



FIRST CALL

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Happy Holidays From the NVSBC!

A message from NVSBC Executive Director, Scott Denniston



On behalf of the Board of Directors and staff of the NVSBC, let me extend our wishes for a very healthy and happy holiday season! May you all be blessed in 2019! We are honored to have served the VOSB and SDVOSB community for this past year. I hope to develop a “Year in Review” over the holidays so you all are aware of the many activities NVSBC has been involved in to support the veteran small business movement.

It has been 18 months since the U.S. Supreme Court’s *Kingdomware* decision. There have also been two GAO reports and one VA study on VETS First. A December 20 hearing before the House Veterans Affairs Committee was supposed to pull this all together toward the end of improving VA performance, but it was postponed. I will be testifying at the re-scheduled hearing.

This month we met with the Society of Military Engineers (“SAME”) to enlist their support with the NVSBC Construction Industry Group. We will develop an MOU to outline cooperation, as well as well as develop a

comprehensive training program to build capacity in the SDVOSB/VOSB construction arena. If you want to participate in the industry group, please email: scott.denniston@nvsbc.org.

We also penned a letter to Congress in support of the “DRIVE Act.” This legislation would establish a 5% SDVOSB goal for all monies given to state and local governments under the Department of Transportation’s Surface Transportation Program. This would open millions of dollars to the SDVOSB community to build roads, bridges, airports, transportation systems, etc.

Two other Congressional activities were a letter of support for the “Diverse Small Business Empowerment Act” which would eliminate all up-front processing fees on SBA 7a loans for veterans, women and minorities; HR 6330, which was signed into law by President Trump this week. This bill changed the SBA’s measurement to determine “size” from 3 to 5 years.

In 2019, we will continue to crusade for VOSBs!

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

We’re Headed to Texas for VETS 19!

Registration and “early bird” rates for VETS 19 are open, as well as NVSBC member discounts. The web site is www.veterantrainingsymposium.com. VETS 19 will be in San Antonio, Texas, May 29-31, 2019. We have engaged Duluth Travel, an SDVOSB and NVSBC member, to be the official travel agent for VETS 19. Duluth is working to get discounted airfares for VETS 19 participants. We look forward to seeing you all in San Antonio!

Small Business Size Measurement Now Five Years



On Monday, December 17, President Trump signed the Small Business Runway Extension Act, which changed the small business size standard calculation under revenue-based NAICS codes **from a three-year to five-year average**.

From the beginning, this bill has created controversy within the federal government contracting community, with some arguing that it does not serve its purpose of benefiting small businesses: in the event of a business with a declining revenue, looking at the past five years may doom it to a “other than small” size standard if high revenues from several years ago skew the average. Not only that, but in the instance a business’s golden years were four or five years ago, but it was back in the “small” business category (in looking to the last three years), it may now be “other than small” and thrown back in the pool with the big sharks.

Proponents of the Runway Extension Act favor its purpose of helping contractors avoid becoming “other than small” following a period of quick growth. For a small business lucky enough to score a high-value contract, under the previous three-year rule, it would risk being considered “other than small” if its banner year is included in an average of only three years. The five-year rule minimizes the chances that this outlier year will jeopardize small business size.

The SBA, the agency tasked with implementing the new five-year measurement, earlier criticized its use over the prior, three-year measurement. It will be interesting to see how this plays out in SBA size status protests and whether the concerns cited are realized. If so, there may be some calibration to the rule (for example, applying the five-year measurement only when it enables a business to retain its “small” status, in keeping with the rule’s purpose). We shall see. . .

2018 GAO Protestors Undeterred by \$350 Filing Fee

On November 23, the GAO published its annual report to Congress for FY 2018. This is the first report following the implementation of a \$350 filing fee for all bid protests, and some of the statistics and what they reflect may surprise you:

- The number of bid protests in 2018 versus 2017 was almost **exactly the same** (2607 versus 2596). While the \$350 filing fee had been cited as a mechanism for reducing the number of frivolous protests, the actual (albeit slight) **increase** in bid protests shows that prospective protestors were not deterred by the fee.
- The sustain rate for protests decreased slightly to 15% (down from 17%). This means that of those protestors who chose to stay in the battle until the bitter end, only a very small percentage were vindicated by the GAO. In contrast, 44% (compared with last year’s 47%) received some form of relief (which includes that 17% rate). That relief usually involved the agency taking corrective action, to include re-evaluating the offeror’s proposal, canceling an award, canceling a solicitation, amending a solicitation, etc., upon receiving and evaluating a protest.

Access the report [here](#).



D.C. Chapter: Year-End Highlights

The D.C. Metro Chapter has had a very successful 2018, providing a wide variety of training, networking, and Match Making activities to our members and soon-to-be-members. Our 2018 accomplishments include:

- Events at or near sold-out, record setting levels. Over 1700 Veteran business owners and guests attended 10 dinner events in 2018.
- Over 650 attendees at 10 Boot Camps walked away with practical, hands-on skills, tools and insights to help grow and advance their veteran-owned businesses.
- D.C Metro Chapter matches made through govmates):
 - 20,434 matches made
 - 2,941 teaming introductions made
 - 3K+ small business members.

The D.C. Metro Chapter continues to expand and gain new veteran business owner members, along with corporate members supporting the D.C. Chapter and NVSBC. Onward and upward!

At its December 5th dinner meeting held at Shulu's Hotel & Golf in Miami Lakes, Florida, the South Florida Chapter of the NVSBC featured: Mr. Sandy McDonald, Director of Economic and Small Business Development, Broward County; Mr. Rashad Thomas Vice President – Business Connect and Community Outreach Miami 2020 Super Bowl Host Committee; and Ms. Beverly Kuykendall, President of Government Business for American Medical Depot.

This dinner meeting had an excellent mix of veteran companies representing both new blood and existing NVSBC members. Roger Reyes, President of the Chapter, covered the latest NVSBC news and values of membership in the organization.

Prior to the dinner, Mr. Benjamine Keime (Waldman Barnett, PA), hosted a Boot Camp that covered Common Considerations and Pitfalls in Contracts. The synergy created with this event was exciting, and the veteran businesses will have access to the program opportunities *as well as opportunity to be a contractor for the Miami Super Bowl 2020!*

The Chapter will host its next dinner meeting in February 2019, with a breakfast for NVSBC members in January.

D.C. Chapter: December Update

The D.C. Metro Chapter of NVSBC held its year-end monthly dinner meeting on December 12, which featured a detailed review of DoD contracting with veteran-owned firms provided by Mr. Shannon Jackson, LtCol (Ret.), Acting Director of the DoD Office of Small Business Programs. Mr. Jackson provided a data rich presentation including details on:

- DoD Component/Agency Small Business Prime Contracting Goals
- DoD Small Business Strategy
- Tips for Marketing to DoD
- Resources for Veteran Entrepreneurs
- Recent Regulatory Changes
- DoD SDVOSB Spending Trends
- DoD Small Business Professionals
- DoD Mentor-Protégé Program
- DoD Cybersecurity Training Initiative
- Questions & Answers

Mr. Jackson's team of over 700 professionals provide guidance and direction to firms pursuing business opportunities with DoD. For a copy of this presentation, please contact Scott Semple at scott.semple@NVSBC.org.

As always, Stephanie Alexander, Vice President of the D.C. Metro Chapter Match Making program, provided updates on the latest matches made with large primes and the schedule for upcoming MM activities. Judy Bradt, VP Training & Education, also presented the upcoming schedule of Boot Camp training programs. (Boot Camps are offered each month at 4-5:30PM prior to the dinner meetings).

The D.C. NVSBC Chapter meets monthly on the 2nd Wednesday of each month from September through June at the Key Bridge Marriot in Arlington, VA. For event notices, check NVSBC.org.



NVSBC 2018 MEMBER ACCOMPLISHMENTS!

Our members had a great year! Congratulations to those featured for their accomplishments and growth in 2018:

Access Products, Inc. - As the only company awarded the OS3 contract for all 3-generations, Access Products, Inc. (“AP”) has contributed to significant savings Government wide, and looks to be another source of savings if awarded the OS4 contract. This year also brought on new opportunities, as AP was one of the SDVOSBs added to the JanSan Purchasing Channel. AP is also proud to be a Prime Seller on Amazon as of this year! This venture is still new but is proving to be a fruitful move for the business and as it expands toward the end of becoming a Prime Vendor.

B3 Group, Inc. – B3 Group, Inc. won a host of awards and recognitions this year, including: Inc. 5000; Washington Technology Fast 50; V3 Most Veteran Hires; Moxie Award Finalist; NoVa Chamber Distinguished Service Award; FedHealthIT Innovation Award – KNARTS; Coalition for Government Procurement EIP Vets Award; FedHealthIT 100 Award – Dwight Hunt; HIRE Vets Medallion Award; and NVTC Tech 100.

HeiTech Services, Inc. – HeiTech expanded its federal clients at Army, Treasury, Commerce and Homeland Security; received SBA ASMPP MPA Approval in both mentor and protégé roles; obtained ISO 9001:2015 re-certification; won its first contract order on GSA Schedule 36; and organized and coordinated NVSBC’s Inaugural Golf Classic.

Federal Contracts Corp – Federal Contracts Corp (“FCC”) was named the winner of the SBA’s 2018 Region 4 Small Business Prime Contractor of the Year! FCC was recommended by GSA’s Schedule 56 Contracting Team due to it providing large generators to support the emergency disaster relief in Puerto Rico. FCC was also one of three companies that was a finalist for the SBA’s 2018 Small Business Prime of the Year Award.

ISI Professional Services - Inc. magazine named ISI Professional Services is No. 4068 on its 37th annual Inc. 5000, the most prestigious ranking of the nation’s fastest-growing private companies. The list represents a unique look at the most successful companies within the American economy’s most dynamic segment—independent small businesses.

Magellan Transport Logistics – Magellan Transport Logistics (“MTL”) significantly expanded its Florida operations by acquiring a 47,000 square foot facility to create a new logistics control tower. It also hosted Senator Marco Rubio and Mayor Lenny Curry and other elected officials, to discuss growth and the new facility. MTL anticipates it will almost double in size from \$52M in 2017 to approximately \$102M in 2018. Visit the YouTube video of Senator Rubio’s visit [here](#).

Penobscot Bay Media LLC (PenBay Media) – Penobscot Bay Media has won over \$30M in contract awards during the months of August and September. These contracts will be supporting the U.S. Army, the VA and the GSA. This includes 2 task orders under the GSA VETS 2 GWAC: one five-year task order to provide Enterprise Web Conferencing Services for the GSA valued at over \$9.5M; and one three-year task order to provide IT services in support of the U.S. Army Cadet Command valued at approximately \$20M.

Vision Technologies, Inc. – Vision Technologies, Inc. (“Vision”), an SDVOSB and leading systems integrator, donated over \$70,000 to the Tragedy Assistance Program for Survivors (“TAPS”). TAPS offers compassionate care to all those grieving the loss of a military loved one. Vision’s very first [Thanksgiving Trek for TAPS](#), held on November 21st, was a huge success raising another \$17,600, \$2,600 over goal. Demian Seeley, SVP Corporate PMO, hiked the entire 41 miles through the Maryland section of the Appalachian Trail from Pennsylvania to West Virginia in one day! TAPS will also receive proceeds from a Bull and Oyster Roast, a silent auction, and a 50/50 raffle scheduled for January 19, 2019. Vision also supports the United Way, Habitat for Humanity, Toys for Tots, several local hospitals, and local STEM initiatives.



(Above) Demian, teammates and family

SBA OHA DECIDES ITS FIRST CVE PROTEST

On December 3, the Small Business Administration Office of Hearings and Appeals (“SBA OHA”) issued its first-ever decision on a protest bearing on a firm’s eligibility for inclusion in the VA Center for Verification and Evaluation, holding that the CVE did not err in finding that the veteran owner “controlled” his business and was therefore eligible for a VA set-aside contract. *CVE Protest of Blue Cord Design and Construction, LLC*, SBA No. CVE-100-P.

This decision notes that as of October 1, ***the SBA OHA has jurisdiction over all SDVOSB protests pertaining to the issues of veteran ownership and control.*** In other words, if you want to protest an awardee’s eligibility for a VA set-aside contract, look to the new regulations at 13 C.F.R. Part 134 for guidance and know that the proper forum is the SBA OHA. (Per 13 C.F.R. 134.1004, a disappointed bidder will first file the protest with the CO on the procurement, who will then transmit it to the SBA OHA).

In this instance, the VA had awarded a construction contract to Contract and Purchasing Solutions, Inc. (“CPS”). Blue Cord Design and Construction, LLC, challenged both the size and SDOVSB status of CPS, with the SBA Area Office adjudicating the former issue (as the relevant SBA Area Office always resolves size issues – that hasn’t changed). CPS’s SDVOSB status was challenged on the basis that the veteran owner did not “control” the business under the meaning of the VA’s regulations at 38 CFR Part 74 (which were in effect as of the date of CPS’s offer).

One of the “control” requirements examined by the SBA OHA is worth noting here, as it goes to show the

importance of succinctly and clearly explaining how the use of a critical license by a non-veteran does not compromise the veteran’s ability to run the firm (as a non-veteran’s holding of critical license can put VOSB status in jeopardy). In CPS’s case, the protestor argued that CPS was unduly reliant on its Qualifying Agents to hold critical licenses in the performance of its contracts. CPS held a general contracting license in Florida and Georgia, where Qualifying Agents were required to be designated to act on its behalf. In CPS’s case, these individuals did not include the veteran; however, these individuals signed agreements that specifically noted that they acknowledged that they had no control over the operations, decision making, or management of CPS.

In addition to having these agreements in place, CPS also provided information to show how it exercised managerial and supervisory control over those individuals. They acted as subordinates to CPS and could be replaced at will. In general, by having agreements and procedures in place to establish the necessary controls over these individuals, and by providing an adequate explanation, CPS showed that its Qualified Agents holding CPS’s construction licenses were controlled by the veteran owners. The SBA OHA denied the protest, allowing CPS to keep its contract.

Finally, there will be a body of case law to provide guidance to veteran business owners aiming to obtain VetBiz verification, or seeking to understand a particular nuance applicable to “SDVOSBs” as they are defined by the VA! Not only that, but this will also provide uniform guidance to the VA’s CVE in resolving specific issues. A welcome change to enter us into 2019.

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.