



FIRST CALL

JULY 2021

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From the Executive Director



Hello everyone!

I hope all of you can find some time to relax and enjoy the summer weather that is upon us! Balancing the demands of small business against some rest and relaxation is a challenge—don't forget to take time to look after yourself and your families!

I can not begin to explain how excited I am over the plans for VETS21 in Orlando in November. We are assembling a great agenda that will feature exciting speakers from federal agencies like the VA and SBA addressing compelling and relevant topics like CVE certification moving from VA to SBA

We are getting commitments from federal program decision makers to be there to meet with you for matchmaking opportunities. And we are partnering with experienced world class organizations to optimize and prioritize the networking opportunities you need to grow and strengthen your business—and help others do the same. You will not want to miss this opportunity to reconnect with business leaders and other movers and shakers in the federal acquisition marketplace. We have limited registrations and believe we will eventually close registration early. Don't miss out!

I am also encouraged by several recent meetings we have had on your behalf with congressional committee leadership in the veteran and small business space and with several senior federal agency leaders.

All are very committed to addressing the issues we have highlighted in our policy agenda and have started reaching out to us for input and guidance on topics ranging from parity to the CVE transition to CMMC impacts on small businesses. Your voice is being heard in Washington, DC! They are all excited about and planning to support VETS21 as well. Momentum is building for a very positive second half of the year. Keep an eye out for the midmonth legislative update where we will highlight the outcomes of these discussions.

As always, we are very grateful to our loyal and supportive members! You make this coalition effective and impactful. You are the important glue the holds this organization together as we crossed our 11th Anniversary last month. We have seen an uptick in new membership applications. It is great to see our numbers growing in this coalition! Please share NVSBC with your friends and fellow business owners. Let them know how NVSBC has helped and supported you and what opportunities are ahead for the future. You are our best recruiting tool, and we ask that you reach out and invite others to join! There is strength in numbers!

Thank you!



Scott Jensen
Colonel, U.S. Marine Corps (Ret.)
Executive Director



Scott Jensen, Executive Director of the National Veterans Small Business Coalition joins host Mark Amtower on the latest episode of Amtower Off Center podcast.

Scott discussed the NVSBC and the issues facing veteran-owned small businesses including transfer control of the the Center for Verification and Evaluation from the U.S. Department of Veteran Affairs to the Small Business Administration and Cybersecurity Maturity Model Certification (CMMC).

[CLICK HERE TO ACCESS THE PODCAST](#)

Around the NVSBC

Welcome New Members

AVEC Logistics and Management
Service LLC
Simpsonville, South Carolina
Services

B. Out There
Oakland, Michigan
Services

Black Box Safety, Inc
El Cajon, California
Medical Manufacturing Distribution

BlackHays Group
St Augustine, Florida
Technology Consulting & Integration

Cybele Data Advisory LLC
Springfield, Virginia
IT

Flagship Management Group
Gulfport, Florida
Services

GenTech Associates, Inc
Indianapolis, Indiana
IT

Greencastle Consulting
Malvern, Pennsylvania
Management Consulting Services:

Keme62 Medical Solutions, LLC
Snellville, Georgia
Medical Manufacturing

L. Mac Solutions LLC
Baltimore, Maryland
Medical Manufacturing

Mike Delta, LLC
Alexandria, Virginia
Financial (Private Investment)

The Ortiz Group, LLC
San Ramon, CA
Construction A/E, IT,

Optical Technologies, Inc
Stockbridge, Georgia
IT, Manufacturing

South River Federal Solutions LLC
Edgewater, Maryland
Services

USN Medical, LLC
Palm Springs, California
Medical Supply

Veracor Services, LLC
Stockbridge, Georgia
IT, Manufacturing

National Community Reinvestment Coalition,
Community Development Fund, Inc.
Washington DC

Carpenter Robbins Commercial
Real Estate
San Ramon, California
Services



NVSBC **Charity Golf Tournament**

Monday, August 23



Register today at <http://www.nvsbc.org/nvsbc-charity-golf-tournament>

New Member Profile



Business Owner: David Ortiz
Military Branch: United States Marine Corp
Years Served: 1999 - Present
Occupation in Military: Infantry Officer
Type of business: Management Consulting, Training, Program Management, & IT Services
Year Established: 2014
Location: San Ramon, CA
Website: <https://ortiz-group.com/>



What motivated you to start your own business?

I was motivated to start my own business because I had the desire to be involved in all aspects of the company's operation. I have very specific ideas on what makes a company successful and how it should be run so I wanted to be more directly involved in building my business. After serving in the military and then working for a large corporation for four years, I thought that working in a small business environment would allow me to work more directly with my clients and add my own personal touches on building relationships. I feel I am offering a valuable service to my customers, and I feel proud and accomplished knowing I am doing the best job possible.

What has been your biggest challenge(s) in the Federal marketplace and how did you overcome them?

As a small business owner, the largest challenge I have experienced in the federal marketplace is learning, through success and failure, the skill of consistency. There are many steps that small business owners must take before simply placing a bid on a new federal opportunity – this primarily includes consistently building relationships with agencies you want to pursue federal business with. Second, when creating the foundation of any new organization interested in the federal marketplace, education is crucial. This includes regularly attending webinars, taking the time to research upcoming federal forecasts and news articles, and growing with fellow small business owners who have experience working within the federal marketplace.

What advice would you give to other veteran small business owners?

In my experience in the military, service members demonstrate strong experience with leadership direction, dedication, learning specific skills, and focusing on a specific mission. Once that passion is acquired, Veterans can do pretty much anything. Veterans come from such diverse backgrounds and have experienced situations that most civilians have not. My best advice to offer for other veteran small business owners is to utilize your past successes in the military and leverage them into your own business.

President Biden's Cybersecurity Executive Order

a "Big ___ Deal" For Federal Contractors

Ward & Berry PLLC

On May 12, 2021, President Biden issued a lengthy Executive Order on Improving the Nation's Cybersecurity (the "Executive Order"). A senior administration official explained that the Executive Order is "the first of many ambitious steps" and makes "a down payment towards modernizing our cyber defenses."

The directives in the Executive Order are wide-ranging, cover the entire federal government, and demand coordinated action on exceptionally tight timelines. On its face, the Executive Order directs action only by government officials. Nevertheless, the herculean lift commanded will immediately impact federal contractors performing agency technical or executive support roles (e.g. data collection and processing, preparing recommendations, drafting reports). Involvement by the remainder of the government contracting community should be triggered no later than August, by which time the FAR Council has been directed to consider new cybersecurity requirements in federal contracts and to open public comment periods.

The actions directed by this Executive Order may swiftly and profoundly alter the government's expectations of federal contractors on numerous fronts and give rise to new certification requirements, disclosure obligations, and supply chain diligence mandates. Those in the defense contracting community who followed DoD's long march towards the CMMC ("Cybersecurity Maturity Model Certification") framework will have a particular appreciation for how ambitious the Executive Order is.

Of particular importance, the Executive Order:

I. Seeks to remove any contractual barriers to threat information sharing between government and the private sector, and require information and communications technology providers to share breach information that could impact government networks.

II. Seeks to swiftly move the government to secure cloud services and a zero-trust architecture by rapidly adopting

security best practices, including deploying foundational security tools such as multifactor authentication and encryption, and to invest in technology and personnel training

III. Pursues improved security of software by establishing baseline security standards for development of software sold to the government, including requiring developers to maintain greater visibility into their software and making security data publicly available.

IV. Establishes a Cyber Safety Review Board, which will review and assess "significant" cybersecurity incidents. The Board will consist of Federal officials and private-sector representatives.

V. Creates a 'standardized playbook' and set of definitions for cyber incident response by federal departments and agencies. It endeavors to have all federal agencies meet a certain threshold and be prepared to take uniform steps to identify and mitigate threats.

VI. Seeks to improve the ability of the government to detect malicious cyber activity on federal networks. To comply, all FCEB Agencies must deploy an Endpoint Detection and Response initiative to support proactive detection of cybersecurity incidents within the Federal Government's infrastructure.

VII. Creates cybersecurity event log requirements for federal departments and agencies. When a cybersecurity incident occurs, this information must be provided to the Secretary of Homeland Security through the Director of CISA and to the FBI.

VIII. Requires adoption of National Security Systems requirements equivalent to or exceeding the cybersecurity requirements set forth in the Executive Order.

Please contact Tyson Marx at Ward & Berry at pmarx@wardberry.com if you any questions regarding this article.



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Legal Meets Practical, LLC*

Access her company website and blog at: <http://www.legalmeetspractical.com>.

The Nonmanufacturer Rule: SBA OHA Case Provides Primer

In *Size Appeal of Mechanix Wear, LLC*, an appellant requested the Small Business Administration Office of Hearing and Appeals (“SBA OHA”) to review an SBA Area Office determination that applied the nonmanufacturer rule to deem it ineligible for a small business set-aside contract. (SBA No. SIZ 6098, May 19, 2021). This case contains an excellent description of the nonmanufacturer rule and how it applies to the facts of a given situation.

In this solicitation for combat gloves, Mechanix Wear had proposed obtaining the raw materials from other sources. Pyramid, its subcontractor, would then assemble them into finished gloves at Pyramid’s own plant and facility. Mechanix Wear would provide one supervisory employee to manage the process and to ensure compliance with contract requirements.

Because Mechanix Wear wasn’t using its own facility to transform the raw materials into the finished gloves, the SBA Area Office had found that it was not the “manufacturer” – *it was not the producer of the end item*. Mechanix Wear also could not apply the “nonmanufacturer rule,” as it, together with its affiliates, *had more than 500 employees*. 13 C.F.R. § 121.406(b)(1)(i). Accordingly, as it was neither a manufacturer or a nonmanufacturer, Mechanix Wear was not an eligible small business for the procurement at issue.

To qualify as a small business concern for a small business set-aside contract for manufactured products, an offeror must be either the manufacturer of the end item (and manufacture the item in the United States) or supply the end item of a domestic manufacturer in compliance with the nonmanufacturer rule. 13 C.F.R. § 121.406(a)-(b). There can be only one manufacturer of the end item acquired. 13 C.F.R. § 121.406(b)(2). Firms which perform only minimal operations upon the item being procured do not qualify as manufacturer of the end item. The manufacturer is the concern that, with its own facilities, performs the primary activities transforming substances into the end item so that it possesses characteristics it did not have before. *Size Appeal of Fernandez Enterprises, LLC*, SBA No. SIZ-4863, at 6 (2007). In determining whether a concern is a manufacturer, the SBA will consider: (1) the proportion of total value in the end item added by the concern; (2) the importance of the elements added by the concern to the function of the end item; and (3) the concern's technical capabilities, i.e., plant, facilities, and equipment. 3 C.F.R. § 121.406(b)(2)(i).

If you have run into the non-manufacturer rule before, or simply want to understand it better, this case is worth the read (particularly for the Discussion section). Find it here: [Size Appeal of Mechanix Wear, LLC, SBA No. SIZ-6098 \(2021\)](#). Also, click on the link for more information about the [nonmanufacturer rule](#),

Legal Briefs by Legal Meets Practical

Government Claims: Remember to Submit a “Sum Certain!”

A recent motion to dismiss decided by the Armed Services Board of Contract Appeals (“ASBCA”) illustrates an axiom of filing a certified claim to a contracting officer: it must include a sum certain, or, upon appeal, a contracts appeals board will not have jurisdiction over the matter. This does not mean that you as the contractor would be barred from bringing your claim at all (unless the six-year statute of limitations has run out), but merely that you will have to go through the process of re-submitting the claim to your contracting officer and then either appealing the decision or the “deemed denial” (if the contracting officer fails to render a decision within 60 days).

In *Appeal of Najmaa Alshimal Company*, the ASBCA dismissed an appeal because the contractor had failed to include the dollar amount for which it believed the government liable. As noted by the ASBCA, a claim must “adequately specify both the amount sought and the basis for the request[.]” *K-Con Bldg. Sys.*, 778 F.3d at 1005. The CDA claim need not take “any particular form or use any particular wording,” so long as it has ‘a clear and unequivocal statement that gives the contracting officer adequate notice of the basis and amount of the claim.” *Hejran Hejrat Co. v. United States Army Corps of Eng’rs*, 930 F.3d 1354, 1357 (Fed. Cir. 2019) (quoting *M. Maropakis Carpentry, Inc. v. United States*, 609 F.3d 1323, 1327 (Fed. Cir. 2010)). To provide notice for the amount of any monetary claim, the contractor must provide a sum certain in its written communication to the contracting officer. *Sweet Star Logistic Serv.*, ASBCA No. 62082, 20-1 BCA ¶ 37,704 at 183,046. In other words, if you’re filing a claim, make sure it meets these elements.

This is a colorful read because in this instance, it appears the issue was the contractor’s disappointment over not having received the contract at all. Under the solicitation, the Government had asked for best and final offers; however, the contractor had not responded and the award went to another contractor. The contractor was seeking the full dollar value of the contract at issue, claiming the Government was “evad[ing] responsibility for this contract.” When the contractor provided a copy of a signed contract and an award notice email, however, the Government asserted they were “doctored.”

[Access the decision here.](#)

Proposed Bill Would Help VA Hire Separating Military Health Personnel

In late March, Representatives Bob Latta (R-OH5) and Kathleen M. Rice (D-NY4) introduced bipartisan legislation that would help the Department of Veterans Affairs (VA) actively recruit and hire separating Department of Defense medical department personnel to help fill its more than 45,000 open positions. The *Hire Veteran Health Heroes Act of 2021* directs the VA to create a program that will help actively recruit medical personnel, who are within one year of completing their military service, to remain in federal health care in departments like Veterans Affairs. The recruiting process can begin once the service member has one year remaining on active duty. The bill also requires a report to Congress on the success of the program. U.S. Senators Mike Braun (R-IN) and Maggie Hassan (D-NH) introduced companion legislation in the United States Senate.

The VA has demonstrated difficulty in timely filling vacant health care positions required to meet the needs of ill and injured veterans by taking an excessive amount of time to recruit, screen and hire new employees—actions that could be expedited by hiring transitioning service members with current training and background checks.

Proponents of the bill say the Hire Veteran Health Heroes Act would be beneficial to both transitioning service members and the VA health care system by increasing the efficiency in VA’s recruitment and hiring process through access to health care professionals that are undergoing separation from the armed forces and seeking employment opportunities.

This bill is in accordance with DAV Resolution No. 077, which supports legislation to establish a program to increase efficiency in the VA’s recruitment and hiring of health care workers undergoing separation from the armed forces.

[Track the progress of the bill here:](#)

Employers Can Require COVID-19 Vaccination, EEOC Says

Employers can legally require COVID-19 vaccination for employees to re-enter the workplace and also provide incentives to encourage employees to get a shot, according to new guidance issued on May 13, 2021 by the Equal Employment Opportunity Commission (EEOC). Employers can offer incentives for employees to voluntarily confirm their vaccination status, but those should be optional, the EEOC said. Employers shouldn't pressure their employees to share information, and any medical information — such as vaccination records — must be kept confidential.

Firms are still required to provide reasonable accommodations for employees who are exempt from mandatory immunization based on the Americans with Disabilities Act, Title VII of the Civil Rights Act and other federal laws.

It would also be illegal to apply a vaccination requirement in a way that treats employees differently based on race, national origin, religion, sex, sexual orientation, gender identity, pregnancy, disability, age, or genetic information, the EEOC wrote in its issued guidance.

Regardless of what the EEOC says, the reality is that COVID-19 is a “novel” virus in more ways than one—the modern industry has never before had to adjust to a global pandemic. Now that a vaccine promises to enable firms to return to business (almost) as usual, they face another host of new issues, such as: whether and how to track employees who have and not been vaccinated, how to maximize safety without infringing on privacy rights, and how to properly implement rules on employee vaccinations.

As the EEOC website cautions, “guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, employers should continue to follow the most current information to maintain workplace safety.” This will impact not only operations and employee well-being, but also the scope of a firm's legal obligations and authority regarding vaccination requirements and workplace policies.

Access the EEOC's COVID resources here: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

For Existing SDVOSB Joint Ventures: Trivial Rule Changes Could Sink You

If you have a joint venture that competes for SDVOSB set-aside contracts, particularly those through the VA, you're aware of the onerous and detailed requirements of 13 C.F.R. § 125.18. This regulation prescribes the contents of a joint venture agreement. Fail to include all necessary provisions, and if someone protests your status, you're sunk . . . even if an omission is truly a technicality.

If you have an existing SDVOSB joint venture agreement, you may want to consider implementing minor changes to reflect a rule change to the regulations that went into effect in November of 2020. The VA's Center for Verification has been flagging these during re-verifications (requiring amendments to already-approved joint venture agreements in order to grant approvals), and regardless of whether not making the changes would yank your award upon protest, it's worth making them in the interests of being proactive and to remove any uncertainty:

First, 13 C.F.R. 125.18(b)(2)(ii) requires that an employee of the SDVOSB be designated as the Responsible Manager (formerly the Project Manager) with ultimate responsibility for performance of the contract.

Second, 13 C.F.R. §125.18(b)(2)(v) now reads that with respect to the bank account required for the joint venture: “This account must require the signature or consent of all parties to the joint venture for any payments made by the joint venture to its members for services performed.”

These are minor tweaks, and it's a pain to take the effort of amending your joint venture agreement for such small changes. Still, if the CVE's going to make you do it upon reverification anyway, and it might put a contract on the line, protect yourself by putting the work in.

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 Earl Morgan with your recommendations at: earl.morgan@nvsbc.org.

Calendar of Events

The Defense Federal Acquisition Regulation Supplement (DFARS) Webinar Training Series 2021

Hosted by Jennifer Schaus & Associates
Sponsored by National Veteran Small Business Coalition
Every Wednesday from 1 - 2 PM
(Webinars are complimentary)

[July 7: DFAR Part 229 – Taxes](#)

[July 14: DFAR Part 230 – Cost Accounting Standards](#)

[July 21: DFAR Part 231 – Contract Cost Principles and Procedures](#)

[July 28: DFAR Part 232 – Contract Financing](#)

Visit for <https://www.nvsbc.org/dfars-webinar-training-series-2021/> to view previous webinars in this series.



Joint Venture and Mentor-Protege Bidding Strategies

Thursday, July 1
9:00 AM - 12:00 PM (MDT)
[Click Here to Register](#)



"One Cause, One Voice"
Central Florida Chapter

WEBINARS

CMMC Discussion Panel 3.0
Thursday, July 15
12:00 PM - 1:00 PM EDT
\$20
[Register Here](#)

Latest Developments with the HUBZone Program
Wednesday, July 21
3:00 – 4:00 PM EST
Complementary
[Register Here](#)

US Department of State 2021 Virtual Subcontracting Training and Matchmaking

July 21, 2021
General Session: 9:00 AM - 12:00 PM (EDT)
Matchmaking: 1:00 PM - 4:35 PM (EDT)
[Click Here for More Information](#)

National Small Business Federal Contracting Summit (VIRTUAL)

July 21- 22, 2021
9:30 am – 3:30 pm EST
[Click Here for More Information](#)

National Association of State Workforce Agencies (NASWA)

2021 Veterans Conference (VIRTUAL)

July 28- 30, 2021
9:30 am – 3:30 pm EST
[Click Here for More Information](#)



NVSBC Charity Golf Tournament

Monday, August 23
Army Navy Country Club
Arlington, Virginia
[Click Here for More Information](#)



(VIRTUAL)
September 1 - 2, 2021
[Click Here to Register](#)