

Why are DBEs MIA? Overcoming the Disadvantaged Business Enterprise Shortage, *Construction DIVE*, ft. Andrew Richards

Andrew Richards, Partner at Kaufman Dolowich & Voluck, LLP in Long Island, was quoted in an article written by Kim Slowey for *Construction DIVE*, (November 3, 2015) —

Since the early 1960s, even before the passage of the Civil Rights Act of 1964, the U.S. government has been trying to find ways to give disadvantaged business enterprises (DBEs) a piece of the gigantic federal contract pie — almost \$450 billion in 2014. Also commonly called WBEs (women-owned) and MBEs (minority-owned), they all refer to businesses, which, by virtue of ownership, historically have been shut out of federal contracting opportunities.

State and federal agencies typically set required DBE participation goals at 5%-10% and up, meaning that there are tens of billions of federal dollars up for grabs. Of course there has been temptation to commit fraud to gain access to the lucrative contracts. But with all of the money at stake, one would think minority and women-owned businesses are filling federal offices, demanding to be certified and eager to participate. So why aren't they?

Andrew Richards comments on certified DBE's and moving forward:

Once a firm is certified, problems often arise from expectations of what working on a government project entails, and a newly certified, smaller contractor can be overwhelmed to the point of either being replaced or dropping out of the program, according to attorney Andrew Richards, a partner at the New York law firm of Kaufman Dolowich Voluck. Richards said the DBE program is supposed to prioritize mentoring and education, but that is rarely the case.

They're supposed to take these people under their wing and teach them the business so they can grow into a formidable enterprise," Richards said. "I don't think the programs have accomplished that. [General contractors] are just trying to fulfill their contractual obligations with the owner. It's very hard to do public work, and [the DBEs] sometimes end up getting terminated at some point during the project or doing bad work."

He added, "There are a lot of good minority contractors out there. There's just not enough."

A dearth of certified firms, for whatever reason, results in the primary contractor hustling to find DBEs to make the numbers work, even if that sometimes means bending the rules.

Richards said a large contractor will often be tempted to either supplement a DBE's workforce as needed or even take over management of the smaller firm's operations just to get the job done.

There's a big difference between doing a \$1 million piece of work and a \$20 million piece of work. I think that's where [DBEs] get stuck," he said. "The bigger company will just put their people in charge."

Richards said that if there were more certified DBE firms, there would most likely be less fraud. "It wouldn't be worth getting investigated."