

MINORITY ENTERPRISE DEVELOPMENT

Why Johnnie Black contractor still can't read.

BY JAMES L. POSEY

Of course its not about a Black contractors ability to read books per se, but more about his or her inability to read the compomising hand writing on the walls, which lessen their ability to perform largely as truly black independent economic agents in community commerce. This week is suppose to promote the success of minority businesses, but there is a penetrating irony in how success is measured and by whom. Is a minority (Black) contractor/business successful when they accept contracts knowing full well that majority of benefits will be enjoyed primarily by those outside of the minority community? Is it a success for a minority contractor to maintain the same pattern of discrimination as his white counterparts, hiring everybody except the Brothers?

In case nobody has noticed, there is consistent pattern of failure by African American contractors that get camouflaged about this time every year. Who will be the chosen one this year? They look good on the outside, adored with glamorize contracts, but they are wormy on the inside, full of

holes that are eventually aired out and finally hastens the collapse.

This is not just another issue of abuse and misuse of resources or opportunities, but a fundamental question as to whether the economic condition of African Americans will ever change for the better. While there is certainly a need to celebrate legitimate success, there is no way to make appreciable change if there is this continuous effort to shade the truth about the real condition of African American contractors and businesses in general. And because of ignorance and a tendency to settle for political solutions rather than thoughtful regenerative corrective hard work, the conditions are made worst by the very forces who are charge to help.

As a consequence, so many fake black faced contractors who are rewarded for selling out their own communities ultimately wind up on scrap heap ahead of the rest of crowd.

The atmosphere for this sort of destructive activity persist and there are specific examples close to home, which is what precipitated the following open letter to a friendly and con-

scious city Commissioner who controls access to one of the most lucrative projects for construction contracts, the Combined Sewer Overflow project (CSO):

An open letter to Commissioner Mike Lindberg:

Dear Commissioner Mike Lindberg:

I finally found some time to relay the concerns my company, Work Horse Construction, experienced in the replacement bidding process on the Headworks Columbia Waste Water Treatment Plant a few months ago. I have also attempted to address my decision not to accept a proposed time-materials-plus contract arrangement with Contractors, Inc.

As you well know, and contrary to all the effort to design and promote the bid specifications to achieve opportunities for Northeast minority residents, the project was not successful in this regard. This is a fact in spite of the well intended efforts of Bureau of Environmental Services (BES) and other city personnel. Indeed, a close

evaluation of value elements in each subcontract will reveal that, relative to the overall contract dollar amount, very few dollars will actually be retained by Black and other minority subcontractors and workers residing in North/Northeast Portland.

If I could point to one key factor having an adverse impact on this process, it would be the degree of inexperience and nativity on the part of program staff responsible for minority contracting issues. In other words, you are not going to get the intended results until you employ individuals who really know what they are doing in this area.

As you know, my company was not able to obtain any reasonable subcontracting work with Contractors, Inc. during the formal bidding process for a number of reasons. Consequently, in my opinion, the subsequent efforts to work out a deal represented a subordinate level of commitment.

With regards to the time-materials-plus proposed contract with Contractors, Inc., we felt it was not in my best interest to accept their

arrangement. I believe it did not represent real profit, control of the work elements or worthwhile business experience. Additionally, although it was actually endorsed by BES staff, the arrangement had too many characteristics of a classic "fronting" operation designed specifically just to satisfy DBE goals. And while Contractors, Inc. may not have had any intentions of fostering that kind of activity, the results were the same.

Finally, I know this situation and many others like it epitomizes why there are so few adequately prepared, legitimate African-American and other minority contractors in the industry today. There is a repetitive history of minority contractors who have been so desperate they are willing to accept contract arrangements which deny them any real profitability and qualifying experience. Unfortunately the city and many other agencies have been more than accommodating in these arrangements.

Moreover, these programs have categorically been designed to re-

ward both prime contractors and disadvantage businesses willing to exploit the intended purpose of these programs for the easy dollars. Ironically, this creates an entire system of factors and practices working at cross purposes, assuring frustration and ultimately failure.

It becomes a testimony to failure every time a contractor is awarded a city contract below market rates in the name of the low-bidding process. This inherently shifts the economic liabilities disproportionately to the most vulnerable of all the entities involved: the minority subcontractor. Predictably, these situations continue to erect significant barriers to real progress and explain in part why there are so few people of color working in the construction industry as skilled workers, project managers, estimators, superintendents, etc. etc.

Work Horse is one of only a few minority companies conscious of this long history of abuse and misuse of these disadvantage business programs. And, I am not willing to contribute to the program's demise.

Minority Contractors Hold Conference

The National Association Of Minority Contractors (NAMC), The Nation's Leading Advocate For Minority Contracting Issues, Recently Held Its 25th Anniversary Conference In Oakland, California. During This Landmark Occasion NAMC's 1994 Issue Briefs And Position Papers Were Presented. The Position Papers Are By No Means Intended to "Freeze" NAMC's Views On An Issue, But Are Rather Intended To See Out A Comprehensive Viewpoint To Let Others know Where The Association Stands. What Follows Is A Compilation Of NAMC's 1994 Issue Briefs And Three Position papers On Three Of The Issues: 1994 Issues And Positions Summary

1. Access to Capital

NAMC believes the time is ripe for renewing concerted Congressional attention to the issue of access to capital for minority-owned businesses. We believe that results at the federal level will do much to steer state legislators into making appropriate reforms in the interest of small and minority-owned businesses. A key focus of our legislative efforts in 1994 will continue to be in the area of community development, beginning with the full support of initiatives in Congress to promote Community

Development Banks and encourage lending institutions to comply with the Community Reinvestment Act (CRA).

2. Affirmative Action: City of richmond v. J.A. Croson Co.

NAMC supports continuing efforts across the U.S. to validate Minority Business Enterprise (MBE) utilization programs as called for under Richmond v. Croson. In particular, we support ongoing efforts in conducting disparity studies as a means of verifying past discrimination in localities having or planning to have MBE utilization programs. We also support federal legislation requiring state and local governments to adopt MBE utilization programs based on Congressional findings of past discrimination.

3. Affirmative Action: Combined MBE/WBE Goals

NAMC supports legislative and other measures to ensure separate affirmative action goals for women and minorities in the procurement of public contracts.

4. The Davis-Bacon Act

NAMC supports H.R. 2042/S. 916, which would raise the Davis-Bacon threshold to \$500,000, and allow greater use of "helpers" on federal and federally-financed projects. On the other hand, NAMC opposes H.R. 1231/S. 627 or any other legislation designed to expand

the scope of Davis-Bacon.

5. Anti-Dual Shop Legislation

NAMC opposes H.R. 114 and any similar legislation which would undermine the established rights of construction firms engaged in dual-shop operations. Minority contractors must unite in dual-shop operations. Minority contractors must unite in developing a national strategy for educating federal developing a national strategy for educating federal developing a national strategy for educating federal legislators of the dangers of the anti-dual shop legislation.

6. The Employee Retirement Income Security Act (ERISA)

NAMC opposes H.R. 1036/S. 1580 or any similar legislation designed to undermine ERISA preemption of state laws regarding prevailing wage standards, apprenticeship and training standards, and mechanics liens. We urge minority contractors to unite in opposing this bill.

7. Equal Surety Bond Opportunity

NAMC supports legislation which will ensure equal surety bond opportunity. We will continue to work in 1994 to bolster support for the Equal Surety Bond Opportunity Act (ESBOA), both in the House of Representatives and the Senate. We will need our members' support in achieving this.

8. Health Care Reform

While supporting the need for reforms affording all Americans greater security in health care, NAMC is concerned about the use of an employer mandate to achieve this end. An employer mandate could pose an undue burden on small and minority-owned businesses, thereby curbing their growth or even driving them out of business. NAMC urges a closer look at the employer mandate to ensure that no unfair impact will be borne by small and minority businesses.

9. Intermodal Surface Transportation Efficiency Act (ISTEA)

NAMC advocates the full funding of the ISTEA capital investment grants, as well as the redoubling of efforts to ensure small and small business participation in the opportunities thereby created. We urge Congress to restrict pork-barrel spending on highway demonstration programs, to pass a "clean bill" designation of the National Highway System, to explore innovative ways of financing FTA operating expenses, and to encourage the timely development of a National Transportation System.

10. Job Training

While NAMC supports the Clinton administration's effort to overhaul job training and education, we are concerned about the proposed details. We believe the Reemployment Act of 1994 (H.R. 4040/4050, S. 1951) could go farther

in providing opportunities for minorities having a historical lack of access to the traditional occupations. In particular, we advocate for the construction industry a fair system under the Act promoting high quality, standardized and portable training in the open shop sector.

Under the Goals 2000: Educate America Act, NAMC also advocates the fair representation qualified minorities in the National Skill Standards Board, and in the education research initiatives created under the Office of Education Research and Improvement.

11. Miller Act Reform

NAMC supports the raising of the Miller Act performance and payment bond threshold from \$25,000 to \$150,000. In particular, we support H.R. 2660 introduced by Rep. Albert Wynn (D-MD) which specifies this raised threshold. We also support the raising of the thresholds of the "Little Miller Acts" enacted by many states.

12. North American Free Trade Agreement (NAFTA)

NAMC supports legislation expanding the Prompt payment Act to cover federal grant programs. We also support the passing of legislation affording contractors on state and local projects the same protections as they currently receive at the federal

13. Prompt Payment Procedures

NAMC supports legislation expanding the prompt payment Act to cover federal grant programs. We also support the passing of legislation affording contractors on state and local projects the same protections as they currently receive at the federal level.

14. Federal Procurement Reform

While NAMC supports the process of procurement reform, we are concerned about specific provisions in Senate and House proposals that would undermine minority access to federal contracts. In particular, NAMC is opposed to provisions that would abridge the small business subcontracting requirements under Section 8 (d) of the Small Business Act. NAMC supports the urgent need for comprehensive small and small disadvantaged business hearings on all key issues of procurement reform prior to Congressional floor action.

15. Striker Replacement Legislation (H.R. 5/S. 55)

NAMC opposes H.R. 5/S. 55 because of the negative impact it will have on minority-owned businesses. The bill not only undermines union employers by forcing them under the full dictatorship of the unions, but also threatens nonunion employers by forcing them to recognize union representation under certain conditions. NAMC urges concerned members to write their Senators expressing opposition to the bill.

National Association Of Minority Contractors Of Oregon



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