



# FIRST CALL

[www.nvsbc.org](http://www.nvsbc.org)

## Happy Holidays from NVSBC

*A message from NVSBC Executive Director, Scott Jensen*



I hope this finds all of you doing well and that your Thanksgiving was special! Time seems to be moving by at warp speed as we rush towards the end of the year. I know it is an understatement to say this has been a weird year and it seems like all sense of time has been impacted like everything else!

The election captured our attention and remains at the forefront as more and more states certify their election results. At this point it appears that we will be considering the policy and priorities of a new Biden administration going into the new year.

The imperative to either sustain success or jumpstart our businesses, create more jobs, and bolster the American economy following all the challenges to small business that came in 2020 fills the path ahead for 2021. NVSBC has always focused on veterans and their business opportunities, and 2021 will be no different. We will double down on ensuring veteran

entrepreneurs have access and success in the federal marketplace while also leveraging veteran small business growth to offer viable employment opportunities to more and more veterans and their spouses who are struggling to find work.

President-elect Biden's priorities for "Build Back Better" align with our interest in sustaining and growing veteran small business and employment and offer us the opportunity to participate in that agenda. We will ensure our voices are heard as we move into 2021 under the new administration's focus on opportunities and the economy.

We released the most recent membership survey a few weeks ago. All of you should have received an invite to participate via email. If you did not, please check your spam folder. We have had some members report that the invitation went to their spam. Your participation is very important to our success!

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

## SBA OHA Decisions Now Offer VetBiz Guidance

Now that decisions relating to eligibility for inclusion in the VA's Vendor Information Pages are reviewed by the Small Business Administration's Office of Hearings and Appeals, a body of case law is finally developing that can explain and apply the regulatory nuances. This is demonstrated by the following cases, which may be helpful with our members' own pursuit of verification or in consideration of an SDVOSB status protest:



- *Pro-Sphere Tek, Inc.*, CVE-162 (Aug 31) – Here, an SDVOSB had appealed the CVE's decision to cancel its verified status because the service-disabled veteran owners were embroiled in a lawsuit and each had submitted a separate response to the CVE. This allegedly created a question as to how the company was being controlled; however, the CVE could not point to any non-veteran who *would* be controlling if not one of the veterans. SBA OHA concluded that the CVE's concerns were effectively *which* veteran controlled the firm, not whether *a* veteran controlled the firm. Eligibility *can* be based on multiple veterans.
- *CVE Protest of: Vandahl Engineering & Sales, LTD., Protestor Re: C Vortex, LLC* (SBA No. CVE-169-P) – The protestor questioned an awardee's eligibility based on control. Vortex overcame the protest based on corporate documents, VA Form 0877, resumes, letters of explanation, and sworn declarations. The takeaway is that although the CVE may miss something in its review, (for instance, in applying state law), make sure any speculation wouldn't surely have been addressed in its document review when a firm was found eligible.

## The Passing of a True Friend and Comrade



We will miss Dan Sturdivant.

It is with great sadness that we announce that a true friend of the NVSBC and all veteran small businesses, Dan Sturdivant, passed away. Dan was the veteran small business advocate at Department of Homeland Security since its inception after 9/11. Dan was instrumental in DHS exceeding its SDVOSB goal year after year. Dan was the "Godfather" of the federal Vendor Outreach Sessions.

Dan was born and raised in Washington, D.C., attended Howard University, and was a decorated Marine. Dan was a "tunnel rat" in Vietnam. On his last mission his squad was ambushed, Dan was shot multiple times and was the only survivor of the mission. Dan received a Purple Heart for his service.

Tony Bell, a friend and co-worker at DHS summed up Dan this way: "Everything about Dan was love. He loved his job, loved helping veterans, loved his D.C. sports teams, and loved his custom-made suits." As Tony further said: "One could have no better friend than Dan."

## Can You Protest An AbilityOne Sole Source?

Most veteran businesses are familiar with the AbilityOne program because of how the preference for such companies under the Javits-Wagner-O'Day Act interplays with that for veterans under *Kingdomware*. An exception to the veteran preference has been carved out for certain AbilityOne contracts via legislation (see our November issue). But do you know what you can do if a contract is sole-sourced to an AbilityOne contractor?

Unfortunately, as recently held in *Top Gun Services, LLC v. U.S.*, No. 20-908(C) (November 11, 2020), there isn't much a private company can do when the services sought are on the AbilityOne procurement list in a non-VA procurement. In this bid protest action brought before the U.S. Court of Federal Claims, a firm alleged that issuing sole source awards to AbilityOne contractors violated the Competition in Contracting Act, 10 U.S.C. § 2304.

In granting the Government's motion to dismiss, the CoFC held that the contractor could not even get through the door for its issue to be considered. To establish standing under CICA, an offeror must show: (1) that it is "an actual or prospective bidder or offeror" and (2) that it has a "direct economic interest [which] would be affected by the award of the contract or by failure to award the contract." 31 U.S.C. § 3551(2). To be an "actual" or "prospective" bidder on a contract, a party must be a qualified bidder that could compete if an opportunity was competitive. Here, the services sought fell within the purview of the procurement list governed by AbilityOne restrictions. Since the contractor was not a qualified non-profit under the AbilityOne program, it was foreclosed from objecting under CICA. The takeaway: before objecting to a non-VA AbilityOne sole source contract, check to see if it falls under the program's procurement list.

### Upcoming NVSBC Webinars!

#### Wednesday, December 9, 2020

Navigating Risk And Compliance In GovCon M&A – 12pm

<https://register.gotoweinar.com/register/8361629100802874637>

#### Friday, Dec 11, 2020

FAR Part 51 – Use of Government Sources By Contractors

<https://attendee.gotoweinar.com/register/5596936799334342412>

#### Wednesday, December 16, 2020

M&A: Understanding GovCon Novation Agreements – 12pm

<https://attendee.gotoweinar.com/register/2584160590258553357>

#### Friday, Dec 18, 2020

FAR Part 52 – Solicitation Provisions and Contract Clauses

<https://attendee.gotoweinar.com/register/7356331325636432140>

## 8(a) BD Certification: Not “One Per Family” Any Longer

For the longest time, the SBA's 8(a) Business Development Program has adopted a "one per family" rule, holding that an individual can't obtain 8(a) status on the basis of disadvantage if an immediate family member also has an 8(a)-certified firm. Yes, there are exceptions, but these rarely apply:



“The AA/BD may waive this prohibition if the two concerns have no connections, either in the form of ownership, control or contractual relationships, and provided the individual seeking to qualify the second concern has management and technical experience in the industry.”

Logistically, if two close family members are in the same line of business, it makes sense that they would help one another in *some* form. This doesn't mean one controls the other or they're trying to game the system, necessarily, but the prior rule held that unless the two firms were kept completely separate, it was one 8(a) certification per family. This meant they had to choose between the business relationship and the certification.

Finally acknowledging the “no connection” policy was too extreme, the SBA has tweaked its control language via a new rule. It states that a company cannot be 8(a)-certified when an immediate family has (or has had) an 8(a) firm and one of four circumstances exist: (1) there is any common ownership or management; (2) the concerns have a contractual relationship that was not conducted at arm's length; (3) the concerns share common facilities; or (4) the concerns operate in the same primary NAICS codes and the individual seeking status lacks management/technical experience. A nice balance! Access the new rule [here](#).

## NVSBC 2020 MEMBER ACCOMPLISHMENTS!

Our members had a great year! Congratulations to those featured for their accomplishments and growth in 2020:

**AEONRG LLC** completed its first \$1M contract to replace an Electrical Substation at the Philadelphia VAMC. Its President, Bill Belknap, also became a full Board of Trustee Member of the National Small Business Association, which was an initiator of the SBA's PPP and EIDL "forgivable" loan programs during the pandemic to act as a financial bridge to over 4.9 million companies. The firm's Vice President, Cass Forkin, founder of Twilight Wish Foundation, obtained its highest donation of an endowment of \$350,000. The Foundation has granted over 3,500 wishes to seniors during its 17 years and has been recognized in national magazines.

**Access Products** had a busy 2020. They were awarded two five-year medical supply contracts with the VA, greatly diversifying its product lines. The GSA awarded it CLIN 0003 of the Federal Strategic Sourcing Initiative Requisition Channel contract for the East region. It also became the exclusive distributor for a new line of non-Contact temperature scanners, and support the Spanish Peaks Veteran Community Living Center in Walsenburg, Colorado. Its President was also elected to the NVSBC Board of Directors!

**Advanced Management Strategies Group (AMSG)**, an SDVOSB headquartered in Dumfries, VA with 114 professionals with backgrounds in Acquisition, Program Management, Financial Management, SharePoint, Data Analytics, Category and Knowledge Management, received V3 Certification in recognition of its ability to hire, train and retain 35 veteran professionals who currently support its federal customers.

After successful completion of a proof-of-concept, **The Arcanum Group, Inc. (TAG)**, of Denver, Colorado, a provider of enterprise software, systems integration, and technical services to Federal, State, and Local Government agencies, was awarded the next in a series of task orders under a 10-year, \$2.5 Billion "NewPay" payroll modernization contract for GSA. Its team's efforts will be instrumental in streamlining the payroll process for over two million federal employees.

**Blake Willson Group, LLC (BWG)** won five prime contracts with government agencies in 2020. BWG was honored with its second placement on the Inc. 5000 list of the fastest-

growing privately-held companies in the U.S, as its size has consistently doubled each year since its founding in 2013. Despite the challenges the company faced during the pandemic, BWG was repeatedly recognized by clients for its ability to provide support in challenging environments.

**The Brandon Green Management Group, LLC (BGMG)** received a 6-month extension of its sub-contract with GDIT at the Traumatic Brain Injury Center of Excellence, Defense Health Agency (TBI-COE, DHA). The contract extension is valued at over \$600,000 and extends its Period of Performance until March 2021. BGMG was also recently selected by GDIT Office of Small Business to present the company in a recorded session that will be made available to the entire GDIT Business Development Community.

**Civility Management Solutions** obtained its GSA Schedule, Professional Services.

In 2020, **Coforma (formerly &Partners)** extended its relationship with Halfaker and Associates LLC by establishing an 8(a)-certified and SDVOSB joint venture to deliver innovative design services to the federal government. With the companies' combined digital services expertise, the joint venture will focus on offering Human-Centered Design and user experience to bolster work with Federal security and health agencies. Read more about United Digital Partners (the joint venture) [here](#).

**Coley & Associates, Inc.** launched the Federal Market Acceleration program (FedMap™) in late 2019 to teach companies how to identify, pursue, and win more government contracts. In 2020, it put 217 participants through its FedMap program, received a 94% satisfaction rating, and saw more than \$300 million in government contracts awarded across these companies. The firm is currently accepting applications for FedMap 2021. Companies can learn more about FedMap and see if they qualify for an SBA-funded Scholarship by going to [www.fedmap.us](http://www.fedmap.us).

**EMY Consulting** has grown even during the pandemic. Through effective pivoting, it has been successful in entering and expanding its professional service offerings to the nonprofit marketplace. It has revisited its service offerings that are now under three swim lanes (versus one): in addition to financial management, it now offers continuous process improvement and training. EMY also met its objective to be part owner of a joint venture and has formed several new teaming relationships. In this, its 8th year in business, EMY also just won its 6th GSA schedule engagement in two years and was selected to provide CPE training in Canada and Australia.

## NVSBC 2020 MEMBER ACCOMPLISHMENTS CONT'D . . .

**Federal Contracts Corp** surpassed 2019 business volume by just under 10% growth. Also, no employee lost any wages although the firm was shut down twice due to COVID-19 concerns.

**Ethic Tech, LLC** was recently awarded the 2020 Torch Award for Ethics presented by the Better Business Bureau. This award reflects its commitment to acting with integrity and commitment to ethical practices in everyday operations. Ethic Tech is committed to providing clear communications to employees on the company's ethical standards and providing the tools and resources to reinforce and embed the company's core values, standards of conduct, and meet other compliance requirements.



In 2020, **Go Energistics, LLC ("GoE")** was awarded its second Gold Medallion from the U.S. Department of Labor, honoring its efforts to recruit, hire, and retain its nation's Veterans. It was named #4 on the Vet100 list, which honors the fastest growing veteran-owned businesses from the Inc. 5000 list, where it was named #335 in 2020. GoE expanded its community outreach, raising thousands of dollars (and counting!) for the Yellow Ribbon Fund, which assists veterans returning home. While GoE is proud of all of its accomplishments in this challenging year, these represent our focus on veteran advocacy, which is crucial to its overall mission.

**HeiTech Services** processed a significant increase in company registrations and applications from medical device companies seeking FDA approval for COVID-19 tests, masks, and ventilators in response to the pandemic. This performance helped HeiTech secure an additional 5-year contract with the FDA. HeiTech also won contracts at HHS to continue providing resource center support for the Office of Minority Health and to provide business analysis and records management support for the Administration for Community Living. In addition, CEO Heidi Gerding was recognized by *Inc.* magazine as one of 2020's Top Women Entrepreneurs for being a leader in high-performance government contracting.

The founder of **IndustryStandardUSA.com** started the year off so nervous the firm would go under that he put his car up for sale, cut his salary, and slashed indirect costs. After a marketing skirmish, the firm landed the NYC Covid-19 Emergency Janitorial Contract which covers three VA Hospitals in lower New York. It also landed multiple General Construction VA contracts back-to-back, and sold lots of PPE to the VA Hospitals at fair and reasonable margin. Consequently, instead of going under, the firm hit a growth rate of over 125%.

**Magellan Transport Logistics** is proud to be a part of the NVSBC. Some of its top accomplishments in 2020 include doubling in size from \$84 million to \$154 million. It has been able to hire more employees, increasing the number of employees from 101 to 132 to date. WITpartnered with FEMA to send relief amidst Hurricane Laura, the Wildfires in California, and, of course, COVID-19 support.

For the second consecutive year, **Management Support Technology, Inc. (MSTI)** received the Department of Labor Platinum Medallion Award for exemplary efforts in recruiting, employing, and retaining our nation's veterans. The Honoring Investments in Recruiting and Employing American Military Veterans (HIRE Vets) Medallion Program implements the requirements of the HIRE Vets Act of 2017 (Public Law 115-31), which President Donald J. Trump signed in May 2017. The HIRE Vets Medallion is the only federal award recognizing exceptional achievement in veteran employment. By meeting the criteria required for a Platinum Medallion Award, MSTI demonstrated both patriotism and recognition of the value veterans bring to the workplace.

**Network Designs, Inc. (NDi)** was awarded a U.S. Army Contract to provide Secure Classified Remote Access over public internet to Classified Information as an Enterprise-Class Managed Service for U.S. Army's Network Enterprise Technology Command (NETCOM). NDi will instantiate a contractor-owned, contractor-operated service to enable and secure remote access to classified information over the public internet. The initial SCRAaaS capability will support 2,000 Army personnel expandable to 15,000 users local to Fort Bragg. This capability will underpin the ever-evolving remote workforce requirement underscored by the COVID-19 pandemic by securing access to classified and unclassified information from locations outside of U.S. Army facilities.

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## NVSBC 2020 MEMBER ACCOMPLISHMENTS CONT'D. . .

**Oxford Government Consulting**, along with its prime partner, was awarded a contract to provide strategic support services to the Joint Staff, Actions Division, including: Program Management, Program Planning and Execution, Joint Staff Actions Process Training, Actions Division Customer Service Help Desk Services, Strategic Planning and Analysis, Correspondence Management, and Communications and Editorial Functions. It also received a subcontract to support the performance of a VA contract for file conversion services.

**Quick Services, LLC (QSL)** is proud of its team-driven growth and achievements in 2020, built on a foundation of 17 years of hard work across the company. QSL won new work with the Naval Special Warfare Command and on additional task orders with existing NGA contracts. QSL also strengthened its strategic partnership with SAS Institute on several defense and security data analytics initiatives. QSL was also awarded the Platinum HIRE VETS Medallion Award from the U.S. Department of Labor for continued efforts recruiting, employing, and retaining our nation's veterans.

During a time when many businesses struggled to stay open, **Romanyk Consulting Corp (RCC)** had the good fortune to grow! For example, it recruited and hired more talented healthcare architects and engineers. It won several new projects, including a \$250 million surgical and clinical tower (Project Book) in West Haven, CT. Plus, RCC grew its revenue by more than 20% over the prior year! RCC adapted and adjusted to COVID, and it did not let it interfere with its mission to create healthy and healing environments for our nation's Veterans.

**RSM Federal** is one of the nation's most recognized GovCon coaching firms that helps small businesses accelerate and win government contracts. RSM Federal's strong growth in 2020 culminated with standing-up a new operating division. In mid-September, it launched Veteran Warehouse Supply for selling textiles, electrical, and industrial products. Two weeks after initiating operations, the firm was awarded an \$82,000 contract for electrical supplies with the Department of Veterans Affairs in South Carolina. Today, RSM Federal teaches more than 1,000 small business clients how to win government contracts, and but it is also a government contractor itself, certified as an SDVOSB since September 2020.

**Socket Roll Pro**, designed by owner/mechanic Chris Yoosefi, is the People's Choice Award winner for 2020 in the category of Tool Organizers. Developed to be the ultimate solution for portable socket storage, it's the first and only portable tool organizer that offers a clearly-labeled and easily stowable container for sockets, accessories and drives. Made in the USA and of MILSPEC materials, Socket Roll Pro rolls out to hold 60 tools of the most common standard and metric sockets and drives (1/4, 3/8 and 1/2) and accessories for each. For more information, please check out [www.socketroll.com](http://www.socketroll.com).

On September 22, the Hon. Denver Riggelman of the VA House of Representatives issued a Congressional Record Commendation to John Moliere's company, **Standard Communications, Inc.**, for its work in addressing the pandemic impact by installing medical IT solutions. This includes a new device, *Clean Slate UV*,<sup>®</sup> used to aid in the decontamination of medical equipment using ultraviolet light. The commendation praised the company's "innovative solutions to the medical needs of our community."

**Stocks Management Group** started business in March 2, 2020 and has already almost tripled its one-year revenue goal in nine months.

**Strategic Alliance Business Group, LLC (SABG)** achieved significant growth throughout 2020 and successfully managed existing contracts, assisting its customers in overcoming the challenges associated with COVID-19. Its team was on-ramped to OASIS Small Business Pool 3 and was awarded three new task orders under its OASIS Small Business Pool 1 contract, which has allowed it to expand its support to new clients including DISA, AFSOC, and the UCSG. In addition, SABG earned the 2020 HIRE Vets Platinum Medallion Award for exemplary efforts in recruiting, employing, and retaining our nation's veterans.

**VPD Government Solutions is growing**, and is excited to announce its newest prime contract award at Health and Human Services (HHS), where it will be supporting the Administration for Children and Families by providing contracts and grants management expertise to the Office of Planning, Research, and Evaluation.

## COVID-19: It Can Kill Stays Under CICA

When a contractor files a bid protest, they always request an automatic stay of either the contract award or contract performance. After all, what's the point in going through the expense of protesting if you won't get the award in the end? Even if you get costs reimbursed and a nice decision saying you were right (which is rare – actual sustained GAO protests have a low rate of around 10%), what you really want is that second crack at award.

In *Comprehensive Health Services, LLC v. U.S.*, No. 20-1585C (November 24, 2020), a protestor had filed a GAO protest challenging FEMA's award of a sole-source contract for COVID-19 testing of federal employees. The protest triggered the automatic CICA stay, but FEMA decided to override it and continue performance. The protestor then went to the U.S. Court of Federal Claims to enjoin this decision; however, the court found that all four injunction factors favored FEMA, especially when considering the hardship to the government and the public interest in vaccination. This means that while the GAO protest is pending, the contract will proceed. When the GAO protest is resolved, even if the protestor prevails, by that time (given a 100-day timeframe for resolution of cases before the GAO), most of the contract will likely already have been performed.

Keep in mind that when you file a GAO bid protest, under CICA, an "automatic stay" will be triggered. This happens so long as the bid protest is timely for that purpose (typically, before offers are due or 10 days from award or 5 from a

mandatory debriefing. However, when an agency can show "compelling" circumstances, it can justify overriding an automatic stay. If it decides to do so, a protestor must then protest that decision and incur the additional expense.

The takeaway here is to calculate your return on investment before contesting certain agency actions. After all, this is not the first protest where a court held that even if a federal agency was wrong in its procurement decision or action, it could still do what it wanted because of a public policy consideration or other reason. For instance, in the *Electra-Med v. U.S.* decision, the U.S. Court of Federal Claims (and then the U.S. Federal Circuit Court of Appeals) held that the VA had violated the *Kingdomware* mandate but allowed it to proceed with the contracts at issue due to the need to promptly serve the health needs of veterans. It may be that even if you're right in a legal sense, the resolving body won't give you what you want. At best, you'll get your fees but not the contract, and you have to ask yourself if the pursuit is worth it.



From the NVSBC, have a safe and happy holiday with family and loved ones.

## 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 Reida. 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 Jensen with your comments at: [scott.jensen@nvsbc.org](mailto:scott.jensen@nvsbc.org).