

**Testimony of
Felicia James, President
Primestar Construction**

**Before the House Small Business Committee
Subcommittee on Subcontracting & Workforce
Thursday, May 23, 2013 at 10:00 a.m.
Rayburn House Office Building, Room 2360**

My name is Felicia James and I am the President of Primestar Construction. Primestar Construction is a Women Owned, 8 (a) and HubZone certified full service construction firm having executed and successfully completed several trades identified in various construction projects. I am a member of the U.S. Women's Chamber of Commerce and was recently appointed as an agency liaison to the U.S. Navy and Air Force. We are over a half a million member network of highly qualified viable women owed firms. I come to you today having preformed both as Sub-contractor, and General with major specialty industries self -performance capabilities; to elaborate on the support of the two step design build contracting vehicle, the reverse auction bidding, ability to acquire credit for tiers other than the 1st as it relates to the Sub-contracting small businesses.

Primestar Construction supports the use of two step design build contracts.

Most design-build public projects today are procured via a two-step approach. First, requests for qualifications (RFQs) are sent to potential design-builders and design-build teams. Based on the responses to the RFQs, 3-5 design-builders are short-listed and are given a Request for Proposal (RFP) seeking competitive submittals, the winner of the process being awarded the design-build contract.

Unfortunately, due in part to the competition with large construction firms, many Small businesses are not selected for inclusion among the qualifying offerors for the second phase. For a small business to be successful in the two step design build process, there needs to be a percent allocation reserved for Small businesses like Women-owned or other small business set-aside within the second phase contractor pool. This would allow an opportunity for the selection committee to continue to evaluate the potential team and help Small businesses procure construction project in the two step design build process.

Primestar and other women-owned businesses with similar structures can continue to compete with the assurance that we will make it to a level beyond submission to attain award.

Primestar Construction stands in strong opposition to the use of reverse auction for construction projects.

Reverse auctions were originally designed to procure commodities and other manufactured goods. This procurement method should not be used for the following reasons:

- Reverse auctions don't necessarily guarantee the lowest bid
- Set aside programs are non-existent and could potentially violate federal procurement laws, particularly the simplified acquisition thresholds which helps small businesses.
- Small businesses are unable to afford the additional costs of website, membership & software needed to use Reverse Auctions.
- Small businesses are often unable to compete with the incumbent (typically large prime) who has multiple awards and can afford to reduce pricing.

Overall, the impact this procurement has on Primestar would be a cost to my bottom line, having to wade through an additional qualification criteria beyond that of the federal requirements needed for the various set-aside designations.

Primestar Construction does not believe that prime contractors should receive credit for Small businesses used as second and third tier subcontractors.

Prime Contractors should be credited only to the first tier subcontractors. Changing the credit process to include second and third tier contracts will encourage bundling of projects into larger portions, diminish the amount of first tier sub-contractor awards to Small businesses and make it harder for Small businesses to access larger portions of federal projects thereby making it harder for Small businesses to grow and become more competitive in the federal marketplace.

- Including all the tiers into the sub-contracting plan would lower the number of first tier sub-contractor awards to Small businesses that desperately need and are qualified to perform the work.
- The current system allows for mentor/protégé relationships that will enhance my firm's capability to more successfully compete for larger projects.

I am currently in discussions now with several large construction companies that will provide my construction firm opportunities for growth that might not be available if the current small business first tier contractor system wasn't in place. The revenue and qualifications are sometimes diminished as the tiers levels dissipate. Some companies at this level are given opportunities that may not be afforded them not with a large business. As with the U.S. Women's Chamber of Commerce, we have a network that can be a resource of Small businesses at various levels that are given opportunities to preform and grow because another small business assigned work at a lower tier and assumed liability, thus help the growth of that business.

I am extremely concerned and fear that if the tiered system was changed then the change will dilute the leverage of the small business entity within the mentor/protégé program and their participation in the completion of larger construction projects would be significantly reduced.

The benefit of a large firm entering into a mentor/protégé relationship with a small construction firm like mine is viable because the large firm would utilize the benefits of my 8a, Small, Hub-Zone and ED-WOSB certifications and be able to provide services and subsequently profit from this project, which due to their size, the large firm I partner with normally wouldn't be able to compete or provide a bid.

- Including second tier and third tier sub-contractors in the subcontracting plan would violate the intended purpose of the Small Business Program, which is "to maintain and strengthen the nation's economy by enabling the establishment and viability of small businesses."

Primestar supports H.R. 776, the Security in Bonding Act of 2013.

The bill adds transparency to the surety assets. By increasing the guarantee to 90%, more small and emerging businesses like myself will have more opportunities to participate in the SBA's Surety Bond Guarantee Program. The provision to increase to \$6.5 million from \$2 million the amount the SBA will guarantee should help make bonds available to more small and minority contractors. Being able to see clearly the asset backing a bond will allow contractors and federal contracting officers to know the guarantees promised on paper are backed by honest companies pledging real assets.

In conclusion, thank you for the opportunity to provide my testimony to you today.

- **Primestar Construction supports the use of two step design build contracts**
- **Primestar Construction stands in strong opposition to the use of reverse auction for construction projects**
- **Primestar Construction does not believe that prime contractors should receive credit for Small businesses used as second and third tier subcontractors**
- **Primestar supports H.R. 776, the Security in Bonding Act of 2013**

The SBA needs to continue to calculate small business participation for first tier contractors as it currently exists. Changing the system to include second and third tier contractors would irreparably harm the women owned, emerging and small businesses the program was put in place to assist.