

In a New York state of mind

Historic New York-Puerto Rico Summit drives alliances between local companies and federally funded infrastructure projects

By Alexander López pages 18-23

TOP STORY

Prasa, Soderberg wage aggressive campaign against rogue septic tanks page 2

INSIDE

Puerto Rico Tourism Co. initiative zones in on tourists, safety first page 4

Pierluisi bills to help local manufacturers, renewable-energy development page 8

Permitting snags continue to stall Puerto Rico business development page 26

SPECIAL FEATURE



For up-to-the-minute local, national, international and economic news in English, go to caribbeanbusiness.pr now on



Up and running

New York-Puerto Rico summit gets historic business alliance moving forward



Representatives of Puerto Rico and New York companies attend the first Puerto Rico-New York Economic Development Summit Conference in Manhattan.

BY ALEXANDER LÓPEZ
alopez@caribbeanbusiness.pr

At the Economic Development Summit Conference between Puerto Rico and New York, a three-day event that took place March 29-31 in Manhattan, dozens of Puerto Rico and New York companies met for networking and to participate in training sessions on how to obtain minority certification.

“This will be an extraordinary opportunity to expand your business to New York, where billions of dollars’ worth of contracts are put out to bid by federal, state and city agencies every year,” said José Ramón Pérez-Riera, secretary of the Puerto Rico

Economic Development & Commerce Department (DDEC by its Spanish acronym), to the 84 people representing more than 45 participating companies from Puerto Rico.

The event, the brainchild of DDEC, provided a unique business-development opportunity for New York State minority- and women-owned companies, along with other disadvantaged business owners, to partner with Puerto Rico companies and professionals to obtain lucrative government contracts at the federal, state and local level, and help build New York.

The idea was so unique that it was backed by the White House, as well as the governors of New York State

and Puerto Rico. It marked the first time in history such a collaborative effort has been undertaken between two U.S. jurisdictions.

“Today’s conference is just another example of how New York State and the MTA [Metropolitan Transportation Authority] are working creatively on ways for minorities, women-owned businesses [MBWEs] and disadvantaged business enterprises to participate in the billions of dollars in contracts put out by our agencies,” said Nuria Fernández, MTA chief operating officer. “Our efforts are well-aligned with Gov. [Andrew] Cuomo’s goal of increasing contract awards to New York State MBWEs to 20%.”

The following organizations were represented at the conference sponsored by the MTA and DDEC: The White House Business Council, New York City Hispanic Chamber of Commerce, New York Statewide Coalition of Hispanic Chambers of Commerce, Minority Business Leadership Council, New York State Association of Minority Contractors and Women Builders Council.

The summit brought together 45 firms from Puerto Rico and dozens of New York-based minority firms. In addition, presentations by representatives of the federal and New York government agencies outlined the certification process and highlighted

Continues on next page

Continued from previous page

the many opportunities available for contracts with their organizations.

The federal and New York State agencies that made presentations to the minority firms outlining the type of projects and needs they put out for bid on a constant basis were: the Metropolitan Transportation Authority (MTA), Empire State Development Corp. (ESD), New York State Thruway Authority (NYSTA), New York State Department of Transportation, Dormitory Authority of the State of New York (DASNY), Ports Authority of New York & New Jersey, State University of New York and SUNY Construction Fund, Empire State Development Corp. (ESDC), U.S. General Services Administration (GSA), U.S. Army Corps of Engineers, New York State Homes & Community Renewal, and New York State Office of General Services.

“This conference isn’t a one- or two-day story; it will be a trend throughout the future,” noted Denise L. Pease, regional administrator for the Northeast & Caribbean Region of the GSA.

“The purpose of today’s activity is to facilitate small and minority and women-owned businesses in New York and Puerto Rico to grow and create jobs by connecting them with federal and state leaders and resources,” said Felice Gorordo, White House fellow at the White House Office of Public Engagement & Intergovernmental Affairs.

“As part of the president’s vision for an America that’s built to last, we’re helping ensure that small minority-owned businesses gain access to the tools and programs they need to help them compete,” he added. “The resources and connections you make here are real. It’s about facilitating meaningful matchmaking and networking opportunities between government leaders and small and minority-owned businesses.”

As virtually all contracting companies based in Puerto Rico are Hispanic-owned, they qualify as minority-owned businesses stateside.

“Our people in Puerto Rico don’t think of themselves as minorities, but as U.S. citizens we are minorities and disadvantaged, and qualify for the opportunity to obtain these contracts,” said Manuel A. Casiano, chairman of



(Top) Front row, far left: Event organizer and president of the Hispanic Chamber of Commerce, Nick Lugo; and front row, third from left, Casiano Communications Inc. Chairman & CARIBBEAN BUSINESS Editor in Chief Manuel A. Casiano.

(Bottom left) Manuel A. Casiano addresses the audience with Nick Lugo.

(Bottom right) From left: Michael Garner, MTA chief diversity officer; Manuel A. Casiano, CCI chief executive; José Ramón Pérez-Riera, Puerto Rico Economic Development & Commerce Department (DDEC) secretary; Nick Lugo, Hispanic Chamber of Commerce president; Tony Alonso, Direct ResponSource Inc. president & COO; Iván Irrizary, Direct ResponSource Inc. board member; and Luis Balzac, assistant to the DDEC secretary

Casiano Communications Inc., one of the speakers at the summit.

NEW YORK STATE IS BULLISH ON MWBEs

The opportunity for minority-owned concerns to land large public contracts got a major boost Feb. 17, 2011, when New York Gov. Andrew Cuomo issued Executive Order 8 establishing the Minority & Women-Owned Business Enterprise (MWBE) team comprising senior officials from the New York State Executive Chamber and Legislature, state agencies, professional and business associations, and academia.

The objective was to expand MWBE participation in state contracting and to remove barriers that have historically impeded members of these groups from obtaining government contracts.

“Since its creation, the Empire State’s great strength has come from the diversity, innovation and perseverance of all its residents,” Cuomo said. “New York’s MWBE programs have provided access to countless entrepreneurs and businesses and provided a level playing ground for state contracts.”

Article 15-A of the Executive Law, signed into law July 19, 1988,

authorized the creation of an Office (now Division) of Minority & Women’s Business Development to promote employment and business opportunities in state contracts for minorities and women. Under this statute, state agencies are charged with establishing employment and business participation goals for minorities and women.

Since taking office at the beginning of 2011, Cuomo has demonstrated a commitment to the growth of MWBEs.

“Gov. Cuomo has issued a goal to all government agencies. The goal

Continued from page 19

is a simple one—to increase contract awards to MWBEs to 20% of all contracts,” said Fernando James “Freddy” Ferrer, a former three-term Bronx borough president and former candidate for mayor of New York City. “That’s an ambitious goal, a high goal, but we believe it is an achievable goal.”

CONSTRUCTION IN PUERTO RICO: BIG PLAYERS LOOKING FOR A GAME

In Puerto Rico, the number of large-scale projects is limited, yet there are large construction companies that have extensive experience in building large-scale projects such as the Puerto Rico Convention Center, the Puerto Rico Coliseum, the Urban Train (Tren Urbano), elevated highways, water treatment plants, hospitals, high-rise buildings and federal buildings.

These companies have the bonding capacity—often in the tens of millions of dollars, or even \$100 million—to obtain surety bonds, which are required for participation in these types of projects.

A surety bond is a promise to pay one party (the obligee) a certain amount if a second party (the principal) fails to meet some obligation, such as fulfilling the terms of a contract. The surety bond protects the obligee against losses resulting from the principal’s failure to meet the obligation. The person or company that provides this promise is also known as a surety or guarantor.

Currently, many of these Puerto Rico companies are sitting idle or underutilized, working only on a series of small projects. Due to the prolonged, six-year local recession, there is little construction of office buildings, large-scale condominiums, shopping malls, housing developments, etc. on the island.

In other words, large projects in Puerto Rico are at a virtual standstill.

Meanwhile, there is opportunity in New York, where minorities have construction, architectural, engineering and other professional service companies. However, many of the minority companies in New York are small by Puerto Rico standards and lack the bonding capacity to compete for large-scale projects.



Puerto Rico Economic Development & Commerce Department Secretary José Ramón Pérez-Riera delivers opening remarks at the Puerto Rico Manhattan Business Center

Puerto Rico Economic Development & Commerce Department Secretary José Ramón Pérez-Riera with three-time former Bronx Borough President and ex-mayoral candidate Fernando ‘Freddy’ Ferrer; and Rafael Castro de Oca, president of the Puerto Rico Society of Architects and Landscape Architects



Up to now, minority-owned companies in New York have lacked the experience or bonding power, or both, to bid on large-scale federal, state and city projects above a few million dollars. Now, this unprecedented partnership will give both communities of contractors the opportunity to bid on much bigger federal, state and city contracts, noted Pease of the GSA.

By bringing these companies together, jobs will be created in Puerto Rico and in New York; the profits from these projects will go back to Puerto Rico, where they will be taxed and help support the government, Pérez-Riera added.

ASSEMBLING THE PRINCIPALS

New York City Hispanic Chamber of Commerce President Nick Lugo

was key in bringing in numerous New York minority firms for the networking and mentoring component of the summit.

Michael J. Garner, the MTA’s chief diversity officer, contributed significantly to the organization of the summit and in promoting the participation of numerous state-level agencies, which eventually led to involvement on the part of the New York governor’s office and the White House.

“This conference is a prime example of innovative and outside-the-box thinking that we are using to give you solutions to the historical impediments that have stopped you from doing work at agencies like the MTA,” Garner told the representatives of New York minority companies gathered at the summit.

James Albino, a member of the White House Domestic Policy Council and the President’s Task Force on Puerto Rico, highlighted the importance of public-private partnerships involving New York and Puerto Rico companies.

Thanks to Garner’s efforts, when the state became involved in the summit, an additional state agency signed on, and another two agencies at the federal level later came aboard.

HOW IT STARTED

Ferrer brought in Garner, who has held diversity posts at several agencies, to the inaugural summit between Puerto Rico and New York held last November at the Intercontinental Hotel in the Isla Verde sector of Carolina. That conference was organized by DDEC, the New York City Hispanic Chamber of Commerce and CARIBBEAN BUSINESS. New York Hispanic (Latino) political leaders saw much potential in the interfacing of the two communities, which share strong cultural and economic ties despite being more than a thousand miles apart.

“In addition to the procurement opportunities, we hope to inspire potential joint ventures,” Ferrer said.

ACCENT ON INCENTIVES

Puerto Rico government incentives are an additional reason for companies and professionals to consider exporting their services. As reported in CARIBBEAN BUSINESS (March 29), tax benefits under the recently enacted Export Services Act include a 4% corporate tax rate, which may be reduced to 3%; 100% tax exemption on dividends and profit distribution from export service businesses; and 100% exemption on property taxes for certain export services; with a decree of 20 years, renewable for 10 more, guaranteeing these rates.

GETTING STARTED:

CERTIFICATION AND ASSISTANCE

The first step in obtaining the opportunity to compete for the multimillion-dollar contracts available in federal, state and city contracts is certification as a minority and/or women-owned business. In addition, there are numerous certifications by a number of different agencies, and

Continues on next page

Continued from previous page

to qualify for the broadest range of opportunities it is best to obtain various certifications.

The U.S. Small Business Administration (SBA) offers the 8(a) Business Development Program, which serves as an important resource for companies seeking business-development assistance. This program was created to help small and disadvantaged businesses compete in the marketplace, helping companies gain access to federal and private procurement markets, said Jorge Silva-Puras, SBA regional administrator. Information on the 8(a) program can be found at www.sba.gov/content/8a-business-development.

The SBA is a strong advocate of minority and special audiences and recognizes that government contracting can be a very lucrative endeavor for small businesses. In addition to the contract set-asides that many government agencies provide for small businesses, a business classified as a minority- or woman-owned can often qualify for additional concessions.

The National Minority Supplier Development Council Inc. (NMSDC) provides a direct link between corporate (U.S.) America and minority-owned businesses. NMSDC is one of the country's leading business membership organizations. It was chartered in 1972 to provide increased procurement and business opportunities for minority businesses of all sizes.

NMSDC's rigorous certification process is considered by corporate (U.S.) America as the gold standard for certifying minority-owned businesses. The NMSDC Affiliate Regional Councils located throughout the country are responsible for certifying businesses owned by Asian-American, African-American, Hispanic (Latino) or Native American business owners using guidelines established by the National Minority Supplier Development Council. There is an office of this organization in Puerto Rico.

There are two primary minority and/or women-owned business certifications in New York State. The New York City Small Business Services MWBE Certification Program qualifies eligible firms for special business-development programs and inclusion in the New York



Front row, second from left: Denise L. Pease, regional administrator of the General Services Administration with women entrepreneurs attending the Economic Development Summit



From left, Felice Gorordo, a federal representative, Susan Brita, Michael J. Garner, Denise L. Pease, Manuel A. Casiano and Iván Irrizary

From left, Tony Alonso, Susan Brita and Manuel A. Casiano



State-certified MWBE database. The Port Authority of New York & New Jersey (PANYNJ) M/W/SBE Certification Program is required for contracting this agency. The PANYNJ has the goal of achieving 12% MBE and 5% WBE participation from businesses subcontracted from prime contractors.

and diversified local economies.

The New York State Thruway Authority (NYSTA) is a public corporation organized and existing pursuant to State Public Authorities Law, responsible for financing, constructing, improving, developing, maintaining and operating a 570-mile superhighway that connects New York City and Buffalo, N.Y.

Total estimated procurement for NYSTA projects over the next six to nine months includes \$134 million in construction, \$18 million in consulting and \$6 million in professional services & commodities, for a grand total of \$158 million.

The New York State Department of Transportation (NYSDOT) ensures customers who live, work and travel in the state have a safe, efficient, balanced and environmentally sound transportation system. The 2012-2013 New York State budget funds Gov. Cuomo's New York Works Program with \$232 million in state capital funds and \$917 million in new federal funds for a total of \$1.2 billion in new spending to accelerate repair, replacement and improvement of deficient roads and bridges.

The Port Authority of New York & New Jersey operates many of the busiest and most important transportation links in the region, including John F. Kennedy Airport, Newark Liberty International, La Guardia, the Lincoln and Holland tunnels, and the three bridges between Staten Island and New Jersey. The agency also owns the 16-acre World Trade Center Site in Lower Manhattan.

The Port Authority has its own certification process separate from other state, city or local authorities. The first step in becoming certified is registration as a vendor at the Port Authority Procurement Department at www.paprocure.com. Once certified as an M/W/SBE, a business is eligible to participate in the Port Authority's supplier diversity program, which offers capacity-building incentives, support services and contracting opportunities. Bidding opportunities are published on the Port Authority's website.

Purchasing needs are satisfied through competitive bidding procedures and contracts are awarded to either the lowest responsive bidder

STATE AND CITY

PROCUREMENT OPPORTUNITIES

The MTA is the umbrella organization for New York public transit including subway, bus, rail, bridges and tunnels. Its Department of Diversity & Civil Rights implements programs and develops policies that ensure compliance with civil rights laws and regulations. MTA is the largest and busiest transportation network in the U.S. In the coming nine months, there will be \$1.9 billion in opportunities at the MTA.

The Empire State Development Corp. (ESD) is New York's chief economic-development agency. The mission of ESD is to promote a vigorous and growing economy, encourage the creation of new job and economic opportunities, increase revenue to the state and its municipalities, and achieve stable

Continued from page 21

or highest-rated proposer. Whenever possible, the Port Authority will make an award to a certified M/W/SBE who already holds a government contract.

Construction contracts under \$1 million typically are set aside for M/W/SBE competition unless technical requirements or circumstances make it advisable not to do so.

The Dormitory Authority of the State of New York (DASNY) provides financing and construction services to public and private universities, not-for-profit healthcare facilities and other institutions that serve the public good. DASNY is also a major public builder in New York State with a construction pipeline of nearly 700 projects valued at \$5.7 billion. The estimated value of DASNY's upcoming workload is \$300 million.

The State University of New York (SUNY) has 64 geographically dispersed campuses that are in constant need of repair, maintenance and upgrade. In addition, new facilities are periodically constructed to support the variety of more than 7,000 degree programs offered through the system.

The State University of New York Construction Fund (SUNYCF) is a public benefit corporation established to streamline the construction, acquisition, reconstruction and rehabilitation or improvement of academic buildings, dormitories and other facilities for the state-operated institutions. SUNYCF anticipates for fiscal year 2013 design procurements of some \$50 million and construction procurements of some \$781 million.

City University of New York (CUNY) was recently awarded \$82 million in construction contracts for certified MWBE companies as part of the \$373 million CUNY Advanced Science Research Center Project.

FEDERAL PROCUREMENT OPPORTUNITIES

Federal procurement by the government is conducted by the GSA, which consists of the Public Building Service (PBS) and the Federal Acquisition Service. The U.S. government purchases more than \$425 billion in goods and services annually, making it the largest purchaser in the world.



(Top) Col. John R. Boulle II, U.S. Army Corps of Engineers New York District Commander, addresses participants of the summit on federal contracting opportunities.

(Bottom left) Nick Lugo, president of the Hispanic Chamber of Commerce addresses participants of the summit.

(Bottom right) An attendee, Jorge Silva-Puras, Denise L. Pease, Felice Gorordo, Col. John R. Boulle II, Nick Lugo and Manuel A. Casiano

PBS, for its part, is the largest landlord in the world, managing more than 350 million square feet of owned and leased space. In addition, it manages the government's automobile fleet of more than 220,000 vehicles. Every single government building is built, maintained and managed by the PBS.

The GSA buys, supplies and maintains everything the federal government needs to run itself. It manages the consumption of nearly \$95 billion in goods and services each year.

The GSA Schedule can be thought of as a collection of prenegotiated contracts. Procurement managers

from government agencies can view these agreements and make purchases from the GSA Schedule knowing that all legal obligations have been taken care of by the GSA. The Schedule is a catalog of 20 million goods and services that the government acquires.

The GSA has become stricter about getting on the Schedule, making sure firms are capable of fulfilling their contracted obligations.

GSA Advantage is the online marketplace for government where procurement managers have access to more than 17 million products and services available from more than

16,000 Schedule contractors.

"GSA is the intersection of government and business," said GSA Deputy Administrator Susan Brita. "We are the membrane through which your tax dollars are transferred into procurement dollars that go to the private sector."

U.S. Army Corps of Engineers New York District Commander Col. John R. Boulle II said more than 80% of every federal dollar that is spent on procurement is spent on defense, so it is worthwhile for MWBEs to explore contracting with the military.

Continues on next page

Continued from previous page

The Army Corps collaborates closely with its partners to deliver standard-setting engineering solutions to the civil and military communities it serves.

LICENSING

Professionals seeking to obtain contracts either directly or indirectly with federal, state and local government agencies in New York will need to obtain a license to practice their profession in the corresponding jurisdiction. In some cases, such as architecture, there is some reciprocity between jurisdictions.

In addition to obtaining the requisite professional license, out-of-state firms must have "Authority to do Business in New York State" from the New York State Department of State prior to seeking certification. The website www.dos.state.ny.us contains information on how to obtain this authorization.

Firms that already have Federal Disadvantaged Business Enterprise (DBE) status and firms that are part of the SBA's 8(a) Business Development Program and meet the criteria for MBE and/or WBE certification can complete the NYS MWBE Fast application and obtain certification in a streamlined fashion. Short-form and standard applications are available online at www.esd.ny.gov/mwbe.

The New York State Contract Reporter (NYSCR) is New York State's official publication of procurement activity from state agencies and authorities. State government entities must advertise procurements valued at \$15,000 or more in the NYSCR. Many municipalities also use the NYSCR, but aren't required to do so. Business access to the NYSCR is free for general access to the site, which is www.nyscr.org. The Port Authority's bidding opportunities are available on their website, www.panynj.gov. In addition, federal business opportunities are available at the FedBizOps website: www.fbo.gov.

FORMS OF COLLABORATION: FROM PARTNERSHIPS TO JOINT VENTURES

Charles E. Williams III, a partner at Peckar & Abramson PC, said there is a continuum of structures for companies to work together to obtain



Jeff Pontius, Manuel Villalón and Alexander López



Ricardo Álvarez-Díaz, Luis Matos and Rafael Castro de Oca

contracts that they would be unable to attain on their own. On one end there would be a partnership, in the middle would be a strategic alliance, and on the other end would be a joint venture.

In a partnership, everything between the companies is done together in the same direction. Both companies have concluded that independently they can't obtain the contracts to which they aspire and that only by working together will they be able to do so.

A strategic alliance is an ongoing small business that desires to continue as an independent entity; however, in order to grow, the two companies will come together to establish an ongoing relationship with a larger corporation. In a typical strategic alliance, the two companies will come together and identify what interests they have in common. They will then agree to work together under certain circumstances, not compete against



New York-Puerto Rico Economic Development Summit attendees listen to welcoming remarks.



Iván Irrizary, Manuel A. Casiano, an attendee, Alfonso Valdés and Fernando 'Freddy' Ferrer



Fernando 'Freddy' Ferrer, Milo Rivero, Luis Balzac and William Gilbane

one another, and distribute responsibility and income in a predetermined manner.

The concept of a joint venture is a partnership that comes together for a specific project. This typically occurs between two relatively small companies with independent identities that wish to remain separate but recognize the best or only way to obtain a certain contract is by working together.

So-called back-end operations can be run out of Puerto Rico at a much lower cost than in New York. This makes bids with joint ventures that include the participation of Puerto Rico companies more competitive than those of companies running all their operations from New York. Such arrangements allow Puerto Rico companies to submit lower bids and thereby obtain more government contracts. ■