



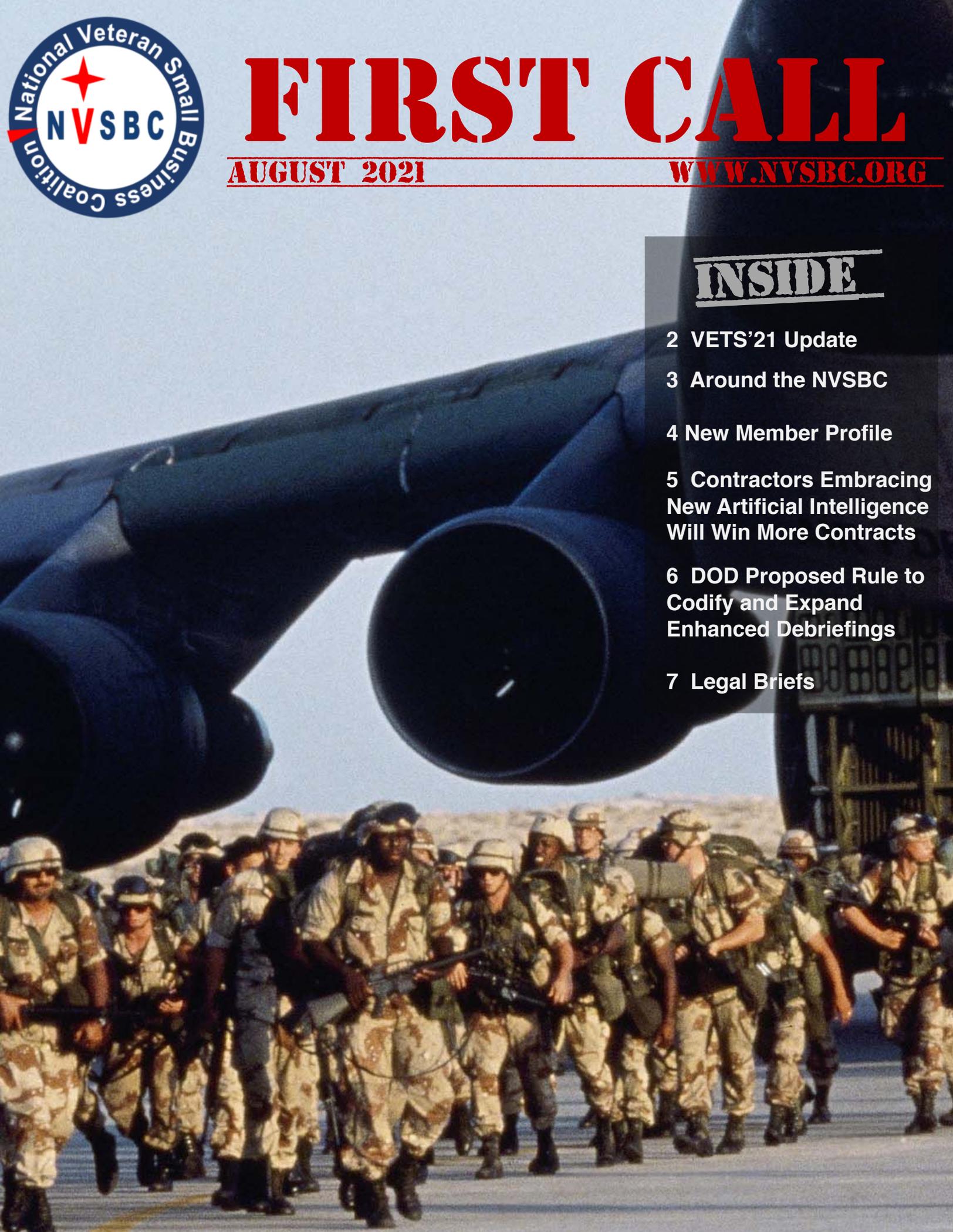
FIRST CALL

AUGUST 2021

WWW.NVSBC.ORG

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From the Executive Director



Hello!

Hard to believe we are already entering August! This summer is flying by for me. I am sure it is the same for all of you hard working small business professionals out there!

We have had a very interesting month with many opportunities to talk to both federal and congressional small business and VA committees about the opportunities and challenges of veteran small business. I want to share a few highlights.

Following very recent engagements with several senior leaders at the Small Business Administration and professional staffers with the House Veterans Affairs Committee, I am encouraged by the progress being made on the transition of CVE verification from the VA to the SBA. It does not come without challenges but the planning that is ongoing is identifying the resource needs, capacity demands, and the solutions to succeed when the transition occurs in January 2023. We continue to urge all involved to ensure transparency in communicating the plans to the small business community. The SBA has agreed to provide periodic routine public updates. We expect to see the first update from them very soon. The SBA has also committed to attending VETS21 in Orlando in November and providing detailed updates on the plans and answers to your questions!

Additionally, we also received reassurance from the SBA that all VA verifications will be honored for the full period of verification. If your company is coming due or if you are a new SDVOSB, we are encouraging everyone to take full advantage of the current efficient VA verification process from now and throughout 2022! Don't delay! Get verified now by the VA and avoid the surge of companies that will be standing in line at the SBA in January of 2023.

Another topic that is top of mind at both the SBA and with the congressional committees is the impact of category management on small businesses. The nation is witnessing a shrinking of the population of small business supporting the federal government and that is no different for veteran owned small businesses. It is no surprise that category management is one area that is taking a toll on our small businesses. The SBA leadership is particularly interested in stories, data, and specific evidence that highlights the negative impacts category management is having on small businesses. We would love to get your specific input if you have a story to share. Please contact us so we can pass it along to the SBA.

I hope many of you will take the time to come play a round of golf with us on August 23rd in Arlington, VA at the Army Navy Country Club. I would love to spend some time visiting! Also, please mark your calendar and get your registration in for VETS21! It promises to be the most dynamic and impactful VETS yet! You will not be disappointed!

Thanks for your continued support of NVSBC and the members that make up this great coalition!

A handwritten signature in black ink, appearing to read 'Scott Jensen', written in a cursive style.

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

VETS 21

VETERAN ENTREPRENEUR
TRAINING SYMPOSIUM



reCONNECT at VETS21!

What you need to know to make your business thrive in 2022!

NOVEMBER 2-5, 2021 | ORLANDO, FL



WHY ATTEND?

A focus on market intelligence and business strategy:

- **Market intelligence** from 50+ government leaders across the VA, SBA, DoD, & 16 federal agencies
- **Speak directly with government buyers and decision makers** to more strongly position in 2022
- **How to accelerate your revenue**, with step-by-step tactics, in every session
- **Clear and concise market updates** for Veteran SB that will impact your business strategies in 2022
- **reCONNECT** with 450+ industry colleagues and 45+ prime GovCon vendors
- **Tactics and Strategies** to thrive in the post-pandemic economy

THE PROGRAM – GOVERNMENT AND INDUSTRY EXPERTS

- **Conference Keynote** – Tommy Moreno, Co-founder & CEO, Pareto Labs; Former Operating Partner, Colony Capital; Former senior executive at The Walt Disney Company
- **Day 2 Keynote** – Matt Griffin, former Army SpecOps, founder Combat Flip Flops, discusses leadership lessons learned in service, the importance of a purpose-driven culture, and how to work with millennials
- **General Sessions**
 - **CVE Migration to SBA – Updates / Impacts / Timeline** – Presented by SBA leadership
 - **2022 Top Federal Trends Roundtable** – Hosted by NVSBC Executive Director Scott Jensen and moderated by Joshua Frank - professional speaker, bestselling author, and nationally recognized authority on government sales and business acceleration
 - **Federal Acquisition Policy Forecast: Opportunities & Risks for Your Business** – Mike Shupp of Van Scoyoc Associates, a leading authority on the impact of government acquisition policy
- **VETS CONNECT** – a leading match-making program to align your company with government buyers and primes
- **Champion Awards Luncheon** featuring 35 Federal agency & govcon primes that met their Veteran set aside award goals

STRATEGY SESSIONS (PARTIAL LIST)

- **Session 1001** → CMMC: What Do I REALLY Need to do? How Much Will it COST? When?
- **Session 1007** → Business Development, Capture and PWIN Strategies
- **Session 1011** → Winning Strategies and Proven Best Practices for Government Prospecting
- **Session 1014** → What You Need To Know for Finding and Winning Low-Hanging Fruit
- **Session 1015** → Step-by-Step Advanced Teaming Strategies
- **Session 1021** → NaVOBA – Insights on Working the Commercial Markets for Veteran Services
- Full listing of strategy sessions will be available on **NVSBC.org** prior to conference

PLUS: Special Industry Focus Updates: Medical Products Industry Update; VECTOR Contract Update; and VETS2 GWAC Contract Update

REGISTER NOW and we will include registration to our Half-Day Workshops on Friday!

- **Veterans Entrepreneurship Through Acquisition (ETA) 2021 Workshop:** Connects veteran buyers and sellers, capital sources, service providers, and supporters of veteran small business ownership.
- **CVE 2023 Workshop:** Preparing for big changes and even bigger opportunities when CVE moves to SBA 1/1/2023 – are you prepared?

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Changing the way business is done.

[REGISTER HERE](#)

Around the NVSBC

Ludmilla Parnell Retires



Ms. Ludmilla Parnell, Director of Small Business Partnerships for General Dynamics Information Technology (GDIT) retired on July 9 with almost 25 years of service. She was a passionate supporter of veteran small businesses. Ms. Parnell led GDIT in winning NVSBC's Champion of Veteran Enterprises Award for Exceptional Support of Veteran and Service-Disabled Veteran Small Business for nine consecutive years.

"I am so thankful for all the wonderful people I have had the opportunity to get to know, and to work with over the years, across General Dynamics, in the government and in the many small business friends I have made ...I will miss you all! It's been an amazing ride knowing you all and working with you! Thank you for all your support over the years!"

The NVSBC would like to thank Ms. Parnell for her support throughout the years and wish her a wonderful retirement.

Award Submissions Due September 1

Awards submissions are now due for the NVSBC Awards Program. Awards are given during the 11th Annual Veteran Entrepreneur Training Symposium at Champion of Veteran Enterprise Awards Luncheon on November 3 at the Doubletree by Hilton in Orlando, Florida. Click on the links below for information on the awards and how to submit.

[Gordon H. Mansfield Veterans Small Business Award](#)
[2021 NVSBC Veteran Small Business Advocate of the Year](#)
[2021 Champion of Veteran Enterprise Award for FY20](#)
[2021 NVSBC Education Foundation Scholarship](#)

Last day to submit award nominations is COB 1 September.

6 Team Spots Left!



NVSBC
**Charity Golf
Tournament**

Monday, August 23



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

NEW MEMBER PROFILE



**BLACK[®]
BOX
SAFETY**

Name of Business Owner: Jackson Dalton

Military Branch/Years Served: United States Marine Corps, 2000-2002

Occupation in Military: Infantryman (MOS 0311)

Type of business: Supplier of Infection Control, Jan/San, Medical, and Safety Products

Year Established: 2017

Location: San Diego, CA

Website: <https://blackboxsafety.com>

What motivated you to start your own business?

While serving in the Marine Corps I was injured in a training accident. I went through 3 leg surgeries, couldn't walk for a year, and was medically retired from the Marine Corps. From this experience, I have made it my mission in life to ensure that others aren't hurt at work, so that they can continue to do the things they love to do with the people that they love to do those things with. At Black Box Safety, we provide products that save lives and reduce exposure to occupational hazards.

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

Our biggest challenge is competing against entrenched incumbents that have long-term contract vehicles, established relationships with Federal customers and suppliers, and experienced teams adept at winning and maintaining government contracts. We are overcoming this challenge through a combination of grit, perseverance and the responsible management of our cash flow.

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

1. Take advantage of free resources including the GI Bill or the Dept. of Veterans Affairs Vocational Rehabilitation Ch.31 program, business courses offered through the Small Business Administration (SBA) and the Service Corps of Retired Executives (SCORE), your local Procurement Technical Assistance Center (PTAC), Small Business Development Center (SBDC), and finally an often-overlooked resource that proved to be of great value and benefit to me; Shark Tank, YouTube and podcasts such as GovCon Giants.
2. Join an incubator that is composed of veteran business owners. I went through this incubator 3 years ago and I am still close friends with many of the other business owners. Camaraderie is necessary when starting a business and is the number one thing that veterans miss when transitioning out of the military.
3. If you can do so, start your business now. Most can be started out of your home with a phone, a laptop and a lot of determination. As General George S. Patton used to say, "A good plan executed right now, is far better than a perfect plan executed next week".

Contractors Embracing New Artificial Intelligence Will Win More Contracts



By Gloria Larkin
CEO, TargetGov



Dramatic changes fueled by growing federal spending budgets and fewer contracting professionals are helping some companies win more contracts, while other contractors are floundering. These changes include the use of data scraping tools and artificial intelligence (AI) in federal procurement affecting market research, acquisition strategy development, solicitations, source selection, contracts, spending data, contractor performance reports, procurement policies and regulations, contract specifications, correspondence, presentations, debriefings and contract closeouts.

Federal Adoption of AI in Procurement

On the government side of the table, AI tools and personnel commitments are growing exponentially with more than 2,000 government managers from over 300 federal, state, and local agencies, and representatives from industry technology startups, small businesses, and leading research and civic organizations developing government-wide IT modernization initiatives through the evaluation and strategic management of emerging technologies including AI, Robotic Process Automation, Blockchain, and Virtual and Augmented Reality according to the General Services Administration (GSA) Emerging Citizen Technology Office (ECTO)¹.

Key Federal Agency Participation

In AI-related accomplishments, the GSA and the U.S. Department of Defense's (DOD) Joint Artificial Intelligence Center (JAIC) announced on October 27, 2020 five achievements from the one-year partnership with the Centers of Excellence (CoE), housed within GSA's

Federal Acquisition Service's Technology Transformation Services (TTS2).

- Designed agile acquisition for AI;
- Unified program management and infrastructure support;
- Enabled environments for Artificial Intelligence (AI)/Machine Learning (ML)/DevSecOps for the Joint Common Foundation;
- Implemented data management procedures; and
- Supported creation of the First Five Consortium².

Market Research Robots

Earlier in the procurement cycle, GSA is using Robotic Process Automation (RPA) to conduct market research on behalf of any federal customer through their Market Research as a Service (MRAS.) The MRAS defines and identifies suppliers and contracts, researches and identifies supplier capabilities, accesses hundreds of existing market reports and provides a market plan including socio-economic status, appropriate contract vehicles, and other recommendations³.

Contractor Action Items

Contractors can become proactive in their positioning by understanding all the databases the government uses to store and more importantly, search or data-scrape contractor information but not limited to SAM.gov, the SBA's Dynamic Small Business Search, CPARS, DSS, and individual agency-specific databases such as NSA's ARC or HHS's mysbcx.hhs.gov. Even fine-tuning one's own company website and

social media presence to reflect the needs of targeted customers is critical in the new AI-focused environment. Identifying specific keywords and phrases exactly matching upcoming requirements and seeding such content in appropriate databases will increase the possibility of being found by the AI tools now in development and use by contracting personnel.

Conclusion

Contractors focused on growth and remaining competitive in the pivoting federal marketplace will be well served to align with intelligent automation techniques such as artificial intelligence and robotic process automation bots to incorporate tactical keywords and phrases in progressive marketing strategies to succeed in 2021 and beyond.

Gloria Larkin is the President of TargetGov where in 2021, the company celebrates 24 years serving the federal contractor marketplace guiding contractors in developing effective strategies and tactics to win billions of dollars in federal contracts through the FAST® Process and the KickStart Program® Visit: <https://www.targetgov.com/>

Sources:

¹ <https://www.gsa.gov/about-us/newsroom/congressional-testimony/game-changers-artificial-intelligence-part-ii-artificial-intelligence-and-the-federal-government>

² <https://www.gsa.gov/about-us/newsroom/news-releases/gsa-jaic-announce-a-year-of-achievements-10272020>

³ www.gsa.gov/mras

DOD Proposed Rule to Codify and Expand Enhanced Debriefings

On May 20, 2021, The Department of Defense published a proposed rule that codifies and expands the DOD's enhanced debriefing program.

The enhanced debriefing program was initially called for by Congress in the National Defense Authorization Act of 2018 and implemented by the DOD through a class deviation. Class deviations are generally temporary authorizations to deviate from the FAR/DFARS.

The enhanced debriefing program has proven popular with both industry and government alike. Accordingly, the proposed rule will expand the enhanced debriefing program and make it permanent.

As initially enacted through the class deviation, the enhanced debriefing program required DOD contracting activities to allow disappointed offerors to submit follow up questions subsequent to a FAR § 15.506 debriefing. The contracting activity would then need to respond to those follow up questions. The thinking behind allowing follow up questions is that increased transparency and insight to the contracting activity's decision-making process would reduce the number of protests and improve future proposals.

The proposed rule takes this transparency a step further. First it expands the scope of contracts under which a debriefing is required. Under the current rules debriefings are only required on negotiated procurements (FAR Part 15) as well IDIQ task orders (FAR part 16) and commercial items procurements (FAR Part 12) that exceeded a certain threshold. Under the proposed rule, a debriefing must be provided for all procurements, including all task order, delivery orders, and GSA Schedule orders above \$10 million.

Further expanding the enhanced debriefing program, the proposed rule would require the contracting activity to provide the source selection decision memorandum with the debriefing for all contracts over \$100 million and all small business contracts over \$10 million.

The source selection decision memorandum is the comprehensive comparative assessment of proposals against all source selection criteria in the solicitation and its documents the rationale used by the source selection authority to in reaching an award decision, including any tradeoffs made by the source selection authority. It typically contains a wealth of information about the contracting activity's thinking which can be immensely valuable for contractors looking to improve their future proposals.

In addition to codifying and expanding the enhanced debriefing program, the proposed rule also clarifies when an agency must suspend performance on a contract in the face of a bid protest. When the GAO notifies an agency that a protest has been filed, the agency must suspend performance if the protest has been filed within the following timeframes:

Within 10 days of contract award or the issuance of a task or delivery order if contract exceeds \$25 million. Within 5 days after the date that is offered to an unsuccessful offeror for a debriefing that is requested, and when requested is required: If the unsuccessful offeror submits no additional questions related to the debriefing; if the debriefing date offered is not accepted; or when a requested and required debriefing is held on the date offered.

The proposed rule does not take effect until after it becomes a final rule.

Chelsea Padgett is a junior associate with Ward & Berry PLLC based out of Tysons, Virginia. Chelsea focuses primarily on government contracting, specifically as it pertains to litigation. Ward & Berry is a Washington, DC and Tysons, Virginia based law firm committed to excellence and ingenuity in advising and advocating for clients in government contracts, civil litigation, investigations, and complicated problems faced by federal contractors of all sizes.



*Sarah Reida Schauerte
Federal Procurement Attorney
Legal Meets Practical
Contributing Writer*

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

Revision Doesn't Right the Ship: Corporate Documents Must Pass Muster Upon Offer

A recent SBA OHA size decision emphasizes that when it comes to winning an award, if you had an issue with your operating agreement or bylaws as of the date you put your offer in, you'd better hope a competitor doesn't file a status or size protest. If they do, and that issue bears on eligibility, you're sunk.

In [Size Appeal of Potomac River Group, LLC, SBA No. SIZ-5844 \(2017\)](#), a disappointed offeror for a small business set-aside had successfully challenged the size of an awardee based on affiliation. The SBA Area Office had determined affiliation due to negative control, basing this decision the firm's Second Restated and Amended Operating Agreement, where one corporate owner held 48.5% interest and concomitant voting rights. Consequently, the Area Office combined the receipts of this minority owner with that of the awardee firm to render the latter "other than small" and ineligible for the set-aside.

The awardee firm appealed this size determination, attempting to use a Third Restated and Amended Operating Agreement in support of its argument of non-affiliation. The SBA OHA rejected this approach, noting that "SBA regulations make clear that size is determined as of the date a concern certifies as small with its initial offer including price." 13 C.F.R. § 121.404(a). Accordingly, a firm cannot create fix issues with eligibility that exist in its corporate documents *after the fact*.

The same is true for other set-asides as well. When competing for SDVOSB set-asides, particularly those for joint ventures where a joint venture agreement must very clearly define division of responsibilities, any required agreements must be perfected as of the date of offer. If not, and another firm protests, you will lose your hard-earned contract, which is a shame particularly if it comes down to a technicality. Don't let that happen. Protect yourself and your contract

Questioning a Square Peg in a Round Hole: When Do You Appeal a NAICS Assignment?

As many in the government contracting arena know, any errors or improprieties in a solicitation must be protested prior to an offer due date. Logic would dictate that this would also include a NAICS code designation. That is not, however, the case.

In [NAICS Appeal of Regency Consulting, Inc., SBA No. NAICS-6101 \(2021\)](#), the SBA OHA affirmed the dismissal of a NAICS appeal. It noted that "under applicable regulations, a NAICS code appeal must be filed within 10 calendar days after issuance of the solicitation, or within 10 calendar days of an amendment affecting the NAICS code or size standard." Citing 13 C.F.R. § 121.1103(b)(1) and § 134.304(b); FAR 19.303(c). In other words, you get *ten days* after an assignment of a NAICS code to take issue with it.

Because the appeal of this assigned NAICS code was filed 14 calendar days after the issuance of the Request for Proposals—and despite the fact that a request to change the NAICS code had been filed with *the contracting officer* within 10 calendar days—the SBA OHA summarily dismissed the appeal as untimely.

In the event you feel the NAICS code assigned to a solicitation is incorrect, remember your timing. Yes, you can approach the contracting officer in the hopes of a change, but do it quickly. Even if you think that conversation may go somewhere, you still need to ensure you file your appeal of the NAICS code with SBA OHA within ten calendar days of either the issuance of the solicitation or the amendment that assigns the NAICS code at issue. Otherwise, if it doesn't work out with the contracting officer, the opportunity is gone.

Legal Briefs by Legal Meets Practical

SBA OHA: An Email is Sufficient Notice to Require Response to VetBiz Cancellation

This is an oft-emphasized point, and it's worth making again: if the government requires a response or action from you, there's rarely forgiveness for non-receipt. A recent SBA OHA decision which confirmed a VetBiz cancellation illustrates this harsh rule—even though a firm argued it did not receive proper notice about how to respond to a proposed cancellation of its VetBiz status due to scant details in an email from the VA's Center for Verification and Evaluation (CVE), the onus was on it to figure out how to access the actual letter with substantive details and to determine how to respond.

In [Optimum Low Voltage, LLC dba Optimum Fire & Security, SBA No. CVE-196 \(2021\)](#), the appellant had filed a motion for reconsideration of its earlier appeal (also to the SBA OHA) of the CVE's decision to cancel its VetBiz-verified status. This motion for reconsideration alleged an "error of fact" with respect to the appellant's receipt of an allegedly broken hyperlink when it received a notice of proposed cancellation ("NOPC") Under the CVE's rules, a VetBiz-verified firm must respond to a NOPC within 30 days lest their verified status be cancelled. The firm had mistakenly thought that—since clicking on the hyperlink within the email did nothing—this was the first stage of the process and it would later receive the actual letter to which it must respond. In its motion for reconsideration, the firm maintained that the issue was one of due process, and that it should not have been required to search for the actual notice of proposed cancellation. In affirming its earlier decision, the SBA OHA found that no error of law or fact had been committed and that the firm had been given sufficient notice to respond to the NOPC. It could have logged into the VetBiz site and viewed the letter it had received, and the email had provided instructions on how to do so.

It's hard not to be sympathetic to the firm here, because its exclusion may truly have come down to a technicality. Also, when one begins the VetBiz process, the examiner assigned to an application at various stages will call to confirm receipt of document requests. Considering the impact of cancellation (which includes a six-month wait period), why doesn't the CVE call to make sure that firm owners understand the seriousness and can access their notice?

FOIA Requests: How Do You Guard Your Information From Release?

What do you do if your contract information is subject to a Freedom of Information Act (FOIA) request by another contractor or competitor?

Your best bet for preventing the release of information you don't want seen by a competitor is claiming that exemption 4 under FOIA applies: "commercial or financial information obtained from a person which is privileged or confidential." 5 U.C.S. § 552(b)(4). Commercial or financial matter is "confidential" for purposes of the exemption if disclosure of the information is likely to have the effect of causing substantial harm to the competitive position of the person from whom the information was obtained. *National Parks & Conservation Assn v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

Most courts applying the *National Parks* test have found that release of a contractor's unit prices is not likely to competitively harm the contractor; *however, information that reveals the contractor's specific overhead, indirect rates, or material cost mark-ups is considered confidential business information exempt from disclosure*. Two noteworthy decisions support this interpretation by their holding that line-item pricing data and commission rates were exempt from release under FOIA Exemption 4. *Northrop Grumman Systems Corp. v. NASA*, No. 17-1902, 2018 WL 4681012 (D.D.C. Sept. 28, 2018); *Hodes v. Treasury*, No. 17-0219 (D.D.C. issued Sept. 28, 2018). Accordingly, if you receive a notice that someone has requested information about one of your contracts, be aware of the exemptions to disclosure under the Freedom of Information Act, particularly Exemption 4. When you respond, explain how the release of certain information would harm your competitive position, and be judicious with the disclosure with which you take issue. For good measure, provide proposed redactions to any documents the agency has advised they have found to be responsive to the request. This is information that affects your bottom line. Protect it!

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)

[August 4: DFAR Part 233 – Protests, Disputes, and Appeals](#)

[August 11: DFAR Part 234 – Major System Acquisition](#)

[August 18: DFAR Part 235 – Research and Development Contracting](#)

[August 25: DFAR Part 236 – Construction and Architect – Engineer Contracts](#)

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



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](#)



2021 National HUBZone Conference

September 8 – 9

The Westfields Marriott Conference Center
Chantilly, VA

[Click here for more info](#)

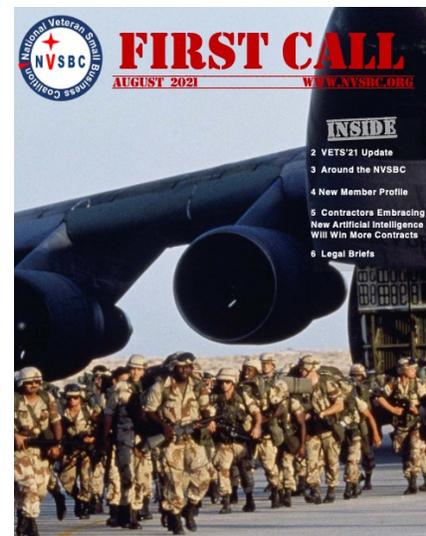


September 1 - 30

[Register Here](#)

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.

August Cover



31 years ago this month, President George H.W. Bush orders the organization of Operation Desert Shield in response to Iraq's invasion of Kuwait on August 2.