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Testimony

Tristan Smith, Logan Mechanical LLC - Certified MBE

SB453 / HB1097 – State And Private Construction Contracts – Prompt Payment Requirements

Favorable

Dear Chair Griffith and members of the Senate Finance Committee:

My name is Tristan Smith. I am the owner of Logan Mechanical, a certified MBE located in Clinton, Maryland. I graduated from the UA Steamfitters 602 apprenticeship program in 2012 as a Journeyman. I worked for American Mechanical Services and WE Bowers for four years before starting my own company, Logan Mechanical, in 2016. We are a 100 percent certified MBE, and we do state and local work, and are certified to do federal work.

However, it's difficult to bid as an MBE because of payment issues, access to capital, and organizational expertise required for bidding as a Prime Contractor. Because of these hurdles, we often times accept work as a Sub Contractor, as opposed to bidding as a Prime Contractor.

For example, we recently subcontracted with a Prime Contractor out of DC, after being approached by a company, since they were required to meet certain MBE targets under the bid. My company and our 4 workers have been on that job for 5 months, which costs me about \$30,000 per month in wages, not including our materials. In 5 months of work, we've only been paid for 1 month. The reason given to me by the Prime Contractor is that they have not received payment yet, and since the contract states that the work is "pay when paid," my team needs to keep working regardless of whether we get paid or not.

This is extremely difficult for an MBE for the following reasons:

1. As a small MBE, operating on extremely small profit margins, and with limited access to capital, we can not afford to bid as a Prime Contractor due to the administrative costs of reviewing a 300 page contract, for a job, sometimes as small as \$15,000.
2. As a result, in most cases, we get pushed into bidding as Sub Contractor.
3. Once we accept work as a Sub Contractor, there is no way for us to get paid unless the Prime Contractor gets paid, and we never actually know if and when they get paid.

We are completely at the mercy of the Prime Contractor.

It's an extremely exploitative system. I'm supporting SB453 / HB1097 because it ensures that we will either be paid promptly, or paid 9 percent interest while we are not being paid. That's much better than the current system for my company and for other MBEs in my situation. That's why I'm asking for this committee to pass the bill.

Thank you.

Respectfully,

Tristan Smith
Owner, Logan Mechanical LLC
Clinton, Maryland