hire a new or an additional staff person do they need to go to the training pool. Is that--

COMMISSIONER GRIFA: That's my understanding of the clarifying bulletin from 2010.

SENATOR BUONO: Okay, all right.

So we know that a lot of the CAPs aren't meeting the goals, but they're hiring people. So what are other alternatives? I mean, what about--

Is the DCA monitoring every aspect of-- You're obviously, particularly with respect to your second response to the audit, you're stepping up monitoring in a serious way. Are you also monitoring that they're-- I don't know how you can force them to hire, though.

COMMISSIONER GRIFA: That's just it. We can't force them to hire, but we can only increase the intensity of our commitment to support their function. It's in all of our interests to make sure that this program is administered appropriately and that the people in need receive the benefit of the service.

SENATOR BUONO: Well, yes, and it also creates a career path for people in a good-paying job; it creates a career path in green energy and energy efficiency, and this is an opportunity for folks who didn't have that before. So that's another-- I see that as another overarching objective of making this project work.

What about job fairs? I know that the DCA is looking to work together with HMFA to bring together contractors and trainees so that-- That's what I'd heard, anecdotally, that-- Didn't you do a job fair?

COMMISSIONER GRIFA: We have done a number of job fairs. I think our most recent one was a three-day job fair which took place the week of November 29. And we did it in a way that we could make -- we could create an opportunity for proximity for those who might need the actual physical proximity, by doing this in a place where not only the agency, but also prospective employees could co-mingle and perhaps address that issue. But yes, we're acutely aware of trying to do our part to create these jobs.

SENATOR BUONO: So as the Department that oversees this program, I'm sure you see it as your responsibility to make sure that this additional hiring is done to fully implement the program; and so therefore you're trying to expand the funding to include other agencies. But -- and I don't know, I'm just throwing this out there -- it just seems that it's very fragmented, to say the least, and there's a real lack of an integrated approach to this. Would it not make more sense to maybe put out an RFP -- one for the north part of the state, central, south -- to really focus and take advantage of economies of scale?

COMMISSIONER GRIFA: I think we did that in 2009; I think that's actually how we identify our providers. We've needed providers who could provide-- You know, in places of great population density it was, frankly, easier; but as we get into South Jersey, and Atlantic County, and Salem, Burlington, Gloucester County, it was more challenging to find appropriate providers. I do think we have organized the state in a geographic way; but now that we're retooling it, we have to be certain that we continue to provide services in all of those geographies, regardless of the population density.

SENATOR BUONO: And what about-- I know I've read a lot about-- I know Isles received some funding. What about-- I know you can't really talk about this, probably, publicly, but aren't there other contenders that are -- bigger, larger entities that would be able to take -- like CSG, I know I've read about. There was a news clip on them recently.

COMMISSIONER GRIFA: I can't speak to that particular provider. I will say this: Bigger is not always better. Some of our larger grantees have not, necessarily, had more success. Some of the very small

ones, despite these onerous paperwork requirements, have done very, very well. In fact, we had a subgrantee of our largest grant recipient actually earn its own stripes and now will be a stand-alone, pursuant to its certification qualification process. And that will enable us to probably roll out an additional \$1.5 million worth of grant funding to that group. And that happens to be in an area of New Jersey where it's challenging to provide appropriate providers -- to find appropriate providers. We're very pleased for that development.

SENATOR BUONO: So you don't see a need for any kind of a new model, a new approach -- maybe leveraging private dollars and public dollars, involving EDA-- I know everybody wants EDA to do everything now.

COMMISSIONER GRIFA: We're actually meeting with the BPU this afternoon to see if we can leverage some of their providers. The Department of Energy -- they have challenged us as well. Their guidelines are strict; some might say rigid. So the BPU has a parallel program and they use entities that they characterize as *comfort partners*. And in terms of really assuring that we're providing these services on a statewide basis, we're going to discuss with President Solomon today -- I think we're going to meet at 2 o'clock today, actually -- such that we could use that which already exists to expand the scope of our reach.

My only concern with a-- We have 12 months left in this program; to do a significant overhaul might distract from our ability to provide services. And since we had, in all due candor, Senator, such a shaky start, now that we seem to be moving in the right direction I'm going to take or leave as much as I have to.



SENATOR BUONO: I know that one of the problems that the Auditor brought up was the failure to enforce the living wage requirements by some of the contractors. What steps are you taking to enforce that requirement, going forward?

COMMISSIONER GRIFA: One of the disturbing findings was that to those entities -- and this is the absolute minority of providers, I want to make that absolutely clear, this is a rare occurrence. When I say minority, I mean it's a rare occurrence among our providers. Providers who hired themselves seemed to have no trouble paying the Davis-Bacon wage. To the extent that they had a subgrantee in there -- subcontractor -- those employees were not paid Davis-Bacon wages. And that was not revealed to us until we-- It's much more difficult for us to monitor it. I believe, Senator, that this is going to have to come from the top down. So when we discovered that there was an entity that had, essentially, cheated these workers out of their rightful wage, I asked that the following message be delivered: You have one pay period to pay what is owed. And, if not, they're disqualified -- we're not going to do business with them anymore; they're out of the program. I will not allow people -- workers -- to be cheated on my watch.

SENATOR BUONO: But how do you keep track of that, going forward? Do you ask them to submit payroll forms to your -- payroll reports?

COMMISSIONER GRIFA: We're just going to have to intensify our relationship, and have periodic questions, and ask them to provide paperwork. We were not as hands-on as we should have been. So we've made some management changes. I hired a program compliance

monitor who will sort of be above even the new management of the program. And we're just going to have to be periodically making those inquiries to make sure that that happens. We have a formal audit program, an annualized audit program for all of our providers, but the problem is it's only annual. So you could have -- in a worst-case scenario -- you could have ladies and gentlemen who work for a subgrantee who were cheated out of two or three dollars per hour for many, many months and we wouldn't discover it. So we're going to have to expand the scope of our scrutiny; that's the only way to ensure it.

SENATOR BUONO: Speaking of the Federal requirements being onerous, I've found it somewhat frustrating when I read that there was an issue that the Feds had raised with regard to HMFA being able to utilize these funds for multifamily dwellings. It just seems nonsensical to disallow that. They're automatically qualified. There's so much Section 8 housing that would automatically qualify in terms of income eligibility, and yet the Feds resisted. Why? And they're still resisting, I understand.

COMMISSIONER GRIFA: We will have representatives from the Department of Energy with us for three of the five days this week. And I don't really want to speak to it in great detail, because we're very hopeful to work out this issue. It's not finalized but it will-- The inability to secure a clearer path for HMFA will delay their ability to deliver the services, bottom line.

SENATOR BUONO: But the argument against -- just to flesh that out -- allowing the funds to be utilized by HMFA were that the Feds weren't clear -- the argument had to be made that the building owners would not benefit, but that the residents, those who were renting the

apartments, would benefit. I just think it's clear on its face that they would benefit. I mean, even if they pass along the rent -- even if they cover the cost of utilities, in some cases it's going to be reflected in the rent, obviously.

COMMISSIONER GRIFA: Well, I'm with you, Senator. This one makes me scratch my head, but we are going to try to work it out. They are coming in from Washington; they will be here this afternoon and they'll be here through most of the week. I think they're here through Thursday. So we're hoping we can work it out.

SENATOR BUONO: And I know you don't want to talk about it, but I still -- it's a hearing, and I've heard that the new problem that surfaced with the Feds is that they -- and if you could explain it to me; I'm not sure I thoroughly understand it -- that the Federal DOE is saying that instead of the building owners contracting directly for the work, they're asking HMFA to issue the contracts and do the specs. And that will set back -- won't that set the program back?

COMMISSIONER GRIFA: Yes, that's right. At least four months. Four months of the 12-month remaining period.

So here's the irony: Having qualified and certified providers -- grantees, subgrantees in the community; community-based organizations -- who will either provide the service themselves or they will subcontract out -- we, pursuant to certain requirements, we leave them to identify suitable subcontractors. Because of procurement laws of the State, if they're going to have a different requirement from HMFA as our subgrantee that implements a formal procurement process, we will abide by the law 100 percent. But if we can't mirror for the HMFA the privilege that our CBOs

have, then we're going to have to go through public bidding; and we estimate a three to four month delay in approaching any of those units in HMFA fully. So we're working on it.

SENATOR BUONO: Aren't there some buildings that could be done maybe with minimal bidding, minimal contracting, that could move quickly, even if they did that?

COMMISSIONER GRIFA: I think this issue is really going to require an all or nothing. I mean, I suppose HMFA could ostensibly hire people internally and send out a work force in advance to do this work. But that's the only-- All we're asking is that the HMFA be able to mirror the same rights and privileges that our other providers have -- our CBOs have. So it's an open discussion, and we're hopeful for a positive result.

SENATOR BUONO: I understand that the HMFA was not explicitly mentioned in the ARRA. They didn't envision HMFA utilizing these funds; they saw it more as a single-family, single-unit project. But that New Jersey was really the first state in the nation that put forth this idea -- which makes a lot of sense -- and that others are following suit. So I think that there's a good story to be told there as far as New Jersey's concerned.

Let me see if I had anything else. I may come back with a few things to tie things together, but for now I'm going to ask Senator Cunningham to ask a few questions, then Senator Ruiz.

SENATOR CUNNINGHAM: Good morning, Commissioner.

COMMISSIONER GRIFA: Good morning.

SENATOR CUNNINGHAM: You know, I wanted to say that we do want to make sure that these dollars are spent in a reasonable way,

and that everything is done the way that it should be done. But I'm concerned about the CAP agencies; I'm concerned that they're being treated in a fair manner as well.

In my district I have two CAP agencies, and both of them were terminated from the program. And my concern is that after they were terminated, I called CAP agencies around the state that had weatherization funds to ask them what was happening. And through every single one of them, two things came out: One was the HESWAP system was difficult to use and put forth false information. For instance, with the HESWAP system, everything that you put in -- the audited units that are put in -- in most cases was different than the paper files that these agencies had. Now, that becomes a problem because many of these agencies have been doing weatherization for 20, 27 years through other funds. And they always use the paper files. When HESWAP came into being -- I guess this was about two years ago -- the information had to be put in correctly. Obviously, in some of these cases, it was put in incorrectly. Now, the thing that's bothersome about that is, several of the agencies met with DCA and corrected the information, and left feeling that everything was okay but were still told that they underproduced what they were supposed produce. For instance, one agency sat down with DCA and went through everything and left the meeting thinking, "Okay, everything is fine. We put the information into HESWAP wrong; we've corrected it. Everything's fine." They then received a letter saying that they were terminated from the program.

Another agency corrected the information, sent a letter to DCA explaining to DCA, "Our numbers are different from HESWAP; this is what

we've done; we're on track to complete everything that is supposed to be taken care of." They received a letter one day in October telling them that they were going to be cut, I think about \$1 million. Then they received a letter in November telling them that they were terminated -- no, that they were going to have a hearing. Then the day before the hearing they received a letter saying they were terminated from the program.

Now, in both of these cases these CAP agencies have been doing weatherization for many, many years. One of them even won an award in the past. So I'm wondering: If they were coming to DCA and saying, "This is the problem that we're having with HESWAP," why wasn't something done to help them, especially if they have a history of experience in doing this successfully in the past?

COMMISSIONER GRIFA: Well, Senator, with respect, I would dispute some of those facts. We have been actively engaged in trying to prop up these agencies. The HESWAP situation that you refer to and the discrepancies I am aware of, that was not used as the basis for any terminations. With respect to Hudson County providers, one of those providers did not produce a single weatherized unit in the year of the program -- not one. And I would tell you that those entities that we terminated from the program, some of them had egregious accounting deficiencies which I cannot discuss because I don't think that's what we should be focusing on -- but things that could not be ignored; behaviors that, frankly, required the scrutiny of folks in a different kind of jurisdiction than I have.

So we did not take these decisions lightly. We had an ongoing 30-day relationship where we were in communication, either in writing or in

meetings, for most of the summer all the way through to November, and those who were terminated had the benefit of the hearing on November 17. There's a limit to how long we continue to do business with those who were either unable or unwilling to achieve what they had promised us or committed to us that they thought they could achieve. But under no circumstances can we do business with those who engage in suspect accounting practices.

SENATOR CUNNINGHAM: Okay, let me ask you a question: One of those agencies -- and I know that there was a problem; I was told that one agency charged an exorbitant amount of money for a light bulb -- we'll say that -- or for a shower -- something for the shower. But it is my understanding, this agency used a subcontractor. It's my understanding that DCA approved all of the subcontracts prior to them being brought on. Is that true?

COMMISSIONER GRIFA: I would have to double check on that, but approving a subcontractor and approving payment for a \$27 light bulb is a different thing.

SENATOR CUNNINGHAM: Well, would that not be-- In the contract, would there not be something that says how much money could be spent for various items, or a total?

COMMISSIONER GRIFA: Senator, \$27 for a light bulb?

SENATOR CUNNINGHAM: Well, the agency also went back to the subcontractor, asked for a refund for it, and then reported it to DCA.

COMMISSIONER GRIFA: Actually, it was my understanding-- I would prefer, really, not to discuss this particular contractor; but that particular agency -- that subcontractor was retained, we

understand, on a no-bid contract, and then they overbilled the program. And I've made a referral with regard to that particular agency.

SENATOR CUNNINGHAM: Okay.

Senator Buono asked about training. And I just wanted to address -- and perhaps this is incorrect: One of the problems with the training was that some of the people who were trained -- I think they just finished recently, two or three weeks ago -- it's my understanding, and perhaps you can correct me if I'm wrong, that in April of 2009 these agencies were told to ramp up, to hire people, and get everything in order. At that time the people were going through the training program -- had not even started. Is that true?

COMMISSIONER GRIFA: There was an issue with -- in 2009 -- with regard to the commencement of the program, which was April 2009, and the availability of graduates of the program. But in terms of hiring, especially when we were operating under the 2009 responsible contractor language, the worst-case scenario, as an entity, is you only had to reserve 50 percent of your hires from the training program. But we advanced 30 percent of the grant funds upfront, such that these entities would have sufficient cash flow to ramp up, to buy equipment, to buy supplies; and to supplement their payroll such that they could begin promptly carrying new employees, and they could commence in providing the services closer to the initiation program and not be so wedded to the graduation date of the training program.

SENATOR CUNNINGHAM: Well, it looks like most of the CAP agencies that you used used subcontractors. Do you have any agencies that do it themselves? One of the good things, when we think about the



weatherization program, is that people in the community who are now unemployed could get a job and could learn weatherization skills. If the subcontractors -- if all the agencies are using subcontractors, that cuts down on the number of community people who would be eligible for training and future jobs.

COMMISSIONER GRIFA: I don't think that necessarily follows. First of all, we do have CAP agencies that have hired and are doing this within in-house personnel. And that's certainly one kind of hiring. But to the extent that they subcontract out -- that's jobs for people closer to the community. I'd see that as a different kind of hiring; it's not a permanent relationship with a CAP, but I do think it provides the opportunity to create a living wage on the street.

SENATOR CUNNINGHAM: The problem with that would be a lot of these subcontractors have been doing this for years and years and years, and have their own staff. Many of them are not doing any new hiring, which might contribute to only seven people being hired.

COMMISSIONER GRIFA: Could be.

SENATOR CUNNINGHAM: My last question is: The agencies that you have terminated, can they reapply for the program if they have everything in order? And if not, how are you going to designate new agencies to continue the work?

COMMISSIONER GRIFA: Well, we'll go through the same process that the DOE required of us at the outset, which would be a certification qualification process with a public hearing to confirm that. It's their process, not ours. We would have a-- Because this is exclusively Federal funding, we have been completely guided by their process, as

opposed to any type of procurement that the State would normally go through. We have increased the funding to those who have been successful; we have invited some new participants into the program. But those that we have terminated after having a relationship with them-- Now, let me just also clarify: Some of those entities that we have terminated in this program are active grant recipients in other programs right now, and that grant money remains intact. This program-- We've asked them to leave this program, but that doesn't mean we've cut them off from our relationship. You could be a wonderful daycare provider, or you could be providing wonderful services to seniors or other people in need and just not have the ability to do this kind of work. And I think, to be reasonable, past performance is indicative of future behaviors, so we do not have a plan, necessarily, to reinstate them to the extent that we get the next level of funding. We'll be dealing with others sometimes already in the program.

SENATOR CUNNINGHAM: How do you get designation to be a CAP agency?

COMMISSIONER GRIFA: Well, CAP agencies is a Federal-- There is Federal criteria. I can't report that to you. I'd be happy to report it to you, through the Chair, but that's Federal qualifications; that is something completely independent from us.

SENATOR CUNNINGHAM: Thank you.

COMMISSIONER GRIFA: Thank you.

SENATOR BUONO: Thank you, Senator Cunningham.

Senator Ruiz.

SENATOR RUIZ (Vice Chair): Thank you, Chair.

There were seven agencies that were cut in this program, correct?

COMMISSIONER GRIFA: That's right.

SENATOR RUIZ: And one of them was from Essex County.

COMMISSIONER GRIFA: Correct.

SENATOR RUIZ: So my question is: Is there another agency that's performing weatherization programs currently in that area?

COMMISSIONER GRIFA: Well, that agency that we have terminated our relationship with, we asked them to continue what is in their pipeline, but to not qualify any additional units. So they have -- I apologize, Senator, I don't have the number off the top of my head -- but they have a fair amount of work in their pipelines, so the answer is yes -- they are continuing what they started and they will finish. The HMFA will pick up 1,200 units in Essex County, which we hope will be sooner rather than later, assuming we can resolve this problem with the DOE, which is really contract language. They can commence that work immediately, so the HMFA will pick up 1,200 units in Essex County which, by the way, far exceeds, I believe, what's left for the terminated agency. And then we will continue to identify additional providers in Essex through the process associated with this program.

SENATOR RUIZ: So the projects that are in the hub are basically going to continue. But if a constituent -- a new constituent -- arises and wants to apply to the program, where should they go?

COMMISSIONER GRIFA: Well, I would invite them to make a call to the Department. I mean, this is not our only utility assistance program with the DCA. In terms of how the CAPs identify their clients, I

can't speak to that, Senator; I don't have that level of detail. I'd be happy to respond to you, through the Chair. But in the interim, because the only thing that is of my greatest concern is to make sure that people in need have an opportunity to get the service, I would encourage them to call the Department directly and we will direct their call.

SENATOR RUIZ: And through the Chair, I just bring that up because, again, like Senator Cunningham -- she walked through a scenario that very much resonates what was told to me has been experienced in Essex County as well. So that there are agencies that have been providing this service pre-ARRA funding, and kind of have become the standard bearer for where constituents go for local programming and services. So if, in fact, the State is going to pick up that kind of service, in essence, until you identify another agency to do so, I want to ensure that there's enough education in the community so that we know where to send constituents and constituents know where to go; because there will be some kind of lapse time, I would imagine. On Friday you're going to invite new individuals to participate in a program, but I think, as stated earlier, there could be a lapse anywhere from three to four months. They have to get engaged in the process; they have to go out and subcontract. So there could be some time lag in between.

COMMISSIONER GRIFA: Certainly -- that's fair comment.

SENATOR RUIZ: And then my other question is: Earlier in the Chair's testimony -- and I'm not sure if you did answer this or not -- we were talking about some of the, I guess-- It's not discrepancies, but lack of definitions between the Federal government and the State; and it's been now, under your leadership, that the Department has honed in, has set

guidelines, and has made fixes for some of the recommendations that the Auditor has stated. My question to you is: Has any of that kind of implementation process been perceived part of the problem with the local agencies?

And the reason why I bring this up to you -- and I don't want to identify any one agency, as you stated earlier. We don't want to talk about one particular case. There has been some stories that have been conveyed to me that the Department has suggested that they needed some information in some capacity; and then subsequent to providing that information in latter parts of time, when they've expressed that they've gone above the percentage indicated -- well above the percentage indicated, of what they should have been producing -- that other requirements have been made of that community-based organization; and that, kind of, the equation for submission, the variables, were all moving in time.

COMMISSIONER GRIFA: I am not sure that I can answer your question, but let me say this: I think there was a significant lack of clarity and communication between our Department and the CAPs in, say, the first nine to 12 months of the program. And so we would advance them money -- 30 percent of their total grant; they would have to make submissions to us in order to draw down on that fund, and those submissions were sent to us in various states of completion.

Unfortunately, then there was a lack of communication from the DCA back to the CAP as to what was missing that would enable them to be paid. So that one's on us; that's something that we did not do well. I have discovered, as I became more and more immersed in this, is that we did not have any uniformity in how we were receiving this information or

how we were communicating to the CAPs. It would seem so obvious to me that we should have something as simple as a checklist: Do you have this back-up for this invoice? Do you have that? Do you have this? Do you have that? And to the extent that the information was incomplete, we would let them know in a timely way.

There was no-- Not only was there a lack of communication, but there was a lack in uniformity in the way we communicated. So we are completely responsible for that, and I think that has been addressed.

SENATOR RUIZ: So I guess, in light of that, none of the agencies that were cut were done because of the lack of information processed through the uniformity? It's because the Department has cited other deficiencies?

COMMISSIONER GRIFA: Yes.

SENATOR RUIZ: And even though there were cited other deficiencies, they are capable of continuing currently in the process until they finish up, or are they going to be doing so with oversight?

COMMISSIONER GRIFA: We'll treat them the same until such time that they finish what we define as a pipeline. For some of the groups that we cut, they will achieve 50 percent or more of their total grant; but we simply have decided that we can no longer provide so much support to the exclusion of -- our support and supervision -- to the others who are performing. I mean, 23 agencies -- we cut seven; 30 percent are not performing; 30 percent are performing at expectations or are exceeding our expectations. And so I'm not sure what the take away from that number is, but the overwhelming majority are performing perfectly.

SENATOR RUIZ: And through the Chair, again, I just-- While this whole process (indiscernible) out, I want to be sure that the constituents are not the ones, ultimately at the end of the day, who lose; specifically in areas where an agency has been cut, another one has not been identified, and we're kind of left in limbo until the practices are set in place. And particularly now, in this timeframe, where tomorrow we're supposed to be experiencing the coldest days of the month.

And just to wrap up, Madam Chair, through you, if you'll allow me one more question: Just with the training and the labor side of it, it was told to me that we have a number of individuals who have gone through the training process and are kind of waiting in a hub for hire. And so-- No?

COMMISSIONER GRIFA: I don't know anything about that. That could very well be true; I just don't know.

SENATOR RUIZ: And if it is true, if there's a better way where the State, and through all the departments that are engaged -- that we can somehow come up with a process that, once a subcontractor is invited to participate in the program, they go to these respective individuals who are already trained -- many who are coming from our vocational schools and from our communities -- so that there's a better, seamless hiring practice in place.

COMMISSIONER GRIFA: I think it's fair to say that the hiring element -- the new hiring element -- has been frustrating.

SENATOR RUIZ: And I know that we can't mandate anything, but we can certainly encourage through the RFP and bidding process to have better practices for hiring.

COMMISSIONER GRIFA: Agreed.

SENATOR RUIZ: Thank you. Thank you, Madam Chair.

SENATOR BUONO: I wanted to follow up on a question that I put to the Auditor, on the possible expansion of the agreement that the Department has with the Department of Labor to allow you to use their wage-reporting database to verify income of weatherization applicants. Have you gained access to that?

COMMISSIONER GRIFA: This has been an ongoing and intense interrelationship between us and the Department of Labor. The Department of Labor has been a great and terrific partner in all of this. I am surprised and disappointed, for with Federal dollars at stake, how difficult it has actually been to secure approval to have access to the Social Security database.

SENATOR BUONO: Who has to approve it? Because we use it for other purposes.

COMMISSIONER GRIFA: I believe it has to go to the U.S. Department of Health and Human Services. And since our first audit findings, where we were not having appropriate level of the income verification, that has been an ongoing process to secure that approval. So the Department of Labor has that relationship, but the DCA does not, and so we've been trying to explore ways to obtain that approval.

SENATOR BUONO: That's interesting, because we use that for other purposes.

COMMISSIONER GRIFA: Yes, absolutely. So one would think that by now it would be simple to do, but it's not been proven simple. It's been frustrating. All of it has been a surprise. To have a program developed without income verification standards from the Federal



government is one thing; the State of New Jersey certainly could have established some baselines, which we did not. But once it was found that there were some abuses, to try to institute income verification and find that's it's very frustrating to get that access is just not something I personally expected.

SENATOR BUONO: This is the kind of thing that makes you crazy about government. I mean, you already have a cooperative agreement with-- I just want to make sure people know that the DCA already has a cooperative agreement with the Department of Labor and Workforce Development to obtain information about applicants to other DCA programs, but not weatherization.

COMMISSIONER GRIFA: Correct.

SENATOR BUONO: It's just bizarre.

I have nothing else for you, Commissioner.

Anyone else? (no response)

You can see that there's no one-- I apologize. I guess we wore them out -- you wore them out. (laughter)

COMMISSIONER GRIFA: I think so.

Thank you so much for allowing me to appear. I want to wish you all a happy holiday.

SENATOR BUONO: Same to you.

Now we're going to ask Ana Montero, representing the Commissioner of the Department of Labor and Workforce Development. Welcome.

SENATOR RICE: (speaking off-mike) Madam Chair, just a point of privilege.

I'm going to be leaving; I wanted to stay for the hearing. Through the Chair, could you make sure that all the testimony, questions, and transcripts be provided to me--

SENATOR BUONO: Absolutely.

SENATOR RICE: --as Chairman of the Legislative Black Caucus? We may have to hold another hearing just to back up what you're getting here. I really appreciate it.

SENATOR BUONO: My pleasure, Senator.

SENATOR RICE: Thank you.

SENATOR BUONO: Welcome. How are you?

**A N A M O N T E R O:** Good, thank you. Good morning.

SENATOR BUONO: Did you have written testimony that you provided, or--

MS. MONTERO: I do have some written testimony.

SENATOR BUONO: Did you provide it? Could you--

MS. MONTERO: I did not--

SENATOR BUONO: Staff will take that.

MS. MONTERO: Thank you.

SENATOR BUONO: Good morning again.

MS. MONTERO: Good morning.

Madam Chair and members of the Committee, on behalf of Department of Labor and Workforce Development Commissioner Harold Wirths, I am Ana Montero, Assistant Director for the Office of Grants Operations. I appreciate the opportunity to represent the Department here today, and discuss the training component that was designed to support the State Weatherization Program.

As a point of background, the Office of Grants Operations is responsible for administration of various workforce skills training programs, including the Weatherization Training Program.

In July 2009, the Department of Community Affairs entered into a memorandum of understanding with the Department of Labor and Workforce Development to implement and administer a statewide training program focused on preparing a workforce with marketable residential weatherization skills from among disadvantaged, underemployed, and unemployed residents of distressed neighborhoods.

Through a competitive grant process conducted in the fall of 2009, an unprecedented \$2.8 million was awarded to a consortium of training providers and a nonprofit. The consortium, which includes the New Jersey Building Laborers Training and Apprenticeship Fund, the New Jersey Vocational Technical Schools, and the Black Ministers Council of New Jersey, was organized to conduct the weatherization training specific to this program and perform community outreach to recruit qualified residents.

ARRA's strong support structure, including individual case management and access to wraparound social services was, and continues to be, provided to program participants. These participants were also registered with the State's Workforce Development system's local One-Stop Career Centers to afford them access to a wide range of additional services and programs beyond the training period.

The 10-week, 400-hour training program was designed to provide participants training in academic readiness, life/employability skills, and specific core weatherization skills. In addition to gaining these core

competencies, the graduates earned marketable, nationally recognized, portable credentials in OSHA 10, EPA Lead Safe Certification, and Red Cross certified first aid and CPR training.

In August of 2010, the Department conducted a review of the training program outcomes. The review demonstrated that trainees were not placed in weatherization jobs at a meaningful rate. Once this came to light, Commissioner Wirths took immediate action to suspend any future training or recruitment activities and ordered that all efforts be dedicated to the placement of graduates. The suspension of training is based on the low number of placements to date, which is attributable, as Commissioner Grifa noted, to the lack of productivity of the local weatherization agencies.

In its initial year of activity through October of 2010, the training program enrolled 225 students and graduated 184. To date, there have been seven placements into weatherization occupations. In addition, recent wage records data indicates that 42 of the 184 graduates are, in fact, working in other industries in New Jersey.

From inception, the training program was developed to meet the expected job growth that would take place as a result of the weatherization of more than 13,000 units. Thus, the consortium expected and was dependent upon the weatherization agencies and their contractors to share the placement and utilize the skills of this trained workforce. That did not occur.

Under the direction of Commissioner Wirths, the Department is pursuing a fiscally prudent contract modification which will result in the original training grant award being reduced by one-half. This will ensure the training program delivers a greater return on the investment of these

funds, enhances its cost effectiveness, and provides realistic outcome performance for the sake of the state, its residents, and these training program graduates.

As we move forward, the Department will ensure that individuals who have graduated from the training program continue to receive job placement and other wraparound services. The consortium has realigned its strategy and job development targets to meet the anticipated job growth as a result of various statewide weatherization efforts. For example: They will work with HMFA, which, as Commissioner Grifa mentioned earlier, will be contracting for the weatherization of approximately 4,000 multifamily housing units. In addition, the consortium will work with statewide housing authorities that are weatherizing existing properties, as well as the Neighborhood Stabilization Program Grant recipients, to rehabilitate inner-city vacant homes.

The Department is committed to helping the program graduates not only gain marketable demand skills that translate into real job opportunities, but marks their valuable contribution to the anticipated success of the State's Weatherization Program.

Thank you. I'll take any questions.

SENATOR BUONO: Thank you.

Yes, I'm kind of taken aback by the paragraph on the bottom of page 5 of 6 that, "under the direction of Commissioner Wirths" -- and I'm sorry he's not here, hopefully you can answer the question -- "the Department is pursuing a fiscally prudent contract modification which will result in the original grant award being reduced by one-half." Are you talking about the \$4 million that's been dedicated to training?

MS. MONTERO: No. Well, the \$4 million-- The State plan called for \$4 million for training -- the training that the Department of Labor was to administer. However, the contract that we engaged in with the Laborers Training Fund was not for that full \$4 million; it was for \$2.8 million.

SENATOR BUONO: Two-point-eight, right.

MS. MONTERO: Right.

SENATOR BUONO: And so then, given that, what is this saying?

MS. MONTERO: So at that time the goal for the \$2.8 million was to train 600 individuals over an 18-month period of time.

SENATOR BUONO: Right.

MS. MONTERO: And so--

SENATOR BUONO: And how much have you expended of the \$2.8 million?

MS. MONTERO: About \$1 million.

SENATOR BUONO: And so you're-- I still don't understand what you're proposing -- what the Commissioner's proposing to do with the remaining \$1.8 million.

MS. MONTERO: So since we're not going to move forward with training additional participants, we'll stop at the 225, based on the demand to date. We will not utilize the remaining funds.

SENATOR BUONO: That's unacceptable. And I'm really-- I'm sorry that it's you that has to be the-- I know I'm not shooting the messenger, but that is completely unacceptable. The Federal government gave us \$4 million to be able to create a career path for people so that when

jobs open up, that they're successfully trained -- they're adequately trained. And, you know, this is-- I'm just very frustrated, I have to tell you. This is yet another-- So in other words, we're going to send the money to the Federal government because we haven't--

MS. MONTERO: Well, the funding-- The amount that has been set aside -- the \$4 million -- for the training program remains intact for at least a three-year period. Because this is not--

SENATOR BUONO: Well, I don't know how that can be -- it can't be. Because the fact is that this program doesn't last another three years; it's only until 2012.

MS. MONTERO: Right. But it wasn't-- There wasn't a requirement--

SENATOR BUONO: Or 2011, actually. End of 2011, yes.

MS. MONTERO: There wasn't a requirement on the training piece similar to the requirement on the weatherization of homes, where you needed to have a certain percentage within a date certain and the funding was dependent on that. My understanding -- and if I'm incorrect with this I will certainly clarify that after today -- is that the \$4 million that was set aside for the training was for the entire three year-period for the funding.

SENATOR BUONO: So why is the Commissioner cutting anything? Why is he reducing that?

MS. MONTERO: Well, we're reducing the contract that we had. So the contract--

SENATOR BUONO: With the consortium.

MS. MONTERO: For the consortium.

SENATOR BUONO: Why though?

MS. MONTERO: That doesn't mean-- Well, because at this point in time, we're going to focus our energies on placement activities.

SENATOR BUONO: No, you should be focusing your energy on placement the whole time. In other words, you're just starting to focus on placement?

MS. MONTERO: No, the placement was part of the contract originally; it was for training, it was for other wraparound services, as well as placement activities--

SENATOR BUONO: I understand.

MS. MONTERO: --that should have been occurring all along. Unfortunately, because we didn't have the hirings taking place, either from the self-performing CAP agencies or their contractors -- that's why that placement didn't take place.

SENATOR BUONO: Okay, so what has the Department been doing to place these graduates thus far?

MS. MONTERO: Well, right now the contract that we have with the Laborers and Apprenticeship Training Fund includes placement activity. So individuals have also been registered through our One-Stop. So these individuals who have graduated through the training program are receiving assistance both from the local One-Stops, because they were all registered through that One-Stop, as well as with the Laborers Training Fund. They have partnered with the Black Ministers Council -- so the Laborers Training Fund themselves, as well as their subcontractors, the Black Ministers Council, are working on placement for the rest of the individuals.



Again, it's hopeful that as the weatherization work takes place at the rate that it was originally expected, that we would, hopefully, have that placement increase as well.

SENATOR BUONO: Well, it just seems to me that up until this point you've done absolutely zilch in terms of linking qualified, trained workers with job opportunities. And a lot of what you said -- and forgive me if this sounds harsh, I don't mean it to be -- but it sounds like bureaucratic speak -- bureaucratic speak -- meaningless. The fact is your Department and the DCA should be sitting down with contractors, with CAPs, having monthly meetings to make sure that there is a linkage. I can't believe that this isn't happening up until this point. And then to punish those out there who haven't yet received the benefit of this training by cutting it and removing that opportunity is just unacceptable. And I'm sorry that the Commissioner isn't here to discuss it.

MS. MONTERO: One of the things that we did do is we have been in constant communication with DCA. And, in fact, you alluded to it a little bit earlier in your discussion with Commissioner Grifa with regard to the contractors and their requirements to hire. A bulletin was issued by the Department of Community Affairs, and the contractors utilized by the various weatherization agencies are required to hire any new individuals from the training program. That was not originally a requirement; that is something that has since taken place.

SENATOR BUONO: But up until this point, it has been 50 percent, and yet what has your department done to monitor that to ensure that that's been enforced? I don't see any evidence that any effort has been made whatsoever.

MS. MONTERO: Well, we're working with the Department of Community Affairs. That is one of their monitoring efforts, that is one of the things that they need to monitor -- that their responsible contractors are, in fact, hiring where they need to hire from. That is actually something that they agreed to at the time of bid, when they submit their bids to the various weatherization agencies. So that, in fact, is one of Department of Community Affairs' monitoring efforts.

SENATOR BUONO: Yes, sir -- did you want-- Did you wish to speak?

UNIDENTIFIED MEMBER OF AUDIENCE: No, ma'am, I'm just here for Ms. Montero.

SENATOR BUONO: Well, could you identify yourself?

UNIDENTIFIED MEMBER OF AUDIENCE: I'm sorry?

SENATOR BUONO: Could you-- We'd love to hear from you.

UNIDENTIFIED MEMBER OF AUDIENCE: No, I'm good; thank you.

SENATOR BUONO: He decided otherwise. So you're up here to take all of the questions.

Well, as I said, I am very disappointed at the lack of efforts; and it's not your fault, obviously. But I think it's telling that the Commissioner chose not to come to this Committee to testify. Obviously he doesn't take this training program very seriously. And the fact-- You have really ground-breaking news, I think, by telling this Committee that he's decided to actually cut, to toss away, over \$1 million of Federal funding that we could have utilized to train people who need good jobs now. That's

the point of ARRA funding. First of all, while I'm at it, I don't think you even should have ever suspended the training program.

MS. MONTERO: Well, you know, Senator, we were in a position where we needed to make sure that we didn't have a situation or, I guess, further exasperate a situation we're currently in where we have these 184 individuals who have gone through the training program. And again--

SENATOR BUONO: Well, some of them have found jobs elsewhere you said -- right?

MS. MONTERO: --remember this was heavily-- I'm sorry?

SENATOR BUONO: Some of them found jobs elsewhere, right?

MS. MONTERO: Yes, they have, they have. And remember: This was heavily reliant upon the rate of weatherization of homes -- homes being weatherized at the rate that was originally expected. So this training program was designed specifically for that to happen. This was done so that we wouldn't be in a situation where we were prepared to weatherize homes, we had the funding, but yet we didn't have the skilled workforce to do it.

SENATOR BUONO: Right. And now the Commissioner-- We may be in that position again if you listen to Commissioner Grifa. She's telling us that we're going to be up to speed in a month. We're going to have -- well within the time period required by the Federal government -- we're going to be up to speed and we're going to weatherize over 13,000 homes. And I don't think we have the workforce.

Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, and how are you, Ms. Montero?

I just wanted to ask another question here to clarify something.

Most of -- or many of the CAP agencies have their own subcontractors. With those subcontractors, they already have their staff. So when they set up the training program, was there any-- Did anyone do any numbers as to what jobs could actually come out of this?

MS. MONTERO: The expectation was -- and that's a good point of clarification, Senator. The weatherization agencies -- some of them are self-performing, meaning that they both train and hire individuals to do weatherization work. Other CAP agencies completely contract the work out. And some agencies do a blend of both -- they'll either do the weatherization on their own and contract some of the work out.

Again, given the significant amount of ramp up that was going to be required, a decision was made that there was going to be a need for individuals, beyond those that the CAP agencies currently already had in place, to be skilled and ready to do the work. So that's why this program was developed. The idea being that both the CAP agencies who were self-performing had in the past and would continue to do that; but that there was going to be an additional amount of individuals who were going to be required if we were going to meet the performance goals of 13,000 units in the state.

SENATOR CUNNINGHAM: Did you anticipate a certain numbers of jobs that would come out of this? I mean, you trained 184 people; did you anticipate that there would be 184 jobs, or--

MS. MONTERO: Absolutely. In fact, there was an anticipation that there would be many more than 184.

SENATOR CUNNINGHAM: Okay. You know, one of the advantages of this weatherization program, as I said before, is that it gives us an opportunity to give a skill to so many people who don't have jobs. I know in my district, unemployment is up to close to 15 percent. This program, by giving people training, whether they go into this weatherization program or not with these CAPs, it would give them a skill that they could possibly go into the private sector. So the thought of not doing any training exacerbates a difficult situation.

MS. MONTERO: That's understood. And again, we don't want to be in a situation where we come back, we continue the training, and then we have 600 individuals, fully trained, but with no real job opportunity at the end of the day. We always have the ability, if in fact the placement takes place at the rate that it needs to take place and these 184 individuals gain employment, to go back and do additional training. My understanding again -- and I will certainly correct this if it's inaccurate -- is that that \$4 million that was set aside in the State plan for the training efforts -- specific to the Department's training efforts would remain there throughout the three-year period.

SENATOR CUNNINGHAM: Well, I would just like to say I'd rather see 400 people with a skill than 400 people without a skill.

Thank you.

MS. MONTERO: Certainly.

SENATOR BUONO: Senator Ruiz, one second.

I just wanted to say one thing -- that you should be ready to meet a demand that, according to Commissioner Grifa, we are going to be ramping up significantly. And the new requirement that's been clarified by

the DCA bulletin that just went out -- it is requiring that every new hire -- not 50 percent, not 75 percent -- every single new hire has to come from that training plan that you ceased funding and cut funding for. So I think if you could give one message to the Commissioner from me, I think it's unconscionable that he made this -- I don't know if it's a unilateral decision or not, but he needs to rethink it.

Senator Ruiz.

SENATOR RUIZ: Thank you, Madam Chair.

I just want to echo the comment that I shared with Commissioner Grifa. Perhaps it was better shared with your Department.

I want to thank you for your testimony this morning, and for-- I know that you will convey the questions and the messages that were issued here today.

But as we move forward, that there is a more cohesive approach to linking individuals who are trained through this program with any subcontractors in any way that we can do so, so that there is a training and there is a hiring process.

I think Senator Cunningham was kind of asking a question that perhaps wasn't answered and probably cannot be answered here today: Has there been a projectory made that we will need  $X$  amount of individuals to become employed in trade in this division? Because there isn't an answer. So Madam Chair, as you had suggested: If DCA is saying that we're going to ramp up, that we're going to need  $X$  amount of people, we're not at that number here today.

But if, in fact, we don't start that work, that then we will have  $X$  amount of people over-trained and unemployable. So I think that the

Department has to make a conscious decision to really look and see if this money is being spent properly; and if, perhaps, we should then be training individuals in prospects of concrete employment in the future.

MS. MONTERO: Yes, absolutely. And that will be part of the analysis, moving forward. So that now that DCA is shifting gears and realigning its resources with the various agencies, now we need to make an assessment and a determination of what those agencies have currently in terms of their capacity to do the work; and what of any of those agencies -- to what extent any of those agencies will now contract out.

And to the prior comment about the bulletin that now requires 100 percent placement: That was, in fact, part of our effort to try to work closer and try to make it more of a collaborative effort with DCA so that they would, in fact, make that a requirement.

SENATOR BUONO: I just want to thank you for coming, and thank all the Committee members.

But I want to close by saying that I just think-- I don't know, the State of New Jersey seems to be having a real difficult time accepting financial help from the Federal government. And from the ARC Tunnel to Race to the Top to charter school resources, and-- This is -- we're either missing the opportunity or just downright rejecting billions of dollars. And I think that that is unconscionable.

Thank you all.

**(MEETING CONCLUDED)**