



DEPARTMENT OF THE AIR FORCE

ARLINGTON, VA 22203-1613

Office of the Deputy General Counsel

MEMORANDUM IN SUPPORT OF THE SUSPENSIONS OF:

SEP 23 2009

1CI-ALL CITIES JV
1CI, INC (d.b.a. 1ST COUSINS, INC.)
ADVANCED BUSINESS MANAGEMENT SERVICES, INC.
ALL CITIES ENTERPRISES
ALL CITIES INFORMATION TECHNOLOGIES
APM CONSTRUCTION MANAGEMENT, LLC
APM, LLC OF ALASKA
APM, LLC (a/k/a ARCTIC PIPE & MATERIALS, LLC)
BUTLER MARKETING AND CONSULTING GROUP, INC.
(a/k/a BUTLER MANAGEMENT SERVICES)
CHEROKEE CHAINLINK & CONSTRUCTION, INC.
CHUNG & ASSOCIATES
COLEMAN CONSTRUCTION, INC.
HOMERUN CONSTRUCTION, INC.
S.M. PARTNERSHIP
SMS CO., INC.
SANDERS CONSTRUCTION, INC.
SANDERS ENGINEERING CO., INC.
SANDERS MANAGEMENT SERVICES (d.b.a. "SMS")
SANDERS MANAGEMENT SERVICES CO., INC.
ARNETTE J. BUTLER
CRAIG JACKSON
SANDRA JACKSON
TOWNSEND JACKSON

Effective this date the Air Force has suspended 1CI-All Cities JV, 1CI, Inc. (d.b.a. 1st Cousins, Inc.), Advanced Business Management Services, Inc., All Cities Enterprises, All Cities Information Technologies, APM Construction Management, LLC, APM, LLC of Alaska, APM, LLC (a/k/a Arctic Pipe & Materials, LLC), Butler Marketing and Consulting Group, Inc. (a/k/a Butler Management Services), Cherokee Chainlink & Construction, Inc., Chung & Associates, Coleman Construction, Inc., Homerun Construction, Inc., S.M. Partnership, SMS Co., Inc., Sanders Construction, Inc., Sanders Engineering Co., Inc., Sanders Management Services (d.b.a. SMS), and Sanders Management Services Co., Inc. (jointly, Suspended Companies), and Arnette J. Butler, Craig Jackson, Sandra Jackson, and Townsend Jackson (jointly, Suspended Individuals) from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. This action is initiated pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4.

INFORMATION IN THE RECORD

There is adequate evidence in the record establishing that:

RELEVANT INDIVIDUALS

1. Craig Jackson is the President and Treasurer of Sanders Engineering Co., Inc., (Sanders Engineering) a Yorba Linda, California-based company, and holds titles, positions of responsibility and/or has substantial influence within a number of additional companies, including the Suspended Companies. As an owner of a company that previously graduated from the Small Business Administration (SBA) 8(a) Program, Craig Jackson is prohibited from owning more than 20 percent of any other 8(a) Program company.¹
2. Townsend Jackson is the CEO of APM, LLC (APM), also located in Yorba Linda, California. In 2004, Craig Jackson had been a 45 percent owner of APM and had held significant management responsibility for APM. Townsend Jackson became CEO of APM in December 2004 and remains in that role. Townsend Jackson is Craig Jackson's brother (together, the Jacksons).
3. Sandra Jackson is the Executive Vice President and Secretary of Sanders Engineering and is the wife of Craig Jackson.
4. Arnette J. Butler is the Principal of an elementary school in Virginia. Ms. Butler is the Jacksons' sister. Ms. Butler is also the President of Butler Consulting and Marketing Group (Butler Group), headquartered in Ms. Butler's home in Virginia. Ms. Butler represented that she does no work for Butler Group other than deposit checks and that Craig Jackson manages the company. Although Ms. Butler does no work whatsoever for Butler Group or for APM, she receives a percentage of APM's 8(a) contract revenues.

SBA 8(a) Program

5. The U.S. Small Business Administration (SBA) administers a program, known as the 8(a) Program, which was created to assist small business concerns that are owned and controlled by socially and economically disadvantaged individuals (socially and economically disadvantaged firms) to compete in the American economy and to access the Government procurement market. Firms must qualify and be accepted by the SBA in order to participate in the 8(a) Program.²
6. Socially and economically disadvantaged firms may be awarded Government contracts on a sole-source basis through the 8(a) Program.³ Generally, socially and economically disadvantaged firms must be owned by and managed by members of socially and economically disadvantaged populations.

¹ See, e.g., 13 C.F.R. § 124.105.

² See generally 13 C.F.R. §§ 105, 121, 124.

³ See, Overview of the 8(a) Business Development Program, p. 1. available at http://www.sba.gov/idc/groups/public/documents/sba_program_office/8abd_80_05_3a_searchable.pdf.

7. In order to be admitted into the 8(a) Program, among other requirements, firms must apply to the SBA and the SBA must make an initial size determination and certify the firm as a small business. The SBA has established industry-specific criteria for determining whether an 8(a) Program applicant may be considered a small business based upon the firm's overall revenues and/or number of employees.⁴

8. SBA regulations state that, when assessing whether an 8(a) Program applicant meets the applicable size standard, the SBA must consider the revenues and/or employees of the 8(a) Program applicant along with the revenues and/or employees of all of the 8(a) Program applicant's affiliates.⁵ As defined by the SBA and the 8(a) Program, "affiliate" includes companies that have common management with, or a common business interest in, the 8(a) Program applicant firm.⁶ Specific exemptions in the SBA's regulations permit 8(a) Program applicants owned by Alaskan Native Corporations (ANCs) to count only non-ANC-owned affiliates toward their size standard.⁷ Generally, the more affiliates an 8(a) Program applicant has, the more difficult it is for the 8(a) Program applicant to meet its size standard, to be accepted into the 8(a) Program, and to become eligible for sole-source contract awards through the 8(a) Program.

9. Upon acceptance into the 8(a) Program, the 8(a) Program applicant must execute a Participation Agreement whereby the applicant must accept the terms and conditions of the 8(a) Program in exchange for the benefits conferred by the program. The Participation Agreement states, among other things, that the applicant agrees that the SBA must pre-approve all management agreements, joint venture agreements and other agreements relating to the performance of contracts received through the 8(a) Program. In addition, the Participation Agreement (and federal law) requires that 8(a) Program applicants and participants must be truthful in their dealings with the SBA (and with the Government in general). Failure or refusal to abide by the Participation Agreement is cause for termination from the 8(a) Program. SBA regulations also require 8(a) Program participants to inform the SBA of any changes that may affect eligibility for the 8(a) Program.⁸

10. The SBA also requires 8(a) Program participants to submit semi-annual reports and annual updates to the SBA that include, among other information, listing of all affiliates and individuals, records of all payments, compensation and distributions made by the 8(a) Program participant firm to each of its owners, officers, directors, and to any person or entity affiliated with these populations. Failure to submit these reports is also cause for termination from the 8(a) Program.

11. An SBA Inspector General audit and a subsequent criminal investigation revealed that APM and the Jacksons conspired to hide APM's ineligibility for the 8(a) Program by: (a) failing to disclose the extensive collection of Suspended Companies owned by or controlled by the Jacksons, and (b) concealing Craig Jackson's level of ownership and influence in APM.

⁴ See, e.g., 13 C.F.R. § 121.103.

⁵ See, e.g., 13 C.F.R. § 121.102.

⁶ See, e.g., 13 C.F.R. § 121.103.

⁷ See, e.g., 13 C.F.R. § 121.103(b)(2), 124.109(c)(2).

⁸ See, e.g., 13 C.F.R. § 124.2.

12. Because APM is owned by Cape Fox Corporation (an ANC), APM falls under the SBA rules that count only APM's non-ANC-owned affiliates when considering APM's size. However, as described below, an SBA audit and resulting criminal investigation revealed the extensive list of hidden, non-ANC-owned Suspended Companies that, when considered together, rendered APM (and the remainder of the Suspended Companies) ineligible for the 8(a) Program, and for the hundreds of millions of dollars derived from sole-source contracts received through the program.

THE SCHEME

13. Craig Jackson engaged in a pattern and practice of establishing various small businesses owned by friends and family, but managed and, in effect, controlled by either Craig Jackson or companies controlled by Craig Jackson (including the Suspended Companies). The various small businesses then applied for inclusion into the 8(a) Program to benefit from sole-source contracting, and diverted significant percentages of their earnings back to Craig Jackson and/or companies owned or controlled by Craig Jackson and/or his family.

14. Had the Suspended Companies disclosed their ownership and management structure, they would have been deemed affiliates under the SBA rules and been ineligible for the 8(a) Program.

APM'S FOUNDING, HIDDEN OWNERSHIP CHANGES, AND HIDDEN AFFILIATES

15. APM was initially formed in Alaska in 2003, but as of mid-2009, was headquartered in Yorba Linda, California. Craig Jackson held daily management responsibility for APM as its Chief Executive Officer while APM applied for, and was accepted into, the 8(a) Program in December 2003. Shortly after APM's admission into the 8(a) Program, Craig Jackson acquired a 45 percent interest in APM, in violation of SBA rules (which restricted him to a maximum 20% ownership), and without disclosing that change in ownership to the SBA.

16. Craig Jackson also provided APM with a \$1.9 million loan. Craig Jackson and APM submitted a false promissory note to the SBA in order to hide the fact that Craig Jackson had provided the money, and falsely identified the source of the loan in other documents APM filed with the SBA in order to be accepted into and/or remain a participant in the 8(a) Program. For example, in one such submission, APM identified the loan as coming from Advanced Business Management Services, Inc. (ABMS) without identifying ABMS as being owned and controlled by Craig Jackson.

17. After APM was admitted into the 8(a) Program, at Craig Jackson's direction, APM entered into a management services agreement with another Craig Jackson-owned company, Sanders Engineering, that paid Sanders Engineering (and, therefore, Craig Jackson) a substantial percentage of APM's profits from its 8(a) Program contracts. And, after Townsend Jackson became CEO of APM, at Townsend Jackson's direction, APM entered into a marketing services agreement with Butler Group, which was owned by the Jacksons' sister but operated by Craig Jackson, that paid Butler Group (and, therefore, Ms. Butler) a percentage of APM's profits from its 8(a) Program contracts. These agreements were not disclosed to and/or approved by the SBA.

as required by the Participation Agreement and SBA regulations, and had the effect of diverting at least \$7 million of APM's 8(a) Program revenues to the Suspended Individuals by mid-2008 along with commitments to divert far more (more than 40 percent of APM's net income) in the future.

18. As will be explained below, when the affiliations between APM, Sanders Engineering, Butler Group and ABMS became known to the SBA in 2008, the SBA found that APM was no longer small enough to participate in the 8(a) Program. Because the Jacksons concealed their ownership and/or control of the Suspended Companies, the companies had been able to gain admission into and enjoy the benefits of the 8(a) Program from 2004 to 2008, including receiving sole-source contract awards, for which they were not eligible.

19. For example, between 2004 and the mid-2008 partial release of the SBA Inspector General's audit report, APM had been awarded more than \$383 million in U.S. Defense Department construction and maintenance contracts at various military installations across the United States. (Option years are included in the calculation of total value of federal contracts in this Memorandum.) At present, it is estimated that the Suspended Companies received more than \$700 million in Government contracts to which they may not have been legally entitled. These contracts were primarily awarded through the U.S. Department of Defense.

OPERATIONS OF THE AFFILIATED COMPANIES

20. Craig Jackson used his non-8(a) firm, Sanders Engineering, as the financial headquarters for most or all of Suspended Companies, and required the Suspended Companies that were admitted into the 8(a) Program to report earnings, expenses, and profits directly to him.

21. Many of the Suspended Companies are operated from identical business locations or mail drops.

22. Companies are affiliates under SBA rules when, for example, they share common business addresses and management. These affiliations should have been disclosed to the SBA pursuant to the Participation Agreement and SBA regulations, but were not.

SBA TERMINATION ACTION

23. The affiliation of these companies is material to the SBA's determination of whether the companies are of the appropriate size to participate in the 8(a) Program. For example, in 2005 the SBA, which had not been informed of APM's affiliated companies, found that APM was of the appropriate size for the 8(a) Program. But, upon being notified of and accounting for just four of the other Suspended Companies, the SBA found that APM was other than a small business according to 8(a) Program standards.

24. On August 12, 2008 the SBA suspended APM from the 8(a) Program, citing as grounds for termination: failure to obtain prior written approval for changed ownership, business structure, management or control in violation of 13 C.F.R. 124.105, 126.106; submission of false information to SBA, including false certification of compliance with non-8(a) business activity

targets or failure to report changes that adversely affect the program eligibility of an applicant or program participant where responsible officials of the participant knew or should have known the submission to be false; and material breach of terms and conditions of the 8(a) Program Participation Agreement.

25. Rather than await a final termination decision from the SBA, APM withdrew from the 8(a) Program.

BASES FOR THE SUSPENSIONS

1. There is adequate evidence in the administrative record establishing that the Jacksons, by and through the Suspended Companies, committed fraud or criminal offenses in connection with obtaining, attempting to obtain, and performing public contracts or subcontracts through the 8(a) Program. The evidence provides a basis for the suspension of the Jacksons and the Suspended Companies pursuant to FAR 9.407-2(a)(1).
2. There is adequate evidence in the administrative record establishing that the Jacksons, by and through the Suspended Companies, committed falsification of records and made false statements. These actions provide separate and independent bases for the suspension of the Jacksons and the Suspended Companies pursuant to FAR 9.407-2(a)(3).
3. There is adequate evidence in the administrative record establishing that the Jacksons, by and through the Suspended Companies, committed offenses indicating a lack of business integrity or business honesty so as to affect their present responsibility to be Government contractors or subcontractors, thereby providing separate and independent bases for the suspensions of the Jacksons and Suspended Companies pursuant to FAR 9.407-2(a)(9).
4. There is adequate evidence in the administrative record establishing that the conduct of the Suspended Individuals and the Suspended Companies is of so serious or compelling a nature that it affects their present responsibility to be Government contractors or subcontractors, and provides a separate and independent basis for each of their suspensions pursuant to FAR 9.407-2(c).
5. Pursuant to FAR 9.406-5(a), the fraudulent, criminal, or seriously improper conduct of the Jacksons is imputed to APM (where the Jacksons served as senior executives and managers), to Butler Group (which Craig Jackson managed), and to the remainder of the Suspended Companies (companies for which the Jacksons maintained active control), because the conduct occurred in connection with one or both of the Jacksons' performance of duties for or on behalf of the Suspended Companies, and with the knowledge, approval and acquiescence of the Suspended Companies. The imputation of the Jacksons' conduct to the Suspended Companies provides a separate and independent basis for each of their suspensions by the incorporation of FAR 9.406-5(a) pursuant to FAR 9.407-5.
6. Pursuant to FAR 9.406-5(b), the fraudulent, criminal and seriously improper conduct of the Suspended Companies may be imputed to the Jacksons and Sandra Jackson because the Jacksons and Sandra Jackson are officers, directors, shareholders, partners, employees or other individuals

associated with the Suspended Companies and the Jacksons and Sandra Jackson participated in, knew of, or had reason to know of the conduct of the Suspended Companies. The imputation of the fraudulent, criminal and seriously improper conduct of the Suspended Companies to the Jacksons and Sandra Jackson provides a separate and independent basis for each of their suspensions by the incorporation of FAR 9.406-5(b) pursuant to FAR 9.407-5.

7. Pursuant to FAR 9.407-1(c), suspensions may be extended to the affiliates of a contractor. The Jacksons, and the Suspended Companies are affiliates, as defined by FAR 9.403 (Affiliates), because directly or indirectly, the Jacksons have the power to control the Suspended Companies. The affiliation of the Jacksons and the Suspended Companies provides a separate and independent basis for each of their suspensions.

8. Additionally, pursuant to FAR 9.403, interlocking management or ownership, shared facilities and equipment, and common use of employees are "indicia of control" so as to make entities affiliates of each other. The Suspended Companies are affiliates of each other as evidenced by the use of shared facilities, and interlocking management and ownership. The affiliation of the Suspended Companies provides a separate and independent basis for each of their suspensions.

FINDINGS

Each of the independent causes specified above directly affects the present responsibility of the Suspended Individuals and the Suspended Companies to be contractors or subcontractors, or participants in federal assistance programs, and reflects negatively upon the propriety of doing business with each of them.

Given the evidence of an ongoing scheme and the number of companies participating in the 8(a) Program contained in the administrative record before me, the fact that APM continues to service existing 8(a) Program contracts and compete for non-8(a) Program contracts, and that the remainder of the Suspended Companies are expected to continue to compete for Government contracts for which they may be ineligible, I find that protection of the Government's business interests requires the immediate suspension of the Suspended Individuals and the Suspended Companies pending the completion of the criminal investigations of the investigative team and any ensuing criminal proceedings.

DECISION

Pursuant to the authority granted by FAR Subpart 9.4, the Defense FAR Subpart 209.4, and 32 C.F.R. Section 25, and based upon the evidence contained in the administrative record and the findings herein, 1CI-All Cities JV, 1CI, Inc. (d.b.a. 1st Cousins, Inc.), Advanced Business Management Services, Inc., All Cities Enterprises, All Cities Information Technologies, APM Construction Management, LLC, APM, LLC of Alaska, APM, LLC (a/k/a Arctic Pipe & Materials, LLC), Butler Marketing and Consulting Group, Inc. (a/k/a Butler Management Services), Cherokee Chainlink & Construction, Inc., Chung & Associates, Coleman Construction, Inc., Homerun Construction, Inc., S.M. Partnership, SMS Co., Inc., Sanders Construction, Inc., Sanders Engineering Co., Inc., Sanders Management Services (d.b.a. SMS),

and Sanders Management Services Co., Inc., and Arnette J. Butler, Craig Jackson, Sandra Jackson, and Townsend Jackson are hereby suspended this day. The suspensions are temporary pending completion of the criminal investigations and any ensuing criminal proceedings.



STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)