

## Cheating: The Back End of D.C. Minority 'Fronting'

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Sometimes the best intentions can be shattered by unforeseen consequences. Such is the case with the Washington, D.C.'s Department of Small and Local Business Development. One of its missions is to increase the participation of D.C.-based business, particularly small and minority-owned firms. It has become popular for this department to encourage minority/majority joint venture construction contracts. This sounds noble but it often becomes a disaster when all of the parties are not genuine and noble in their motivation.

Each joint venture must be screened and certified by the Certified Business Enterprise Office (CBE). To qualify, the minority portion has to have at least 51 percent ownership in the joint venture and also must reside within the District. The outside partner must have less than 50 percent of the joint venture and does not have to reside within the District. The two companies come together under the formal incorporation application to the D.C. government. Bylaws governing the joint venture explain how they are going to work on a particular bid, providing they win that bid. They present their application for CBE Certification. The CBE office reviews all of their papers and makes a decision. Those with CBE certification will get a gift of 12 percent "preference points." This gives them an advantage over other bidders. They can even bid higher than a noncertified company as long as they land within the 12 percent gift margin.

This process is enticing to those White owned firms living outside the District and wishing to get some of those plum D.C. projects. So, they begin breaking the rules. They contact the Department of Small and Local Business Development to get a recommended list of potential minority contractors. To some of these evil prime contractors,

ing the bonding information, which is required within the bid, the authorities can easily give an after bid interview with each party separately and verify that this is a real deal. No out of town majority firm should participate at all!

Today, there are more than a few very large White owned construction companies living outside of the District who are having a field day running this fronting scheme. I know of one minority firm that has done

three different joint venture agreements, worth more than \$130 million, with the same predatory firm (one for each of three different bids). He does about \$2 million per year and the out of town majority firm averages \$500 million. It is just impossible for this to really happen and someone within these District government offices should figure it out or confess to the shams. Better yet, end them now!

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this becomes a "sucker list." They begin surveying the contractors on the list and may end up with the most naive business person they can find. Together, they work on the joint venture agreement and execute all of the requisite paper work, including signature cards for the joint venture bank account. The minority/local owner will usually declare 51 percent ownership. The out of town majority owner will declare the remaining 49 percent. They get certified and go after a certain bid.

If they win, then all hell will break loose. Quickly the White out of town firm will sit its joint venture "partner" down and start dictating how things are going to be on the project. The minority partner's signature card at the bank has disappeared. Instead, of 51 percent local minority and 49 percent out of town majority, it becomes around 10 percent minority and 90 percent out of town majority. If the minority starts to protest, he or she will be threatened with firing. Firing? Yes, it is like he has suddenly become an employee. Thus, the promising joint venture has become more like "front and flunky." The bylaws are mysteriously amended and the whole agreement is breached.

Since the bond is in the White company's name, it has the real power in the "partnership." The minority firm has very little bonding capacity and could not have done the project on his own. Thus, the front controls the whole project. He will assign most of this work to himself, which makes it very profitable. Plus, he probably overbid the project, collecting even more profit (at the expense of the District).

The frustrated minority may be tempted to go to District officials, but that has too many risks. Officials really don't want to hear about anything that might decrease the listed minority participation. Plus, there is too much dirty business to clean up such as fraud and a cancellation of a much needed project. If the minority firm files a lawsuit, the big, bad majority firm will laugh, kick him all the way off the project and order his lawyers to let the case languish in court for years.

Regardless of how you look at it, this is not business development. It is predatory, deceptive and both misleading and costly to the public. District officials are not powerless when it comes to ending this fraud. Besides check-

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