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allows pass-through costs

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By [Luke Rosiak](#) - The Washington Times

Wednesday, April 3, 2013

When the U.S. Forest Service sought to do some minor work replacing the siding on buildings at the San Jacinto Ranger District in Riverside County, Calif., it limited bids to HUBZone contractors — "small businesses in urban and rural communities" or "Historically Underutilized Business Zones."

It wound up awarding the \$190,000 contract to Johnson Roofing & Construction, a company that fit that criteria — but is based across the country in Georgia. Johnson subcontracted all but \$10,000 of the work to Ventura, Calif.-based J. Davis Construction Management Inc. So when the government needed four workers to slap some siding on a building, it wound up in a situation where four administrative employees of an unrelated company on the other side of the country also were being paid, according to the company's own account:

"For the prime contractor, there was a contract administrator, accountant, quality control manager and field project manager that are all directly invoiced [sic] with the progress of this contract. There were 4 worker who[sic] performed the work necessary to satisfy contract requirements for the subcontractor," Johnson wrote in stimulus program disclosures.

"One new employee were hire [sic] to provide the capability to manage and oversee this project. A project manager was brought onto the team to work out this projects [sic] as a result of growing workload and the new award." The additional layer to satisfy federal requirements for supporting small and minority-owned firms often adds significant overhead to contracts, a Washington Times analysis of federal data found.

The Small Business Administration says it knows that fraud takes place in the award of government stimulus contracts to minority-owned businesses, and it is cracking down.

"SBA believes it is essential that the benefits of small business government contracting opportunities flow to the intended recipients," John Shoraka, SBA's associate administrator, said in a statement. "SBA recognizes the potential for abuse within government contracting and has taken significant steps over the past few years to prevent fraudulent firms from entering our programs and we will go after any bad actors. "There have been more procurement-related debarment and suspension actions in the last two years than there were in the previous ten combined," the statement said. There are rules on how much can be subcontracted out on a set-aside contract.

For services, it's "at least 50 percent of the cost of contract performance incurred for personnel;" for supplies, it's "at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials." For general construction, the cutoff is 15 percent; for specialty construction such as plumbing, 25 percent.

A Times analysis of all stimulus contracts found many that are unlikely to meet those thresholds, and that bureaucracy makes enforcing regulations against pass-throughs difficult to enforce, with limited data and a passing of the buck between the SBA and the agencies that award a given contract.

The SBA said that since rules on many of the thresholds exclude the cost of materials, the dollar amount subcontracted out was not enough to prove a violation, and that only the agencies knew what the cost of materials was.

But Jo Schuda, a spokeswoman for Veteran Affairs, which has awarded contracts to veteran-owned firms that appear to be pass-throughs, said by email the "VA does not have a way to predict a firm's behavior on a contract or know whether or not it is observing the limitations on subcontracting."

She later clarified that the "Center for Veterans Enterprise, which screens for verification and priority for contracts," does not, and could not specify which office did.

Forest Service spokeswoman Tiffany Holloway said that agency's stimulus contract was part of a larger arrangement between the government and Johnson, and that when all of its work in other locations was taken into account, Johnson did 32 percent of the work.

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The subcontractor said if the pass-through were out of the way, costs could have been lower.

"If we went in and said we could do it, it might have been lower than Johnson, but technically we wouldn't have been qualified," said Vina Adam, contract administrator for Davis.

Two months later, Davis appeared to realize that it was missing out, and applied for and was granted HUBZone certification itself.

Its disadvantaged certifications are now the primary asset touted on its Web site.

"We only do government contracting there are a lot of contracts that come out for them so they can meet their quotas," Ms. Adam added.

Far East Construction, a Connecticut company with 25 employees that is a minority-owned small business located in a disadvantaged urban zone, got 17 stimulus contracts.

For 12 of them, it contracted 97 percent of the work to one contractor, MCC Construction Corp. of Colorado, which was not eligible to receive the contracts directly because it is not a small business.

Far East reported that it created jobs for "supervision" of those workers. Harry Alfred, president of the National Black Chamber of Commerce, said it's unlikely such small companies actually had the bond for the construction project, which he said was a tipoff that a construction project was using a front.

"In construction, he who signs the bond is the businessman. They ought to ask for that. In the local government arena, you can do site visits, but at the federal level it's probably too cumbersome to police that." Far East did not return a request for comment. Abraham Xiong, president of the Government Contractors Association, said taking a cut of federal contracts doesn't help pass-throughs grow into real businesses.

"When there's abuse, the small company is doing nothing and they're just the name winning the contract. They're not building up any true resources and they're not growing in their expertise," he said, adding that the SBA, which certifies the contractors, "is not going to bite its own hand."

"They're still trying to work with [problematic companies] because it's a reflection on the SBA," he said.