



# FIRST CALL

[www.nvsbc.org](http://www.nvsbc.org)

## Update from NVSBC

*A message from NVSBC Executive Director, Scott Denniston*



I hope you are enjoying your summer! Knowing that 40% of the federal procurement dollars are yet to be obligated, I know all are busy with proposals as the deadlines draw near! The curse of having the government as a customer!

I hope you all have seen the "Save the Date Announcement" for VETS 19. We are headed to San Antonio in 2019. In order to grow VETS, the Board wanted a destination city with a military-friendly culture that is convenient to get to and has nice accommodations with opportunities for exploration. We believe we have found it! **The dates are May 28-31, 2019.** Registration will open in the fall of this year.

I have been getting many questions about VA's NVSBE Conference in New Orleans in October. This conference is targeted to construction and A/R and related firms. The VA is also planning separate conferences for IT and medical related companies in the second quarter of 2019. Details are not yet available, but I will keep you

posted as information becomes available. The NVSBC will be in New Orleans to promote our "Construction Industry Group" as well as "GoVETS". If you attend, please visit our booth.

The Construction Industry Group met during VETS 18, coordinated by Judge William (Bill) Thomas. We are developing plans/ideas as to the services NVSBC can provide to this vital group of members. Just last week the group met with Tom Leney to discuss how to make NVSBE in New Orleans the most effective for SDVOSBs. If you are interested in participating in the group please email me at [scott.denniston@nvsbc.org](mailto:scott.denniston@nvsbc.org).

We just learned this week that GSA has announced that it will no longer support the "Reverse Auction" platform. There will be no reverse auctions through GSA after September 30, 2018. I know this is good news for some! The GSA letter is on the [www.nvsbc.org](http://www.nvsbc.org) website.

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*NVSBC's purpose is to transition veterans into business owners servicing the federal government.*

**ATTENTION D.C. CHAPTER MEMBERS!**

Remember that our next dinner meeting is in September! Stay tuned for further announcements!



## Sole Sourcing: Was the VA's Town Hall Helpful?

On August 15, the VA's Office of Small and Disadvantaged Business Utilization (OSDBU) held a 30-minute town hall on sole sourcing presented by Tom Leney. (This is part of a series of presentations intended to educate veteran business owners on federal procurement issues, others including VetBiz verification and tiered evaluation under *Kingdomware*. Upcoming town halls can be accessed [here](#)).

Sole sourcing is awarding a contract to one contractor without conducting competition. As pointed out by Mr. Leney, there are two major requirements for sole sourcing to an SDVOSB or VOSB by the VA: 1) the contractor is a responsible source with respect to performance; and 2) the award can be made at a fair and reasonable price at the best value to the VA. While a determination that only one SDVOSB or VOSB can perform the work is not required, a written justification and approval must

support the award. (See VAAR Parts 819.7007 and 7008 for further details). Sole sourcing by the VA versus other agencies also has a lower ceiling to permit a sole source contract (\$5 million versus \$6.5 million); and you have to be VetBiz-verified to be eligible.

Mr. Leney also noted that the sole source program is not a business development program. Unlike the 8(a) program, where the government aims to grow and develop businesses, a veteran-owned business must obtain a sole source contract solely by offering quality performance at a fair and reasonable price. He advised VOSBs to engage with contracting officers to show him that you're a viable contender for a sole source award – to offer proof that your prices are fair and reasonable (e.g., are you on a schedule?) and that you're responsible (e.g., what is your relevant past performance?).

When presented with this advice, however, one former VA contracting officer disagreed as to the appropriate point of contact. "As a former contracting officer, I'm always disappointed when

potential offerors are referred to contracting officers for assistance with anything other than an actual procurement," he said. "The government small business representatives should always be the initial point of contact for procurement matters that do not concern an actual procurement. In my career, when someone showed up with a PowerPoint they wanted to show to the contracting officer, the normal response from the contracting officer was an eye roll and then pulling a subordinate off the floor to sit through the briefing. The key to this is that contracting officers are on the production end of the procurement cycle, not, the marketing end. The VA small business reps should be up to speed and the primary point of contact for information not related to a particular procurement."

Access the town hall recording [here](#).

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## SBA OHA On Non-VA Set Asides: "No VetBiz Listing? No Problem."

Earlier this month, the SBA's Office of Hearings and Appeals confirmed an axiom to keep in mind when considering protesting another firm's SDVOSB status: if the procurement at issue is not a VA procurement, the fact that the firm is not VetBiz-verified is not grounds for alleging ineligibility.

In *XtremeConcepts Systems*, which involved a Navy solicitation, a disappointed offeror for an IDIQ contract protested on the grounds that an awardee was not listed in VetBiz and therefore ineligible for award. (SBA No. VET-273). When the protest was forwarded to the SBA's Acting Director of Government Contracting (AD/GC) for review, it was dismissed as "insufficiently specific" because the SBA's program (unlike the VA's program) does not require firms to be registered in VetBiz.gov, only self-certified as an SDVOSB in Sam.gov (which the awardee was).

In dismissing the protestor's appeal of the SBA AD/GC's determination for lack of specificity, the SBA OHA reiterated the point that VetBiz verification is only required for VA contracts. As such, the mere lack of listing in the VetBiz database is not sufficient grounds to challenge SDVOSB eligibility. (And in fact, if firms don't do business with the VA, it makes sense that they would not go to the trouble of becoming verified, considering that self-certification in Sam.gov suffices). Maybe if additional evidence pointed to eligibility issues, such as a website listing someone other than the veteran as the President or CEO, the SBA would have taken a closer look, but that wasn't the case here.



## BOOTS TO BUSINESS PROGRAM NEEDS POLISH

The Small Business Administration's ("SBA") Boots to Business ("B2B") program, established in 2014, is an entrepreneurial training program offered by the SBA as part of the Department of Defense's Transition Assistance Program. It provides transitioning service members interested in exploring business ownership or other self-employment opportunities with the information to develop business plans, and it also connects service members to SBA resources partners and start-up capital.

On July 19, the SBA's Office of Inspector General released an audit report that examined: 1) the efficiency of the program; 2) its achievement of goals and objectives; and 3) recipients' compliance with agreement requirements.

To complete the audit, the OIG selected three cooperative agreement recipients with awards totaling \$6.7

million, then interviewed SBA program officials and recipients (referring to resource centers, not individual veterans), as well as conducted site visits and phone interviews (of both program resources and participants) and attended program courses.

In a nutshell, while the OIG noted improvements, it also found several areas where the B2B program could be improved, particularly in the areas of meeting and measuring performance goals. The OIG made seven recommendations, but the SBA's planned actions currently resolve only three of the seven.

The B2B program is a newer one, and it has flown under the radar. Access the report here, as well as more info and the program's schedule of courses here. You can also email the program at [boots-to-business@sba.gov](mailto:boots-to-business@sba.gov) or call 202-205-VET1 (202-205-8381).

### TAMPA CHAPTER UPDATE

The next dinner meeting for the Tampa chapter will be held on **September 6<sup>th</sup>**, featuring Jenny Clark of Solvability! Jenny, who also serves as Tampa's VP for Education and Training, has helped thousands of small businesses grow.

Also, on **October 4<sup>th</sup>**, Tom Leney, the VA Executive Director for Small and Disadvantaged Business Programs will be the keynote speaker and provide updates on VetBiz verification changes, strategies for positioning yourself for procurement opportunities, and dialogue regarding the upcoming NVSBE. Seating is limited to the first 100 registrants, and this meeting will also feature a Boot Camp Presentation from 4:00 to 5:00 PM (prior to networking).

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## GAO: Agencies Can Waive Outdated Sam.gov Profiles

In *Cyber Protection Technologies, LLC*, the GAO recently considered the question of whether an outdated SAM profile should preclude an otherwise successful offeror from receiving an award. B-416297.2 *et al.* (July 30, 2018). After conducting a best value tradeoff, the Air Force named Cyber Systems & Services Solutions ("CS3")—a joint venture—as the awardee.



According to Cyber Protection, the protestor, CS3 should have been found ineligible for award because its SAM profile did not disclose as required its status as a joint venture, or otherwise identify its corporate parents. However, the GAO sided with the agency's decision to ignore this deficiency, noting that it "has generally recognized that minor informalities related to SAM (or its predecessor systems) registration generally do not undermine the validity of the award **and are waivable by the agency without prejudice to the other offerors.**" The GAO will often not find competitive prejudice from an awardee's deficient SAM registration because it does not bear on the merits of its proposal and "there is nothing to suggest that another offeror would have altered its proposal to its competitive advantage in response to a relaxed SAM registration requirement."

There are two takeaways here. **One**, if an agency waives Sam.gov deficiencies, a protest is an uphill climb. And **two**, still keep yours up to date. The agency doesn't **have** to waive any issues if it doesn't want to.

## Check Your VetBiz Profile For NAICS Code Issues!

Unbeknownst to business owners, some NAICS codes on VetBiz profiles have been removed from public (or contracting officer) view. Even if a company properly added its NAICS codes, and even checked them recently in anticipation of responding to a solicitation, it might now search for itself in the VetBiz database and find no NAICS codes listed.

***This means that when bidding on a contract, it might get booted for failure to have the applicable NAICS code listed at the time of offer if this is required by the solicitation.***

In addition to being both an inconvenience and potentially putting contracts in peril, this (most) recent VetBiz glitch has *Kingdomware* implications - contracting officers conducting their necessary market research under the Rule of Two will search the VetBiz registry for veteran-owned businesses and then not set aside the opportunity because there will be no search results!

Most of our readers are familiar with *Kingdomware* and the Rule of Two. While we won't reiterate the specifics here, *Kingdomware* entails setting aside schedule contracts for VOSBs/SDVOSBs when there's a reasonable expectation that two or more such firms will bid and that the award can be made at a fair and reasonable price that offers the best value to the VA. To get that "reasonable expectation," **VA contracting officers conduct market research consisting of reviewing the VetBiz registry to find businesses listed under the applicable NAICS code. If there are none, that's**

***clearly an issue.***

The CVE help desk relayed to one of our members that this issue has been caused by problems with SAM.gov syncing with the VetBiz system. It certainly isn't the veteran business owner's fault, as anyone in VetBiz knows they have to add at least one NAICS code to have a complete profile.

Unfortunately, as of today's date, the CVE has not sent out an email blast or posted on its homepage to alert business owners of the issue.

It is unclear how many businesses have been affected, but take a moment to search for your business and make sure that if a contracting officer is viewing your profile, everything is as it should be. Here's the link.

If your NAICS code is gone and you're responding to a solicitation, inform the contracting officer and also submit a Help Desk support ticket through the new VetBiz system. However, you will not receive an alert when the issue is resolved - continue to check your profile and following up on your own.

### More NVSBE Details Released

The VA is now referring to this year's National Veterans Small Business Engagement as the "NVSBE Construction Targeted Industry Engagement," to be held in New Orleans from October 31<sup>st</sup> through November 2. Its website homepage claims that it will "tie" specific procurement ready vendors to PDMs in Architecture, Engineering, Construction, and Facilities Maintenance to enable businesses to take advantage of opportunities in this sector." Go to the website to learn more.

## FIRST CALL

The NVSBC is pleased to offer "First Call" to its members. In our active duty careers, "first call" was the notice to get up and get moving to usher in a new day. We will provide you with all the important information you need to get up and moving to success in the federal marketplace. This publication is prepared with the help of veteran advocate and attorney, Sarah Schauerte. Access her company website and blog at: <http://www.legalmeetspractical.com>.



### Ideas?

If you have ideas for future content for First Call, or how to maximize the benefit NVSBC offers to its members, we always welcome input. Please contact Scott Denniston with your comments at: [scott.denniston@nvsbc.org](mailto:scott.denniston@nvsbc.org).