



FIRST CALL

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Update from NVSBC

A message from NVSBC Executive Director, Scott Denniston



I hope this edition of *First Call* finds you all enjoying some springtime weather. I also hope you have all registered for VETS 18 (veterantrainingsymposium.com). We are working hard to bring the very best speakers. We will also recognize organizations that support SDVOSBs and VOSBs as prime and subcontractors with the “Champions Awards,” as well as an outstanding SDVOSB/VOSB with the Gordon Mansfield award. This year also marks the inaugural NVSBC Golf Tournament on Monday, June 11th which supports our scholarship fund and new training programs.

Also at VETS 18, we plan to have our initial meeting of a new industry group for construction, A/E, and related services and supplies. This will be our fourth industry group to focus on issues specific to these members. If you are interested in being involved, please email me at scott.denniston@nvsbc.org.

I am often asked why NVSBC efforts focus on VA

issues. One of our goals is the expansion of VETS First to other government agencies, starting with DoD. This can't happen until VETS First is seen as advantageous to the veteran small business community, as well as the government. Frankly, we never expected to have the extreme opposition to VETS First we have experienced from the VA. ***We need to fight back when senior VA leadership publically states that the program is administratively burdensome, SDVOSBs and VOSBs cost VA more money, and most are not legitimate businesses bringing “value” to VA.*** VA has fought VETS First from the very beginning as evidenced by the years Kingdomware fought the VA on the way to the Supreme Court and the VA's continued resistance. Lawsuits and GAO filings continue.

Until we bury VA positions and statements, we can't take VETS First to DoD or any other agency. NVSBC will always fight for SDVOSBs and VOSBs!

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

Does the New VA Secretary Stand a Chance?

Following an [unflattering OIG report](#), in late March President Trump dismissed VA secretary, David J. Shulkin, and announced he would replace him with White House physician, Dr. Ronny L. Jackson, a rear admiral in the Navy who has no real experience running a large bureaucracy. If confirmed, Dr. Jackson will inherit an aging infrastructure, an inefficient health care system, and an unwieldy 360,000-person work force.

The Sam.gov Hack: Does it Affect You?

On March 22, the General Service Administration (GSA) [announced](#) that SAM.gov, the federal website that registers thousands of federal contractors, has been hit by an alleged fraud, resulting in payments from the government to these contractors being diverted. . . elsewhere. (No one yet knows where).

If you're a federal contractor or subcontractor, you know that federal contractors must register in the System for Award Management, or SAM.gov (formerly CCR/ORCA, which was phased out). This process includes providing detailed company information, including sensitive information such as bank account numbers. If you want to be paid by the federal government (or even the possibility of getting paid), you *must* provide this information and be registered and up to date in SAM.gov.

The suspected fraud involved payments that were improperly diverted to third-party accounts. At this time, GSA believes "only a limited number" of companies have been affected, and they have been notified. Accordingly, if you have NOT received an email from Sam.gov that made you spit out your coffee, presumably your information is safe, although from the GSA's statement it appears that more notifications of individual breaches may be coming.

The GSA has urged contractors to review their bank information to determine if theirs account were affected. "Entities should contact their federal agency awarding official if they find that payments, which were due their entity from a federal agency, have been paid to a bank account other than the entity's bank account," GSA

wrote. If an entity suspects a payment due them was paid to a bank account other than their own, they should contact the Federal Service Desk at www.fsd.gov, or by telephone at [866-606-8220](tel:866-606-8220), Monday through Friday from 8 a.m. to 8 p.m. (EDT). Accordingly, check your bank statement to make sure everything is as it should be. Now! Don't assume the government properly identified you as unaffected.

Starting April 27, all entities renewing or updating their registration must submit a notarized letter that confirms the authorized administrator associated with the DUNS number.

Kingdomware Circumvention: Case Provides Guidance to Protestors



As we all know, pursuant to the Supreme Court's mandate in *Kingdomware*, in certain procurements VA contracting officers are bound by the "rule of two." This requires them to "award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States." 38 U.S.C. § 8127(d). As such, when the VA fails to meet that mandate, a prospective contractor must challenge that action prior to the bid due date (in a pre-award bid protest).

In [one such protest before the U.S. Court of Federal Claims](#), the Court dismissed a rule of two challenge because, according to the Court, the protester only identified one SDVOSB—*itself*—that was likely to submit an offer at a fair and reasonable price. *Veterans Contracting Group, Inc. v. U.S.*, No. 18-92C (2018). After issuing a solicitation as an SVOSB set-aside and receiving only two offers it found responsive, the VA cancelled the solicitation and re-issued it as a small business set-aside.

This underlines a basic principle to remember as prospective protestors under *Kingdomware*: ***you must provide sufficient facts to show that at least two responsible SDVOSBs (which can include yourself) would have offered a fair and reasonable price.***

TAMPA CHAPTER UPDATE

Our April NVSBC Tampa Chapter featured TC Robert W. Schaefer (Ret), U.S. Army Special Forces officer (Green Beret), diplomat, and co-founder of the American Freedom Distillery in St. Petersburg, FL. Rob shared about the first unclassified mission of the U.S. War on Terror following 9-11. This true account was recently released in movie theaters entitled “12 Strong”.

This month, our May 3rd dinner will feature Trina Berry, NCO 8 Small Bus Liaison, Dept. of Veterans Affairs - VHA, Tampa; FL. Trina oversees Small Business activities for seven Medical Centers and 41 Community Based Outpatient Clinics throughout Florida and Puerto Rico. Trina is retired from the U.S. Air Force and has over 31 years of combined

government service, including serving as a contracting officer at James A. Haley Medical Center, Tampa FL.

Learn how to get connected for upcoming opportunities right here in the Sunshine Healthcare network. For more information and tickets go to:

<https://www.eventbrite.com/e/tashpa-chapter-dinner-mtg-tickets-45180783941> **Be sure to register by April 24th for the early bird rate for the May 3 meeting, which will be held from 5:30 to 8:00 PM at the Centre Club in Tampa (123 Westshore Blvd, 8th Floor, Tampa, FL 33609).**

For questions about the Tampa chapter and membership please contact Lynette Planto at lynette.planto@nvsbc.org.

DON'T MISS THESE EVENTS AND DEADLINES!

Gordon Mansfield

Award Submission Deadline – April 20, 2018. Recognizes outstanding VOSB/SDVOSB, which is announced at VETS 18. More details [here](#).

Florida/Miami Dinner Meeting - May 3, 2018 (5:30 to 8:30 PM). Contact Tim Farrell: tfarrell@veterans4you.com.

San Diego U.S. Veteran Business Alliance - May 8-9, 2018. NVSBC will exhibit at this Expo, “Keeping the Promise.” More info [here](#).

Veteran Entrepreneur Training Symposium (VETS18) - Williamsburg, VA - June 11-14, 2018. Register [here](#).

Colorado Chapter Advisory Committee Meeting – Englewood, April 26 at 6:00 PM. Contact David Waters: david.waters@thecanumgroup.com.

D.C. Chapter Update

The D.C. Metro Chapter of NVSBC held its monthly dinner meeting on April 11, which featured a very engaging and informative presentation by Marc Marlin, Managing Director at KippsDeSanto & Co., one of the leading investment banking firms serving the Federal marketplace. Marc shared insights on building value in a veteran-owned firm based on the extensive experience of his firm including transactions such as Triple-I (twice!) and 7Delta, Inc. Topics covered included

- What is value creation & what drives value
- Maximizing set-asides: the stages of the contractor lifecycle
- Resource allocation: organic vs. acquisitive growth
- Bringing in a “hired gun” executive as the passive investor
- Internal transactions including Leveraged recap & ESOPs.

Stephanie Alexander, VP of the D.C. Metro Chapter Match Making program, provided updates on the latest matches made with large primes and the schedule for upcoming MM activities including events with CapGemini, GDIT, Northrop Grumman. (Go to govmates.com to learn more). Also, Judy Bradt, VP Training & Education, presented this season’s schedule of Boot Camp training programs, which are offered before each monthly meeting

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



Employee Prosecuted for Fraud Gets Revenge Via Qui Tam Action

In a case that began with information provided by a former employee turned whistleblower, two Utah construction companies have agreed to pay the federal government \$1.2 million to resolve allegations that they violated the terms of a Small Business Administration (SBA) Program for small and disadvantaged businesses. In essence, the United States contends that Big-D, a large construction company, entered into a leasing agreement with Creative Times, a small business participant in the SBA programs, under which Big-D provided personnel who performed or substantially performed the work on the contracts.

The United States contends that the leasing agreement was improper and caused Creative Times to fail to meet the SBA's regulatory requirement that the small businesses perform a certain percentage of the work under the contracts, thereby causing the small business to submit false or fraudulent claims for payments to the United States. (The settlements involve a number of different government contracts in Kansas, Colorado, New Mexico, and Utah between July 2009 and June 2013).

As mentioned, the federal government's investigation began due to a whistleblower complaint. Mr. Bart Anderson, who worked at the two companies at two different times, will get 15 to 25% of the recovery as a reward for uncovering the alleged violations.

Here's the unique aspect of this case: **this former employee had previously pled guilty for crimes against the**

companies. In 2010, Andersen pleaded guilty to two counts of communications fraud and one count of theft by deception, all second-degree felonies. He was ordered to pay approximately \$145,000 plus interest in restitution to Big-D, where he had worked as a project manager, and he served about 14 months of a three-year jail sentence that included work release. He filed his lawsuit the next year. **In other words, he was prosecuted for crimes against his employer, and turned around and got them in hot water for alleged fraud the next fraud.**

Under their settlement with the federal government, Big-D and Creative Times do not admit liability. Both companies maintained in separate news releases that they followed all requirements of the SBA program and said they settled to avoid the cost of protracted litigation (which, indeed, would have been very expensive and stressful).

For those unfamiliar with qui tam lawsuits under the False Claims Act, these allow people who are not affiliated with the government to file actions against federal contractors claiming fraud against the government. These people are called "relators." Once the lawsuit is filed, the DOJ may decide to intervene, which substantially increases a suit's success rate.



FIRST CALL

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



Ideas?

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