



FIRST CALL

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Update from NVSBC

A message from NVSBC Executive Director, Scott Denniston



As we enter our 2nd month of “lock down,” I hope you, your families, and friends are staying safe. Personally, I think it is a blessing to work in the federal contracting space currently, as it is business as usual plus the COVID spending. VA reports spending \$1.2 billion on COVID-related contracts, 34% being awarded to VOSBs/SDVOSBs. Even if you are dealing with delays, change orders, etc., the work is coming. Also, it appears there will be a lot of 4th quarter year-end spend as well.

I have been following the changing landscape for the SBA’s Paycheck Protection Program (PPP) loans. DoD has said if you receive a loan for “overhead or general administrative expenses” you cannot then request reimbursement for those costs on DoD contracts. Congress is considering raising the PPP’s non-payroll forgiveness cap from 25 to 50%. Also under consideration is expanding the covered period from 8 to 16 weeks if business revenues have fallen more than 25%. Another provision would allow businesses to deduct expenses paid with a PPP loan from their taxes. As the House comes back, expect more

changes to be proposed. We recommend having both an accountant and lawyer to keep up with changes and provide relevant guidance.

Unfortunately, we will not hold VETS 20 in the fall as hoped. Many organizations are only allowing employee travel that is considered mission essential. Without support from sponsors and exhibitors, an in-person conference is not feasible.

The good news . . . we are already planning for VETS 21! Also, we are working on a series of webinars to cover critical issues and programs of interest. Included in this issue of *First Call* is an article on the Small Business Innovation Research (SBIR) Program from our friends at Lockheed Martin. One of our first webinars will be on the SBIR program with LMC (June 3rd at noon ET). I hope you will take advantage of learning more about the program from one of its true champions.

Despite our restrictions, have a great Memorial Day weekend and remember those who have given of themselves for this great country of ours!

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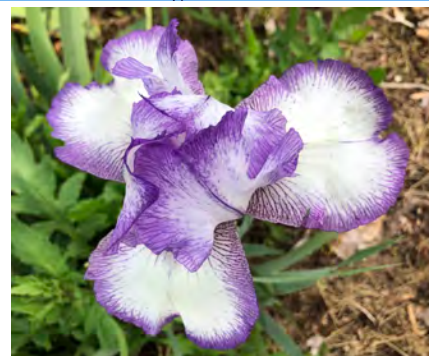


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NVSBC’s purpose is to transition veterans into business owners servicing the federal government.



All photos of beautiful flowers in this issue are provided courtesy of Joyce Schauerte, wife of Army veteran, William Schauerte.

Take Advantage of Lockheed Martin's SBIR Opportunities

The Small Business Innovation Research (SBIR) program was established by Congress in 1982 with a statutory purpose of strengthening the role of innovative small business concerns in federally funded research or research and development. The Small Business Technology Transfer (STTR) program is a sister program to SBIR, established by Congress in 1992. A difference in the programs is that the STTR requires the small business to have a research partner consisting of a university, federally funded research and development center, or a qualified non-profit research institution.

The SBIR program represents a method by which the government seeks to encourage the development of cutting-edge technology and promote the incorporation of small businesses into the defense industry, traditionally dominated by large corporations.

Lockheed Martin supports this program and increases its effectiveness through strategic and mutually beneficial collaborations with small businesses. Total government funding for this program is approximately \$2.5B per year and generates a large market driven by small business innovation, research, and development.

Lockheed Martin engages with small businesses through the SBIR program to assist them with developing novel and innovative technologies to apply them to the company's products and services. The company benefits from SBIR partnerships by leveraging federal agency R&D funding to enhance and transition the technologies to current and future program needs. Small businesses also obtain technical guidance and mentoring from Lockheed Martin.

Lockheed Martin issues its topics of interest from DoD and non-DoD solicitations to the over 1,000 firms on its distribution list. Individual SBIR firms can then contact Lockheed Martin for topics of mutual interest for potential partnership opportunities. To self-register in Lockheed Martin's SBIR database learn more about the partnership process, please visit the following website:

<https://www.lockheedmartin.com/en-us/suppliers/sbir.html>.



GSA Spring Federal Marketplace Strategy Presents Opportunities



On May 4, GSA released its Federal Marketplace Strategy Spring 2020. The release includes achievements made as well as the work that is currently underway to simplify the acquisition experience for government and industry. Highlights from the Spring 2020 FMP Strategy include:

- Buying guides and tools for Federal agencies and state and local governments to assist with the COVID-19 response. Buying guides are available for Building Screening Services, Cleaning and Disinfection, and Telework and IT, and are posted [here](#).
- A new look and feel for GSA Advantage! The new modern design offers enhanced search and data quality for GSA's customers and is mobile friendly.
- FPDS data reports are now available on beta.sam.gov. According to GSA, the FPDS function now allows for a more modern reporting experience.

COVID-19 has changed the federal landscape, to include the marketplace and the needs of agencies in addressing the pandemic's effects. The Strategy is worth checking out if you offer PPE and other supplies agencies may need.

SBA Releases WOSB Certification Rule Early

On May 11, 2020, the SBA published its Final Rule updating the certification methods for businesses applying for and participating in the Women-Owned Small Business Program. This follows a proposed amendment published a year ago, to which 307 commenters provided 898 comments. The Rule also updates the 8(a) eligibility requirements in establishing economic disadvantage.

Despite COVID-19 impacts, the SBA is ahead of the game in issuing this Rule more than a month ahead of schedule. **This provides that as of July 15, firms can seek WOSB certification via the SBA, but self-certification will remain until October 15.**

Pertaining to WOSB updates,

the Rule clarifies that there is no distinction between SBA and third-party certification. It also requires certified firms to annually attest to the SBA that they meet the program's requirements, and to undergo a full program examination and recertification every three years. It also updates standards for long-term WOSB contracts, holding that if the firm cannot recertify as a WOSB or EDWOSB after five years, the agency can no longer count the award as an WOSB or EDWOSB award.

With respect to 8(a) economic disadvantage changes, the Rule changes the initial net worth threshold from \$250K to \$75K (which matches the EDWOSB threshold). The gross income threshold increases from \$250K to \$350K, and the fair market value threshold increases from \$4 million to \$6 million.

Access the Final Rule [here](#).

Don't Miss Our Training!

We may not be having VETS 20 this year, but NVSBC is still offering training to its members. Here are a few of our upcoming webinars and FAR training:

Successful Sub-Contracting On Federal Government Contracts (WED - MAY 20, 2020 -12pm)
<https://attendee.gotowebinar.com/register/5822330074545939469>.

Understanding The Prime's Sub-Contracting Requirements (WED - MAY 27, 2020 - 12pm)
<https://attendee.gotowebinar.com/register/8922873711687990029>

Environment, Energy And Water Efficiency, Renewable Energy Technologies, Occupational Safety, And Drug-Free Workplace (FRI – May 22, 2020)
<https://attendee.gotowebinar.com/register/380487499688559115>

Better Hurry: Five Days to Protest SDVOSB Status!

Are you familiar with the timeliness rules for contesting SDVOSB status of a set-aside awardee? On April 17, 2020, the SBA Office of Hearings and Appeals dismissed an SDVOSB status protest as untimely when it was received over five business days after the protestor's notification of the awardee's identity. *CVE Protest of Spacewave, Inc.* (April 17, 2020).

While the decision itself is only two pages long, it's helpful for those of us in SDVOSB set-aside space by confirming the rules and timelines for filing an SDVOSB status protest. Keep in mind the following:

- A protest contesting the SDVOSB status of an awardee must include specific allegations supported by credible evidence (i.e., facts and reasons that the firm does not meet the ownership or control eligibility criteria).
- Any such protest must be filed with the CO within five business days of notice of the awardee's identity. The CO then forwards the protest to SBA OHA for processing.
- Refer to 13 CFR Part 134 (J) for the logistics on filing a status protest.



Late Proposal? Don't Bother Protesting . . .

On May 13, 2020, the GAO issued yet another bid protest decision emphasizing the point that if an agency rejects a proposal for being late, protesting this rejection is generally a waste of expense and effort. In *Cla-Val Company*, which involved a procurement where email submission of proposals was prohibited, the Navy had included in the solicitation instructions for delivering a proposal via mail versus hand delivery. B-418443 (2020). A different address was used for each method. Per the solicitation requirements, Cla-Val had arranged for the delivery of its proposal by FedEx to the address specified for mailed proposals. It retained a FedEx receipt stating that the proposal was delivered to the Langley Avenue address on the due date of January 6, 2020. However, the Navy produced documentation that the proposal was logged at its central facility on January 7, and reached the contract specialist on January 8. As such, the Navy characterized Cla-Val's proposal as late.

The GAO upheld the Navy's decision to reject Cla-Val's proposal as late. In so doing, it rejected the argument that since the proposal was delivered by FedEx to the proper agency before the deadline for receipt of proposals, the Navy improperly rejected the proposal. Similarly, it rejected Cla-Val's point that even if the proposal was delivered late, the agency should have considered the proposal because the delay was caused by

improper government action. Cla-Val had argued that the delay by the agency's central receiving facility in delivering its proposal to the contract specialist was due to the solicitation listing the incorrect address for purposes of mailing proposals.

In a decision that enumerated the standard for establishing improper government action (affirmative action that makes it impossible for the offeror to deliver its proposal on time), the GAO found that the Navy had properly rejected the proposal as ***not being within its control as of the date and time proposals were due***. It noted that it has consistently stated that commercial carrier records, standing alone, do not establish the time of delivery to an agency. As such, the GAO was unimpressed by the delivery receipt produced in support of timely delivery. Further, while Cla-Val argued that the Navy hadn't followed its established procedures in processing receipt of Cla-Val's proposal, the GAO found the Navy had sufficiently explained the sequence of events establishing receipt of the proposal after the deadline.

Poor Cla-Val. Why wouldn't the Navy allow email submission from the comfort of one's desk, assured by the receipt of a delivery confirmation? Since it didn't, it faced this situation. Still, this emphasizes several best practice points: clarify the means to ensuring timely receipt with the CO; give yourself a time cushion; and if receipt goes wrong, know that contesting this is an uphill battle.

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 Dennison with your comments at: scott.denniston@nvsbc.org.