

## Bait and Switch - Black Businesses still getting the Shaft!

Written by Jeffrey Boney

Friday, 11 November 2011 11:30

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Small businesses have always been the backbone of our economy and the key provider of jobs, employing two-thirds of the private sector work force and generating more than half of the private gross domestic product. Now more than ever, small businesses are needed to be the key engine to our nation's economic recovery through their readiness and ability to employ greater numbers of the workforce.



Years ago, local and state governments recognized the tremendous disparity as it related to contracts provided to an MBE (Minority Business Enterprise) firm and wanted to close that gap. As a result, many local and state entities along with public entities and school districts across the U.S. implemented minority participation goals, giving minority firms an opportunity to compete with more established, white-owned firms that traditionally received the majority of these contracts. Historically, MBEs disproportionately receive fewer contract opportunities due to a lack of practical and technical knowledge and access to capital, which significantly hinders an MBEs ability to grow their company and create jobs. Access to these contracts makes our communities better and creates an environment for generational wealth and fulfilled dreams.

Local entities such as the City of Houston, Port of Houston, HISD and METRO have goals that seek out minority vendors, although METRO and Port of Houston are race and gender neutral and assign goals based solely on business size and capabilities. The City of Houston and HISD have made a commitment to use taxpayer dollars to assist MBEs through the establishment of goals and internal controls that were established to ensure the program is working.

The Houston Independent School District (HISD) is the largest school district in the state of Texas. HISD has the Business Assistance Department, which was established by the Board of

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Education in October of 1988, to ensure that minority and women-owned businesses are utilized within the district. The District has MBE participation goal levels in three different areas: 1) Purchasing - 20% for contracts over \$25,000, 2) Professional Services - 25% for contracts over \$25,000 and 3) Construction - 20% for contracts over \$25,000. The City of Houston has the Mayor's Office of Business Opportunity, who has a mission to create a competitive and diverse business environment in the City of Houston. Mayor Annise Parker appointed a new director to the department, Carlecia D. Wright, in April 2011 to ensure that the City's small, minority owned and disadvantaged business enterprises have meaningful participation in the city's procurement process. The Contract Compliance Section of the Office of Business Opportunity has a primary function to monitor and enforce the requirements related to City projects and ensuring that prime contractors are honoring the expectations required of them to receive City contracts to use and not take advantage of MBEs. MBEs had long expressed their frustrations about the City of Houston's lack of enforcement of their requirements, but since the recent changes, many MBEs have felt that the City is moving in the right direction and that the Ms. Wright is working diligently to address historic MBE challenges and concerns.

There is still work to do, however, and continued accountability is still needed for the prime contractors. There have been countless disparity studies performed that continue to show the need for more enforcement of the requirements, as the majority of prime contractors are still white-owned businesses, outnumbering MBEs by large numbers. MBEs are constantly told that they aren't qualified to be prime contractors due to their lack of experience or technical capability to handle a major contract. As a result, MBEs are typically relegated to the role of a subcontractor and given a smaller percentage of the contract, making it somewhat challenging to significantly grow and expand a business at the same pace as a major prime contractor. Here is the catch though, many white prime contractors select MBEs to be a part of their contract submission to get a contract. They do this, in part, because on many contracts a prime contractor is typically required to utilize an MBE to fulfill the minority participation goals assigned to a contract. Many MBEs have been railroaded over the years, being used as a guinea pig by the prime contractor to get a contract, listing them on the bid as the MBE that they plan to use on the project and then, SURPRISE, they are unexpectedly removed from the project prior to the start of it and someone else does the work. Other MBEs remain on a project, but don't receive the money that they are owed in a timely fashion or even at all, while some are given less money than the original contract submission stated. The good ol' bait & switch.

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Countless MBEs tell stories of abuse and lack of enforcement concerning contracts secured with local government and public entities. Local business owner Jason Medlock, President of Glennlock Construction, a multi-million dollar general construction firm, expressed his frustration with being a respected general contractor in the city, regardless of race, but experiencing the good ol' boy system at its best. "We are a respected firm," said Medlock. "It's disappointing to be put in a situation to be selected as a subcontractor by an entity, with our stellar track record and experience, only to be looked over and hosed and then witness a firm receive multiple contracts that they didn't qualify for, except that they had the right skin color." Medlock is referring to contracts secured by a local company, Fort Bend Mechanical, who received roughly id=mce\_marker7 million worth of contracts with HISD to renovate five schools within a span of six months, without ever having any general contractor experience prior to HISD or having a track record of ever building a school. Fort Bend Mechanical was also recently awarded another school renovation, valued at id=mce\_marker2 million, by the HISD board of directors.

Glennlock Construction, who had previous experience building several schools for HISD prior to Fort Bend Mechanical being awarded their contracts, was approached by Fort Bend Mechanical to be the minority partner to go after HISD contracts. It was upon partnering with Fort Bend Mechanical that Medlock says his eyes were opened to a different set of rules being applied to black firms versus white firms, and how he experienced the sting of being abused by a prime contractor and not having HISD enforce their own requirements and hold the prime contractor accountable.

"It hurts like hell," said Medlock. "We bust our rear ends to do good work, grow our company and obtain a good name for ourselves, seeking to gain respect for the quality work we do and position ourselves to become a major prime contractor for HISD. Because of Pete Medford, owner of Fort Bend Mechanical, Glennlock is owed nearly a million dollars, along with our subcontractors, and we are having to fight to get our money through the legal system. These actions and lack of enforcement have limited our opportunities to bond future projects and have caused us to let some great employees go during this tough economic crisis. We reached out to HISD and it's as if they aren't listening and left us to fend for ourselves. It's just not right."

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Medlock's story is just one of many that have been shared for years. If something like this is happening to a well established, multi-million dollar firm like Glennlock Construction, imagine what is happening to smaller MBEs that don't have the resources to fight for their money or feel they have a voice. Black firms have oftentimes been used to go after and secure major contracts that have minority participation goals, and many are left holding the bag of abuse, but many entities sweep these issues under the rug and keep it quiet. So here are the questions that need to be answered: Why does an MBE have to have experience to secure a major contract when there is evidence that select white firms do not? Is anyone investigating to see if an MBE could have received contracts that traditionally go to white firms within their entity? Do taxpayers care that their tax dollars aren't being allocated and handled the way they should?

Black small businesses are wanting to know how serious local government and public entity leaders are with addressing these issues and are asking that they 1) enforce their rules and requirements more aggressively, 2) interview subcontractors to find out if they are being negatively impacted by prime contractors, 3) cease payments to prime contractors that have a history of poor payment history to subcontractors and 4) explain how a firm with no experience can obtain contracts that MBEs are told they need experience for.

Lately, there have been countless reports in the news concerning the shenanigans involving elected officials and allegations of them receiving money from companies that pay to play. The good ol' boy politics involved in local government and public entity contracting is nothing new, but is more significant than it has ever been. Local government and public entities lack of enforcement of their own rules impacts MBEs, impacts the community and impacts lives.{jcomments on}