



Detroit SDVOSB/VOSB 2012 Small Business Conference

“Veterans First” Court Cases Loom

(SDVOSB News Services-Detroit, MI June 26)—

The Veterans Administration will hold the annual Veteran Small Business Conference in Detroit, Michigan June 26-29. Featured events include multiple breakout sessions, keynote addresses from leaders in Government Procurement, ‘dining with procurement decision-makers,’ an exhibit hall where large government prime contractors will offer subcontracts and multiple networking opportunities for conference attendees.

The event will be held at Detroit’s Cobo Center and is expected to include more than 6000 Veteran Owned Businesses. The 2011 VA conference held in New Orleans attracted more than 5000 business owners, most of them SDVOSB. Key officials from the VA will attend, including:



Mr. Eric Shinseki, Secretary, U.S. Department of Veterans Affairs, Scott Gould, VA Deputy Secretary, Mr. John Gingrich, Chief of Staff, Mr. Glenn Haggstrom, Mr. Jan Frye, Mr. Tom Leney and Procurement Officials from Regional VA Offices nationwide.

More than 300 procurement decision makers will be discussing requirements needed to win federal contracts and providing acquisition forecasting in business requirement sessions. In addition, the Cobo Center will host more than 500 exhibitors. Full agenda:

http://www.nationalveteransconference.com/sites/default/files/upload/Detailed_agenda_20120613.pdf

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GAO Confirms: AbilityOne Trumps SDVOSB for VA Set-Asides

by [Steven Koprince](#)

The VA has been on the receiving end of a number of GAO bid protest decisions, [the most recent](#) issued just a few weeks ago, holding that the VA is acting illegally by ordering off the Federal Supply Schedule (FSS) without first determining whether the procurement at issue can be set-aside for service-disabled veteran owned small businesses. But the GAO's recommendations, and the outrage from the veteran community (which, in my opinion, is very well-deserved), have not stopped the VA from pushing ahead with its "FSS First" acquisition strategy. Now, the VA has pushed SDVOSBs even further toward the back of the line. The VA has determined that the Javits-Wagner-O'Day, or JWOD Act, which calls for agencies to make certain purchases from nonprofits listed by the Committee for Purchase for People who are Blind or Severely Disabled (also known as the "AbilityOne" program), trumps SDVOSB set-asides for items on the Committee's list.

And this time, the VA agrees with the GAO. The GAO's recent bid protest decision in [Pierce First Medical; Alternative Contracting Enterprises, LLC—Reconsideration, B-406291.3, B-406291.4 \(June 13, 2012\)](#), involved the protester's request that the GAO reconsider its earlier ruling in [Alternative Contracting Enterprises, LLC; Pierce First Medical, B-406265 et al. \(Mar. 26, 2012\)](#).

The original *Pierce First Medical* case involved a VA procurement for medical exam and surgical gloves. Without considering a SDVOSB set-aside, the VA purchased the gloves from an AbilityOne non-profit.

Pierce and ACE filed a GAO bid protest, alleging primarily that the VA had violated the [Veterans](#)

[Benefits, Health Care, and Information Technology Act of 2006](#) by failing to consider a SDVOSB set-aside before procuring the surgical gloves through the AbilityOne program. If this sounds familiar, it is because the argument Pierce and ACE made was very similar to the argument made by Aldevra and others in successful challenges to the VA's failure to put "Veterans First" when it comes to the Federal Supply Schedule.

This time, however, the GAO sided with the VA. The GAO noted that unlike in the case of the Federal Supply Schedule, the JWOD Act requires agencies to procure items on the Committee's list from an AbilityOne organization, unless certain exceptions (which were not present in this case), exist. The GAO noted that the 2006 VA Act never discussed how the VA Act was supposed to interact with the JWOD Act. Congress did not provide any guidance as to which one was supposed to control in the event of a conflict.

Given this, the GAO held that "the VA's decision to give the AbilityOne program contracting priority for items already on the procurement list was not unreasonable in light of the statute's silence regarding this issue." The GAO denied the protest and upheld the VA's decision.

The protesters filed a request for reconsideration with the GAO, urging the GAO to re-examine its decision. The GAO did so, but found no errors in its ruling, and upheld the original decision. In the reconsideration decision, the GAO noted again that unlike in the *Aldevra* cases, the JWOD Act sets forth a contracting priority of its own, requiring purchases from AbilityOne non-profits. The GAO wrote that the VA had properly harmonized the two statutes so that the AbilityOne program would receive preference for items on the Committee's list, whereas SDVOSBs would receive preference for items not on the list. The GAO denied the request for reconsideration.

The two *Pierce First Medical* decisions raise an interesting question: could the VA, if it wanted,

Koprince, continued page 13

VA Contracting Flowchart

Below is a graphic rendering of how the Veterans Administration has mutated the *Veterans First* program (109-461). SDVOSB and VOSB that do not have a Federal Supply Schedule (FSS) don't pay the Industrial Funding Fee (IFF) that VA charges all contract awardees. Funds from the IFF are then funneled into the "VA Supply Fund."

Resources from the VA Supply Fund finance important VA programs, such as bonuses and "Holiday Pay" for VA's Senior Executive Service employees. It follows, then, that if capable SDVOSB or VOSB are not on the FSS, they don't pay the IFF, and nothing gets funneled into the VA Supply Fund. If you're not on the FSS, you're on your own. As it stands now, few SDVOSB are on the FSS...and very few SDVOSB are awarded VA contracts.

**Veterans First?
No way.
Follow the money!**



Congressional Appropriations to VA for Goods and Services



"VA Supply Fund" pays **executive bonuses, holiday pay, cash allowances**, but few operations vital to the VA mission.



SDVOSB/VOSB

VA buys from businesses with a Federal Supply Schedule (FSS)

IFF "becomes" the VA Supply Fund -



VA Charges FSS Businesses a fee
(77% are non-veteran businesses)

FSS Businesses must pay at least 0.5% of all procurements back to the VA Industrial Funding Fee (IFF)

ON THE HILL

Legislative Update

HR 4048

Sponsor: Bill Johnson (R-OH)
 Introduced: February 16, 2012
 Referred: House Committee on Veterans' Affairs
Gov Track prediction--2%; VLM prediction--Dead.



HR 3438: To require the Department of Defense to meet the annual goal for participation in procurement contracts by small business concerns owned and controlled by veterans with service-connected disabilities.

Sponsor: Rep. Bob Filner (D-CA)
 Introduced: November 17, 2011
 Referred: House Armed Services Committee, House Small Business Committee
GovTrack--4%, VLM prediction--Will not pass Committee

H.R. 3850: Government Efficiency through Small Business Contracting Act of 2012

Rep. Samuel "Sam" Graves [R-MO6]
 Introduced: Jan 31, 2012
 House Committee on Oversight and Government Reform
 House Committee on Small Business - passed
GovTrack: 29% --VLM: Better than average chance of President signing

2011 Proposed Legislation:

S. 1154: Honoring Promises to Service-Disabled Veterans Act of 2011

Requires transparency for Executive departments in meeting the Government-wide goals for contracting with small business concerns owned and controlled by SDVOSB.
 Introduced: June 7, 2011 by Senator Max Baucus (D-MT); co-sponsors: Harkin, Vitter
 Referred: Senate Committee on Small Business and Entrepreneurship
GovTrack: 4%--VLM Dead

S. 1184: To amend title 38, United States Code

To revise the enforcement penalties for SDVOSB misrepresentation
 Introduced: June 13, 2011 by [Senator Maria Cantwell \(D-WA\)](#)
 Referred: Senate Committee on Veterans Affairs
 Introduced in House of Representatives: April 15, 2011 by Marlin Stutzman (R-IN)
 Activity: May 23, 2011: passed in the House by roll call vote
GovTrack=2% chance—VLM: Dead

HR 240: To amend title 38, United States Code

Requires (current law authorizes) a Department of Veterans Affairs (VA) contracting officer to award contracts to small businesses owned and controlled by veterans using other than competitive procedures for contracts above the simplified acquisition threshold.
 Introduced: Jan 7, 2011 by Rep. Robert Filner (D-CA)
 Referred: House Veterans Affairs Committee, hearings held by Subcommittee on Economic Opportunity.
GovTrack: 2%, VLM: Dead

S. 633: Small Business Contracting and Fraud Prevention Act of 2011

Requires that SDVOSB/VOSB are verified by all federal agencies...ends self-certification...
 Introduced: March 17, 2011 by Senator Olympia Snowe (R-ME)
 Referred to House Small Business Committee.
GovTrack: 9%--VLM: Roll over, Rosie, this one is stagnating in the House Small Business Committee (Sam Graves R-Missouri, Chairman). Internal feuds in the veteran service organizations and lobby efforts make this improbable, although it was passed unanimously by the Senate.

Editorial



Questions for the Secretary

The noun, “Veterans Administration” indeed sounds like an organization for veterans, doesn’t it? It implies a sort of ownership by America’s former soldiers who stepped up when needed by their country. We sacrificed in Korea, Vietnam, the Cold War, Grenada, Panama, Bosnia, Iraq I, Afghanistan, Iraq II. Future military skirmishes are imminent in a world order that seems headless at times. Veterans march to the beat of a country that supports and cherishes their soldiers in uniform, usually.

Discounting Vietnam and the seizures of social upheaval and political firestorms that urged Americans not to ‘support the troops, America has respected and admired us. But not so fast, my friend. The agency that portends to watch out for veterans and disabled veterans is not and has not for a long, long time. We leave the service and with a naïve sense of bravado that our service instilled in us.

We hope for a civilian life of opportunity, a life where we can realize hopes and dreams like other Americans. We are strong-willed, motivated and deserving. We pride ourselves with a sense of purpose—to accomplish what we set out to do...and we have an iron will and tenacity.

Promises, promises and more promises. Isn’t it politically wise to lounge in the halls of Congress and introduce legislation that will have minimal effect on our hopes for success at starting a small business and having it thrive?

We need a Champion, a champion who doesn’t lose sight of the mission. Sadly for us, our only ‘champion’ is the VA. Wolf in Sheep’s clothing.

Quotes by Secretary Shinseki from previous veteran small business conferences:

"VA will begin putting Veterans first--fully first--in our contracting efforts because we recognize the on-time, on-budget, quality solutions that you offer to meet our contracting needs."

2009 Veteran Small Business Conference

"At VA, we put Veterans first both in employment and in contracting."

2010 Veteran Small Business Conference

"We are in the business of serving Veterans with healthcare, benefits, memorials, and advocating for Veteran-owned and service-disabled, Veteran-owned small businesses."

2011 Veteran SB Conference

First? Fully first? Really?

Deputy Secretary Gould doesn’t see things that way. His submission of the ‘Interim Rule’ to clarify the procurement priorities at the VA speaks volumes about VA’s commitment to veterans. PL 109-461 is a *mandate*, not an administrative technicality that can be ignored. We cannot let slip it away. Some say that mandates trump administrative ‘rules.’ That in a federal court, the law will prevail...How many contracts are we going to miss out on while the VA fights this mandate? How many VOSB/SDVOSB will be forced out of business?

Mr. Secretary, are you listening? Do you know your staff is not putting us first? Mr. Secretary?

Bob Hesser**Written Testimony Before The U.S. House of Representatives
Committee on Small Business
Subcommittee on Contracting and Workforce hearing**

Chairman Mick Mulvaney and members of the Subcommittee on Contracting and Workforce.

My name is Bob Hesser, and I am First Vice Chairman of the Veteran Entrepreneurship Task Force commonly known as the (VET-Force). VET-Force is a non-profit that represents more than 4 million veterans and veteran-owned small businesses nationwide. I thank you for giving the VET-Force an opportunity to provide additional testimony.

The VET-Force appreciates this opportunity to express our support for the House Bills within the National Defense Authorization Act of 2012 listed below. These many legislative changes will improve the small business contracting within the federal government. We want to provide information we consider as important as Bills listed below.



H.R. 3850 -- The GET “Small Business Contracting (Government Efficiency Through Small Business Contracting) Act of 2012;”

H.R. 3851 “Small Business Advocate Act of 2012;”

H.R. 3893 -- The “Subcontracting Transparency And Reliability (STAR) Act of 2012;”

H.R. 3980 -- The “Small Business Opportunity Act of 2012;”

H.R. 3985 – “Building Better Business Partnerships Act of 2012;”

H.R. 3987 – “Small Business Protection Act of 2012;”

H.R. 4081 – “Contractor Opportunity Protection Act of 2012;”

H.R. 4121 – “Early Stage Small Business Contracting Act of 2012;”

H.R. 4206 -- “Contracting Oversight for Small Business Jobs Act of 2012.”

1. H.R. 3850 -- The GET “Small Business Contracting (Government Efficiency through Small Business Contracting) Act of 2012” fulfills an urgent need to hold senior executive level officials accountable for Federal Agency small business goals. In particular, Agency goals to award contracts to veteran owned small businesses that are training and creating employment for veterans in emerging new technologies.

2. To obtain a GSA Schedule the Business firm must meet requirements that are not conducive to a new company. For example, there is an “in business for two years” requirement before application. It then takes as long as eight months before contract award because GSA does not have an efficient means of awarding the contract within a reasonable time period. The commitment required to go after a GSA Schedule requires a great amount of employee time or a payment to an outside firm to complete the tasks. It is not our goal to indicate the great difficulties encountered are unjust or overly cumbersome for a deserving small business. We emphasize this lengthy time so the ignorant or naïve will be fully aware of how difficult it is to obtain a GSA schedule.

Hesser, continued page 12

“Now is the time to band together as one — for all



SDVOSB working in the federal space.”

VA Modifies Regulation to Include Fast Track Verification

Acquisition Policy Flash!

Class Deviation from VA Acquisition Regulation (VAAR) 819.7003 Eligibility

Purpose: To inform the acquisition workforce about the issuance of a class deviation from VAAR 819.7003.

Specifically, this deviation adds an exception to VAAR 819.7003 at VAAR 819.7003 (e). The exception provides that: At the time of submission of an offer, previously verified SDVOSB/VOSB firms identified by the Center for Veterans Enterprise (CVE) as currently undergoing the SDVOSB/VOSB re-verification process are eligible for Fast Track. However, an award shall not be made to the offeror-firm until verification is complete. Fast Track applications will be processed within 21 business days when practicable.

Please note: There are three rules to simplify the process –

1. If a company is listed in the VIP database with a

verified logo, you may proceed with the award. This means that there is a verification logo next to the firm name on the database as well as the word “verified” in the Registration Status field.

2. If a company is listed in the VIP database with a note indicating that the firm is undergoing the re-verification process at Center for Veterans Enterprise (CVE), the firm is eligible for Fast Track re-verification. Please contact CVE to implement Fast Track procedures and ensure the firms application is processed quickly.

3. If a company is not visible in the VIP database either having a verified logo or the note that it is undergoing the verification renewal process at CVE, it is not eligible for either award or Fast Track. Companies in this category must undergo normal verification procedures, and are required to be verified prior to submitting an offer in accordance with VAAR 819.7003(b)(3).

Maggie Bullard-Marshall



Simplified Re-verification

Thanks to a firestorm of negative backlash from veterans nationwide about CVE's onerous re-verification process, the VA appears to be headed in the right direction. Jill Aitoro reports for the *Washington Business Journal*

<http://www.bizjournals.com/washington/blog/fedbiz-daily/2012/03/va-eases-status-renewal-process-for.html>

In a controlled experiment, BluePoint Productions intentionally let its CVE certification status expire. This allowed for a first-hand view of the certification process from start to finish.

The process was not difficult at all for us. We have the government-required DUNS, ORCA and associated contractor paperwork. The elements requested by CVE included a payroll document (which was easy because BluePoint is a one-man shop), Signature Cards, Formation, Operating Agreements, 1040, Management Agreements and existing contracts. I had none of these elements of a typical successful business. A written statement to that effect and my application for verification was approved in **FOUR DAYS**.

This led me to believe that there is—in fact—some processing wisdom within CVE.. Maybe not too much, but some. New applications go to one department where the request is evaluated and piped through the 'system' based on this original evaluation. Since I had none of the requested documents that seem to put up roadblocks for applicants, my application was funneled immediately to the end phase. I received the original email that my certification was being pulled from VIP on Monday and received my certification on Friday.

CVE is getting it right. Credit where it's due.

Michelle "G-I" Gardner-Ince
Director, Center for Veterans Enterprise
www.vetbiz.gov
michelle.gardner-ince@va.gov
Phone: 202.303.3260 X 5237

Hank Wilfong

The Tale of The Two Small Business Bills

We are told that there are two important differences between the two Small Business Bills, currently before Congress, that our readers will probably care about. We hear that President Obama intends to veto the Defense Authorization Act. We hope that scuttlebutt is in error. Because if he does that, he "vetoes" our Small Business bills, too. Just in case, you might want to contact the White House.

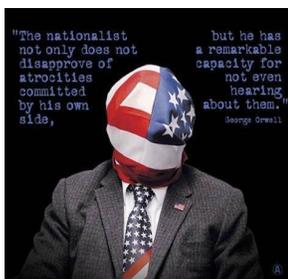
You know strange things happen during National Election year. We don't want Small Businesses to suffer any more than the benign neglect has already cost us.

1. HR 3850 (and the version in the National Defense Authorization Act) will require DOD and all other agencies to have a minimum goal of 25% - the Senate bill doesn't. Unless DOD has the same goal, small businesses will lose out on important opportunities. If you recall, under the Bush Administration, no agency was allowed to have a goal that was less than the government wide goal.

2. HR 3850 (and the version in the NDAA) tells SBA that they can't exclude contracts from the goaling base before calculating whether the goals are achieved. Right now, SBA excludes over \$100 billion in federal contracts from the base. Simply including these contracts will result in \$25 billion in new opportunities for small businesses.

OK, now that we know, we want to make sure Congress gets together and carve out that which is most advantageous to SMALL BUSINESSES.

Contact your Representatives in both the Senate and the House and ask them to get their acts together.



Frauds

A popular feature of *VLM*, these fraudulent companies get their just deserts. Everybody likes to catch a

thief.

<http://www.santafenewmexican.com/Local%20News/Feds-charge-campus-owner-with-fraud>

http://www.youtube.com/watch?v=SomnX1tAa-Y&feature=youtube_gdata_player

http://www.nola.com/crime/index.ssf/2012/05/fbi_informant_feels_betrayed_b.html

<http://www.abqjournal.com/main/2012/02/10/north/business-property-owner-indicted.html>

http://www.nola.com/opinions/index.ssf/2012/01/crooked_contractor_aaron_benne.html

<http://www.wivb.com/dpp/news/crime/va-hospital-purchasing-agent-sentenced>

<http://www.ajc.com/news/atlanta/man-accused-of-defrauding-1222311.html>

<http://www.times-herald.com/Local/Luthersville-man-indicted-in-federal-court---Charged-with-obtaining-federal-contracts-reserved-for-disabled-veterans--1923512>

<http://www.hreonline.com/HRE/story.jsp?storyId=533346841>



Short Takes

Disabled vet battles for military contracts for business; finds federal contracting opportunities “maddeningly few.” (*Philadelphia Enquirer*)
<http://tinyurl.com/7z9aoqq>

Financial Penalty Legislation would “...introduce penalties for senior executive service officials serving in agencies that fail to meet their individual small business prime and subcontract goals.”
<http://tinyurl.com/7y7zabg>

Small businesses neglected in GSA procurement (*Government Executive*)
<http://tinyurl.com/7qoplep>

Follow-up: April 25, 2012 Meeting of the Small Business Procurement Group—Official SBA memo (pdf) <http://tinyurl.com/7mmouen>

American Small Business League claims SBA has “inaccurately reported the percentage of prime and subcontract dollars awarded to small businesses.” (Official memo in pdf) <http://tinyurl.com/8ya8uxl>

The Government Accountability Office sided again with a bid protestor, saying the Veterans Affairs Department should have set aside a contract for emergency notification services to a service-disabled veteran. (*Washington Technology*)
<http://tinyurl.com/7axl86q>

Creating Conditions for Small Businesses to Thrive (*Huffington Post*)
<http://tinyurl.com/75t6yeo>

VetLikeMe

Private Sector Starts Taking Bull by the Horns

Bill Puopolo

Many of us who have been working in or familiar with the SDVOSB program and dealing with Government have come to see the realities of the program over the last several years. Our government has done many great things to include putting a man on the moon and through our military spread freedom and liberty across the globe. Yet at this point in time we cannot create a SDVOSB program that is effective for more than a just handful of SDVOSBs.



The harder we fight the bureaucracy the more entrenched the federal government has become and the deeper we are thrown into the quandary. They have changed the rule on a daily basis, said one thing and do another and have adopted the government philosophy of “why do something, when you can just say you’re doing it and take credit.” We have become a political ping pong ball and all the while young and old veterans are being hurt because they worsen their economic opportunities by investing in business.

AT&T has come to embrace SDVOSBs and is going above and beyond the lip service we have come accustomed to by many other businesses and organizations. The AT&T mentor protégé program has the potential of jump starting our movement. They focus on three pillars including education, mentoring and contracting opportunities. They are going beyond the basic programs that simply teach elementary business knowledge. The most important thing AT&T has done is gain the understanding that our veterans have senses of empowerment due to their service.

Our veterans have defeated the Axis powers, NVA, Taliban and Al Quada on the battle every time. They have accomplished the hardest task in the harshest environments in the world. America best and brightest had to adapt to the ever-changing cultural and information arenas in which they have operated. AT&T has begun to exploit the technical knowledge, leadership and empowerment that our veterans have to offer. They understand that the results oriented culture of our military veterans can affect the efficiency, invitation, morals and ethics of our business institutions. AT&T is also looking to small SDVOSB’s to be the job creators, not just wealth creators, in our economy and hire our veterans.

While serving in both Iraq and Afghanistan our team did not always know who the enemy was. We were not faced with a uniform force. What we did learn is that when someone started shooting at you: you shot back. When dealing with the federal government we are facing a totally invisible force. A force that can mask itself, pass the buck and still remain in power.

Accountability has been lost within our government. Despite this current landscape we cannot give up the fight to effect change. We must work with those who can support us and then hold all accountable to sharing our great vision of the SDVOSB program. I have been tasked by Congressmen Gus Bilirakis, Vice Chairmen of the House Veterans Affairs Committee, to conduct a round table in July to present a unified effort and concrete

Puopolo, continued page 15

State Activity



National

<http://tinyurl.com/88p7u7p>

Ohio

<http://tinyurl.com/6u9yzfv>

Maryland

<http://tinyurl.com/764ylgn>

New Jersey

<http://tinyurl.com/7frj2mz>

<http://tinyurl.com/78jkmek>

Guam

<http://tinyurl.com/d6z485o>

Hawaii

<http://tinyurl.com/c5x9usq>

Massachusetts

<http://tinyurl.com/7r62sdr>

<http://tinyurl.com/c5x9usq>

VetLikeMe

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BluePoint Productions

Editor and publisher: Hardy Stone

Contributing Writers: Bob Hesser, Hank Wilfong,
Steve Koprince, Bill Pupo, Maggie Bullard-Marshall

bluepoint1@comcast.net

bluepointgov@gmail.com

www.bluepointgov.com

301-845-1330



VLM has featured unvarnished national news and editorial opinion concerning the SDVOSB community since Nov. 2009. From the beginning we've operated in the red, but this publication will always be free.

We hope *VLM* keeps the SDVOSB community informed so that decision makers are pressured to provide increased federal contracting opportunities for those of us injured while serving our country.

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Hesser, from page 6

The value of a GSA Schedule is often overvalued. An extremely high percentage of GSA schedule holders DO NOT receive revenue through the Schedule. In fact the last word we heard is that there are going to be thousands of GSA Schedule holders losing their schedule because they did not meet the \$25,000 minimum revenue.



3. How is GSA ensuring GSA ordering activities are using the GSA Schedule system in the legal and regulating manner? Are the buyers properly awarding delivery orders to small business Schedule holders for purchases greater than \$3,000 but less than \$150,000 (The Simplified Acquisition Threshold)? If not, are the buyers properly documenting why they did not purchase from Small Purchase?
4. How is GSA ensuring that rules applicable to the “non-manufacturer rule” are followed with the issuance of a GSA Delivery Order?
5. The VA temporarily stopped using FedBid (they have since reinstated it). FEDBID.COM is a reverse auction. Some other agencies followed their lead. Government does not have control of all aspects of the negotiations. Contracting is an inherently government responsibility to be carried out by government personnel. Repeatedly government officials, as high as SES, will boast about the hundreds of thousands or millions they save because of their use of FedBid. The odds are pretty good when the government uses FedBid they are paying 3% more than the Sellers lowest price. Because of the extremely high number of dollars passing through FEDBID.COM without government control it behooves the Federal Government to investigate this behemoth procurement program.
6. The Federal Government has a fleet size of more than 600,000 vehicles and spends Billions of dollars annually to purchase and lease vehicles. GSA and DOE are responsible for the Billions spent annually on alternative fuel/electric vehicles by senior executive level officials at ALL Federal Government Agencies. GSA and DOE SES officials are leaders in the market development of this emerging new technology and should be held accountable for the small business goals that have never been more than 10% of their goals. It has been brought to the attention of the VET-Force that both GSA and DOE are **currently not meeting small business goals for veteran owned small business contracting**. VET-Force is concerned that the opportunity to create jobs for returning veterans under Federal Government contracts and related Legislation will also not be achieved by the GSA and DOE. Veteran-owned small businesses have invested significant time and resources to become GSA vendors and DOE stakeholders, for the purpose of offering savings and solutions to Federal Government Agencies. In 2009, GAO Report 09-493 recommended that GSA and DOE explore cost savings available through the commercial leasing of alternative fuel/electric vehicles. The Federal Acquisition Service currently has a commercial leasing program that has awarded 25 % of its vendor contracts to veteran-owned small businesses, experienced and qualified to offer commercial leasing of alternative fuel/electric vehicles to Federal Agencies. However, this GSA Schedule 751 multiple award-schedule has been underutilized by GSA and DOE. Also, GSA Automotive has a non-mandatory source leasing program that has historically controlled more than 99% of ALL Federal Agency fleet vehicle leasing orders and budgets. For example, during model year 2011/2012, GSA and DOE launched a “pilot” fleet electrification program that leased 110 plug-in electric vehicles at a cost of \$4.7 million to Federal Agency fleet customers. **Hesser, continued next page**

Hesser, continued

Based on a GSA Schedule 751 commercial lease cost comparison, the ordering Federal Government Agencies would have **saved \$1.4 million if they had leased the 110 plug-in electric vehicles from an awarded 751 lease contract to a veteran-owned small business, instead of higher cost GSA Fleet Leasing**, based on 5 year lease term and 15,000 annual miles. The reason Federal Agencies are paying more than necessary by ordering from GSA Fleet instead of GSA Schedule 751 commercial leasing, is that historically, GSA Automotive takes more than 5 months to update new model year lease rates needed to process the annual modification of awarded GSA Schedule 751 contracts. While GSA contracting officers are “dragging their feet” in the processing of the annual 751 contract modification, GSA Fleet is marketing and securing Federal Agency vehicle lease orders between September 2011 and February 2012. Prior to the completion of contract modifications for GSA Schedule 751 contract holders in March 2012. At that time, Agencies have already placed their fleet vehicle orders. Including all orders to deliver and lease alternative fuel/electric vehicles. **Federal Fleet is 650,000+ motor vehicles with approximately 55,000+ replaced annually. More than 99% of ALL Federal Agency vehicles are leased from GSA. Less than 1% of the Federal Fleet is leased from Schedule 751 commercial vendors.**

7. An important point the VET-Force wants to emphasize is that GSA Schedules are owned only by two plus years old businesses. Government Wide Acquisition Contracts (GWAC), such as the VETS-GWAC generated by Executive Order 13360 October 26, 2004 and the VA T4 IT contract centralize knowledge that would normally be more accessible to the general public. The VETS-GWAC was not as successful as desired but it is the first and only large contract that was kept for one group under the Small Business Act; VOSB's and SDVOSB's. The VA T4 IT contract required past performance far greater than the VETS GWAC. However, VA T4 awarded 15 contracts out of 107 applications. Seven SDVOSB firms and eight non SDVOSB small firms and not small firms. Prior to RFP issuance the VET-Force was very concerned that the majority of the work would be offered to the larger eight firms. We voiced that concern to VA officials. Our reason for mentioning T4 under this GSA schedule testimony is because we believe GSA must set policy that large contracts be small business set-aside and additional requirements be a separate open competition.

Again, thank you for the opportunity to provide you information we believe to be vital for small business with emphasis on Veterans.

**Koprince, from page 2**

validly interpret the 2006 VA Act as providing a preference for SDVOSBs over the Ability One program?
And if so, why did it not do so?

The Ability One program, of course, fulfills important socioeconomic objectives designed to assist some of the nation's most vulnerable citizens, and the VA might defend its decision on that basis.

However, for service-disabled veterans still reeling from the VA's ongoing insistence on going forward with FSS procurements without considering SDVOSB set-asides, the two *Pierce First Medical* decisions may be seen as additional evidence that within the VA, “Veterans First” means anything but.

(see another SDVOSB piece by Steven Koprince, page 14).

Playing the Game: From Self-Certification to CVE Verification

While SDVOSBs hope that Congress or the courts will step in to force the VA to honor its statutory obligations to veterans, the VA's VetBiz verification process continues to be a source of major frustration for many applicants. Although many of the problems are administrative, others have arisen because of differences between the way the VA's and SBA's SDVOSB regulations are written—as well as how the VA interprets its regulations.

Many SDVOSBs believe that the VA's regulations are overly complex, and should be streamlined. Perhaps those voices will be heard in the future. But at the moment, the only way to be verified is to “play the game” by applying under the VA's existing rules. What follows are three key distinctions between the SBA's eligibility rules and the VA's that may trip up new CVE applicants.



Steven Koprince

Full-Time Management. The VA requires that a SDVOSB be managed by a SDV who devotes full-time to the business during normal working hours of firms in the same line of work. See 38 C.F.R. § 74.4(c)(3). According to guidance issued by CVE, if a veteran holds outside employment, he or she must submit a written statement with the application demonstrating that the outside employment does not interfere with control of the SDVOSB. This can be an uphill battle, because CVE presumes that any outside employment interferes with control, and puts the burden of proof on the veteran to prove otherwise. In contrast, the SBA has no full-time management requirement or formal restrictions on outside employment. However, it is important to note that the SBA may find “control” problems if a veteran is dependent upon an outside employer for his or her income.

Community Property. Married veterans living in so-called “community property” jurisdictions (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin) have been shocked to find that CVE does not consider them to be majority owners of their companies—even when they own 100% on paper. In community property states, spouses are legally presumed to own one-half of one another's personal property. According to CVE, this means that a non-veteran spouse automatically owns half of the veteran's interest in the SDVOSB. Fortunately, this problem can be easily addressed through paperwork. The solution may take the form of a “transmutation agreement,” or a contract between the spouses agreeing that the company is separate property of the SDV. CVE has also indicated that it would accept a notarized statement from the spouse disclaiming any interest in the company. These documents should be submitted with the initial application. In contrast, there are no reported SBA decisions on record applying the community property laws in this way—although it remains a possibility that the SBA could do so in the future.

Joint Ventures. Veterans should be aware of two key distinctions between joint ventures under the VA and SBA rules. First, under the VA's rules, a joint venture must be a separate legal entity, as opposed to an informal “joint venture by contract.” Under the SBA's rules, both formal and informal joint ventures are permitted. Second, the JV itself must be verified by CVE in order to be eligible for set-aside awards.

Koprince, cont. next page

The GAO has upheld the VA's decision to deny a contract to a JV that was not verified. See A1 Procurement JVG, B-404618.3 (July 26, 2011).

Understanding the differences between the SBA and VA regulations can help a SDVOSB more quickly go from self-certified to verified. If and when the VA is forced to truly put "Veterans First" in its contracting practices, CVE verification will be very important and beneficial, meaning that it may well be worth it to play the game to get there.

*Steven J. Koprince is a partner with Petefish, Immel, Heeb & Hird, LLP, where his practice focuses on working with small government contractors. He is the author of *The Small Business Guide to Government Contracts* (AMACOM Books, 2012) and publishes the *SmallGovCon* blog (smallgovcon.com), offering legal news and notes of interest to SDVOSBs and other small government contractors*



Puopolo, from page 10

solution to fixing the SDVOSB program. (Location Date TBP) We will need the support of all National Veterans Organizations to make this happen.

I believe the time is now for us to band together to put forth concrete solutions that will once and for all put the SDVOSB program on a path to success. Our successes will be an opportunity to build businesses and hire veterans, not a guarantee. A goal that our hard work will have a chance to provide positive results. If we do not achieve those results we can look in the mirror for blame and not point to an unfriendly bureaucracy that has been effective at working against us for several years. We will be on even playing field and we will triumph.

It is my hope that we will see the great success of the dozen SDVOSBs in the National AT&T Mentor Protégé program. Those businesses will in turn mentor many other SDVOSB and within a few years will have proven what we already know- that we are better, faster and more price effective than others. I hope that many more in the private sector will follow AT&T's lead and incorporate true mentoring programs that result in hiring and building economic opportunities for out wounded warriors. The private sector can fill in the gaps where our federal government has been lagging.

Once again I thank all of you for your service. I especially thank you for your commitment and hard work within the SDVOSB community. Remember that we share a common experience that no one can even begin to understand unless they have lived it. Remain strong and rely on each other.~~

Other Voices

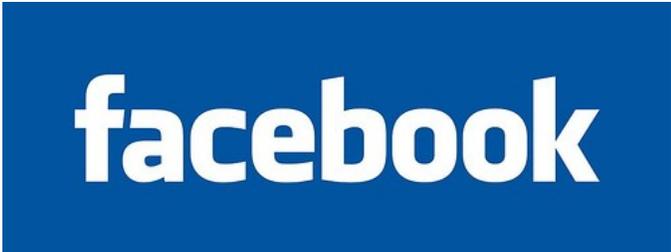
VLM receives emails and comments from members of the national SDVOSB community that provide perspective and a sense of political urgency for our community. Comments, criticism and suggestions are encouraged.

Identifying information is redacted. Email: bluepoint1@comcast.net

“There has to be integrity in the (CVE) process and it needs to be simplified. Not sure when you were vetted but I have NEVER had to submit as many documents for anything I have ever done both in my business and personally. I just lost a contract in which I was the "incumbent" contractor for over 7 years. I lost it because it was a SDVOSB set-aside and as my application for verification was sitting on someone's desk at the CVE I was not able to bid on the contract that I already had as I was not on the VIP the day the solicitation was due. By the way...that contract diminished my revenues by 2.3 million dollars...annually. I am a 2 tour Vietnam combat veteran and I am 60% service connected and own 51% of my company and have TOTAL control of said company but yet I have been waiting since August of last year to be verified.”

This is a response we received from a contracting officer that sent us a pre-award/ notification of Challenge letter. Our position ishow do we challenge these self-certified guys???? I don't understand why the rest of the government will not get aboard with utilizing the VA website for verification purposes. I know there was a law pending concerning this. I just don't understand why it would not pass and who would oppose it.

As all Veterans have been taught (especially those of us that were in combat) never..never..give up the fight! I feel certain that we will ultimately prevail. The squeaky wheel just needs to "squeak" louder. There are a lot more Veterans that are in the queue than CVE employees. Who are these people and just what is their objective and most importantly....who are they supposed to be helping? Maybe the CVE should consider changing their requisites for employment with the CVE by requiring them to be veterans...do you think that would ever happen?

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