



President Obama's Interagency Task Force on Veterans Small Business Development *Second Meeting Includes SDVOSB Voice*

February 25, 2011 — The Presidential Interagency Task Force (ITF) on veterans business development convened for the second public meeting at SBA Headquarters in Washington, DC. ITF Committees laid out strategies, action plans and proposals for continued efforts for increased contracting opportunities for VOB.

At the request of *VLM*, a conference call-in line was established for the SDVOSB community to join the proceedings. For the majority of the meeting, the line was open to incoming questions from callers, which precipitated lively debate. Present at SBA Headquarters for the meeting was Darienne Page, Director of Veterans Outreach at the White House.
(ITF, cont. page 2)

Featured Interview

VetLikeMe interviewed SBA Deputy Administrator Marie Johns, Chair of the ITF in early April.

VLM: The heart of the ITF is to open up greater contract opportunities to veteran owned business and service disabled owned business. What measures have been considered to compel federal agencies to follow the law and meet their 3% minimum?

Johns: "...The Task Force recommended making it harder for agencies to "bundle" contracts, a practice that makes it more difficult for small businesses to compete."

VLM: How does the ITF intend to improve the agency scorecard for contracting total agency dollars to SDVOSB?

Johns: "We are taking a number of steps to ensure Contracting Officers and agency heads are held accountable at the highest level. ... we are engaging senior officials at each agency to ensure these goals are met. Quarterly meetings are held at the White House to ensure agencies are held accountable, as well as calls every other week to ensure agencies are on track to meet their numbers."

VLM: How is the SBA holding prime contractors more accountable to their subcontracting plans, specifically as it relates to award and payment to small business subcontractors?

Johns: "...by requiring written justification when plans aren't met and when small business subcontractors aren't paid on time. This will help eliminate "bait-and-switch" tactics that occur when large primes – after winning the prime contract – don't follow through with their own plans to give subcontracts to small businesses."

VLM: The Dept. of Defense typically scores less than 1% of the 3% mandate in total procurement dollars to SDVOSB. On SBA's last scorecard, DoD received an "B" for its performance when it failed to reach all but one of the performance measures for SDVOSB. Why did DoD receive a "B?" Why did DoD not get an "F" on the SBA scorecard?



Johns: "SBA recently revised the scorecard to provide a better overall picture of an agency's small business contracting performance. There is a mathematical formula for how grades are derived: 80% comes from prime contracting, 10% for subcontracting and 10% for an agency's plan to meet their small business goals and their actual execution against the plan."

VLM: Would training for Contracting Officers on adhering with the law—that 3% of procurement expenditures shall be set-aside for service disabled veteran owned business—move the agencies toward the 3% goal?

(Johns, cont. page 8)

(ITF, from page 1)
Presidential Interagency Task Force Meeting Minutes

The minutes of the ITF session were publicly available on the SBA web site.
 Following are excerpts:

The ITF is composed of six subcommittees.; Access to Capital, Federal Contracting, Increased Integrity of Certifications, Reducing Administrative Burdens, Training and Counseling and Improving Federal Support. Reports were given by all committees and next steps were discussed.

VLM studied the report and included below what we thought were the most important points made by ITF members. The failure by government agencies to meet the minimum 3% of procurement dollars set-aside for SDVOSB (as mandated by PL 106-50) is THE issue that can determine success or failure for SDVOSB.

Jiyoung Park (GSA): "...we have five short-term recommendations...within DoD and GSA, ...what we could do this fiscal year to help us achieve our three percent goal..." Ms Park talked at length about an effort to partner with state and local governments to help identify SDVOSB that were capable of doing work for DoD/GSA...The second recommendation was to develop a 'reference guide' for contracting with SDVOSB. "...Not everyone [contracting officers) is aware of Vet-Biz, for example, as a market research resource...And so we're beginning to compile everything into one place to make it easier, and just part of the process that contracting officers go through to identify firms, just make it easier." (for COs to access SDVOSB).

Linda Oliver (DoD): "Our third recommendation—we need to motivate the contracting officers, as well as educate...to do a webcast...not all of our buyers are fully aware of the number of veterans that are on the schedules for the different schedule areas...that specifically addresses the veterans and service-disabled veterans, and what we might be able to do. ...doing that internal education, ... [so that Cos] are aware of...the government-wide acquisition contract that's available, that's set aside for veteran firms...Number four is related...put together a template that other agencies can do to...access veteran firms...not everyone is aware of these basic tools.

"And number five: the Department of Defense has developed a...maximum practical opportunity method, that [can] be applied to service-disabled veteran-owned small businesses...it is a way to look at what's been procured, and figure out -- [what] might probably be able to have been procured from a ...service-disabled veteran-owned small business, or a veteran-owned small business...it is really a way to target the contracting officer, small business professionals, the program managers, people within the government..."~

Federal Contracting Subcommittee Analysis

Recommendation 1: Partner with state and local governments—nice idea, many states currently have legislation mandating set-asides for SDVOSB...better late than never...

2. Compiling a resource book for COs: another nice idea ...one thinks those resources have been available, but...

3. Motivation of COs through education — webcasts, etc. Now this is scary—educate COs on the FAR? Career civil servants need on-the-job training?? Well...whatever...

4. Template for other agencies: On what DoD/GSA learns about contracting with SDVOSB?...teach other agencies what DoD/GSA hasn't learned yet and probably never will?...I MUST be reading this wrong...anyone smell burning irony?

You cannot be serious...

5. Study procurement files from the past and discover what contracts "probably could have been procured from SDVOSB." Seriously? Look at past procurements for what could have been done? And how much of a priority will this be? And who will do this riveting task? This is a total non-starter. This Subcommittee needs constructive criticism from somewhere...and a reality check.~

"A veteran is someone who wrote a blank check,
payable to the United States of America
for an amount up to and including
his or her life."

Author Unknown

THE ANGELICA DECISION SPEAKS VOLUMES....

**Angelica Textile Services, Inc., Plaintiff,
v. United States, Defendant.**

Read the decision yourself, and digest the details. We give you a quick fix of what the Court said about "Veterans First" as an intent of Congress. It clearly indicates that at The Department of Veteran Affairs, VETS shall have the preference.

Angelica Textiles provides laundry services in the southeastern area of the United States, under a contract which was scheduled to terminate on March 31, 2010. On January 12, 2010, two and one-half months before Angelica's contract was scheduled to expire, the Department issued a "Sources Sought Notification" to identify businesses interested in providing laundry services at the locations then served by Angelica.

Among the parties that expressed an interest in the laundry services contract was the National Institute for the Severely Handicapped ("NISH"), a nonprofit agency whose mission is to create employment opportunities for the disabled. NISH participates in the AbilityOne Program, which provides employment opportunities for people who are blind or have other significant disabilities by procuring federal contracts

for goods and services. The Veterans Benefits Act, signed on December 22, 2006, directs the Secretary for Veterans Affairs to "give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference." To implement the Veterans Benefits Act, the Department established the "Veterans First Contracting Program" on June 20, 2007.

The program directed the Department to consider service-disabled veteran-owned small businesses ("SDVOSB") and veteran-owned small businesses ("VOSB") as a first and second priority when satisfying its acquisition requirements.

All items currently on the AbilityOne Procurement List as of January 7, 2010 will continue to take priority over the contracting benefits mandated by [the Veterans Benefit Act]. However, all new requirements will be subject to the contracting preferences mandated by [the Veterans Benefit Act] prior to being considered for placement with the AbilityOne Program.

Additionally, the contract file must be reviewed by the head of the respective contracting activity or appropriate designee, the Department's Office of Small Business Utilization, and the Senior Procurement Executive.

(Angelica, cont. page 5)

Editorial

by Hardy Stone

In the wake of the GAO report of fraud in the SDVOSB program in October 2009, the table was set for moving, shaking and changing the way companies represented themselves to the federal government. Surely the agencies would now be more wary of contracting to fraudulent companies—and companies would probably clean up their act and not misrepresent themselves as SDVOSB, at least not to the degree that was exposed.

The contracting climate, though, was not shaken in the federal sphere, and business in the federal contracting community resumed as usual. Remember the ten companies that GAO randomly picked from the VetBiz database for the GAO investigation? Not a single one was bona fide. The scandal was significant news in the government contracting community and federal charges were discussed against the fraudulent companies.

All ten cases of fraud were turned over to the SBA. As an enforcement agency, surely SBA would take action. Whether it was removal from the CCR for bogus companies, no opportunity to bid on future contracts, stripped of contracts previously awarded, or jail time. Blood was in the water, it seemed.

Well sports fans, it ain't that way at all. *VetLikeMe* checked up on the status of the bogus companies and their 'legal woes' one year after they were busted. *VLM* submitted an information request by email to SBA's Office of Government Contracting on November 22, 2010.

We asked SBA how many site visits were made to SDVOSB in the past ten months. Since SBA regulations **continue to use the self-certification eligibility approach**, they are authorized to conduct site visits *only when a protest is filed by an SDVOSB*. HUBZone business, however, are routinely investigated for misrepresentation. {Perhaps now that parity was restored by the Small Business Act of 2010, site visits and verification of identity will be extended to SDVOSB}

So, when our letter was received by SBA, it was forwarded to SBA's Office of the Inspector General (OIG) for a measured and muffled response. OIG handled the request as a FOIA. **Pdf URL**———

VLM was interested in a) number of site visits conducted by SBA **in response** to the GAO report of runaway fraud; b) number of companies identified by the GAO report that made false claims; c) and what punitive measures were taken for misrepresenting to win SDVOSB set-aside contracts.

- a) after one year, OIG had conducted three site visits. The GAO report identified 10 companies. Three site visits in twelve months? Astonishing...



Editorial, cont. page 8

Angelica, from page 3

The Department's Chief Acquisition Officer must then approve the new item for the AbilityOne Procurement List. Under the New Guidelines, no discussion with AbilityOne or its non-profit agencies, such as NISH, should take place before the Chief Acquisition Officer gives his or her written approval.

Having considered each factor, the court finds that injunctive relief is warranted.

CONCLUSION:

Angelica's Motion for Permanent Injunction and Cross-Motion for Judgment on the Administrative Record are GRANTED. The government's Cross-Motion for Judgment on the Administrative Record is DENIED. Pursuant to 28 U.S.C. § 1491(b)(2), the Committee's listing of laundry services for the six Departmental veterans' hospitals in the southeastern United States is set aside and rescinded.



Hank Wilfong

The Department is enjoined from proceeding with contracting with NISH for the pertinent laundry services under the listing that is being set-aside. The Department and its contracting officers and officials are also enjoined to follow and implement the New Guidelines in any follow-on procurement, excepting only a temporary contract to provide services for an interim period during which the Veterans Benefits Act and the New Guidelines are being implemented.

From a legal viewpoint this clearly indicates some of the answers to the famous "five questions" asked by Tim Foreman, former VA OSD BU. ~ ~

Henry T. Wilfong Jr., MBA, CPA
(courtesy Nat'l Assn Small/Disadvantaged Business)

Iraq, Afghanistan Veterans Struggle to Find Jobs

More than 1 in 5 young Iraq and Afghanistan veterans was unemployed last year, according to the U.S. Department of Labor.

Concerns that Guard and Reserve troops will be gone for long stretches and that veterans might have mental health issues or lack civilian work skills appear to be factors keeping the unemployment rate for Iraq and Afghanistan veterans at 20.9 percent, a slight drop from the year before, but still well over the 17.3 percent rate for non-veterans of the same age group, 18-24.

For Iraq and Afghanistan veterans of all ages, the unemployment rate last year was 11.5 percent. In 2009, 21.1 percent of young Iraq and Afghanistan war veterans were unemployed.

The problem has persisted despite government and private initiatives designed to help them. Advocates say more of a concentrated effort to have licensing and skills obtained in the military translate into the civilian workplace and more public awareness about what veterans offer employers are needed to tackle the problem.

Senator Patty Murray, Chair of the Senate Veterans Affairs Committee, said veterans have told her they take their military experience off their resumes because they fear a potential employer will decide they're at risk for post-traumatic stress disorder and not hire them.

"They take four or eight years of experience and throw it out the door and pretend it doesn't even exist," said Murray, a Washington Democrat. "That to me is a huge consequence to them, professionally."

Murray said transferring military experiences into the private sector is one issue her committee will look at as it addresses veterans' unemployment. She said she would also like to see the military make mandatory for everyone leaving the military its Transition Assistance Program, which provides resume help and other job-related guidance to those leaving the military. **From World News e-Trend ~ ~**

Small Business Contracting Fraud Prevention Act of 2011

Senator Olympia Snowe (R-ME) introduced a bipartisan bill on March 31 that is designed to combat fraud and abuse in the world of small business contracting. The General Accounting Office (GAO) issued a number of reports the last several years regarding fraud in the HUBZone, SDVOSB and 8(a) programs.

These reports generated much discussion about the need to revamp the system and, in certain circumstances, talk has led to action. The implementation of the current SDVOSB verification system is but one example of the government's response to the current state of affairs. S. 633, entitled the "**Small Business Contracting Fraud Prevention Act of 2011**" (Fraud Prevention Act), is designed to take the government's ability to respond to fraud and abuse in small business contracting to a new level.

The Fraud Prevention Act contains three key provisions:

1. It calls for the development of an oversight structure within the SBA that would allow for better enforcement of the rules governing small business contracting;
2. It would allow for an increase in criminal prosecutions, suspensions and debarments for those who violate the rules; and
3. It would require the SBA to issue annual reports to Congress regarding companies that were suspended, debarred or referred to the Department of Justice for prosecution.

This bill is another step to close the loopholes in the federal government's small business contracting system. *VLM* will track this legislation and report further developments.~~

State Activity

Texas

Legislators in Austin, TX propose a bill to give disabled vet business owners the same preference that other disadvantaged groups have in government contracting.

<http://tinyurl.com/432k8uv>



Washington

Disabled veteran business owner testimonial on how preference bill helped expand business.

<http://tinyurl.com/3zhj72w>



Pennsylvania

A group of PA lawmakers contend that not enough attention is paid to SDVOSB and introduce legislation to require local governments to meet small business contracting goals.

<http://tinyurl.com/3gcu7uw>



Minnesota

The Department of Transportation will be required to give qualifying veteran-owned small business owners preference for state-funded construction projects under a bill approved by the State House Veterans Services Division.

<http://tinyurl.com/3z9xsx8>

<http://tinyurl.com/3z9xsx8>

New Jersey Governor 'Conditionally' vetoes legislation that would help SDVOSB.



<http://tinyurl.com/3mvj5pp>

The Veterans Administration's "Tim Foreman Problem" — The Letter That Got Him Relieved

Mr. Will A. Gunn
General Counsel
810 Vermont Avenue NW
Washington, DC 20420



Tim Foreman

Dear Mr. Gunn:

The Office of Small and Disadvantaged Business Utilization requests that VA General Counsel issue a formal opinion on the following questions presented below related to Public Law (PL) 109-461 and contracting from the Federal Supply Schedule:

1. For the purpose of interpreting the language of a Federal statute, what are the definitions of "any" and "shall"?
2. Does the express language of PL 109-461 at § 8128 allow exceptions to the priorities it establishes when a small business owned and operated by veterans meets the conditions established by the definition in its subsection (b)?
3. Does the contracting preference granted "under this title or any other provision of law..." also indicate that the subject contracting preference granted by § 8128, enjoys priority not only over other contracting preferences that may be granted by title 38 U.S.C., but also over other provisions of U.S. law outside of title 38 U.S.C.?
4. If § 8128, grants a contracting preference in law, does that contracting preference also enjoy priority over any other preference, protocol, process or priority granted by any regulation or policy that springs from this section or from any other laws that may also impact VA contracting, for example, the Federal Acquisition Regulation?
5. If a Veteran owned small business listed on the Federal Supply Schedule (FSS) also met the condition of being included in the database maintained by the Secretary for the verification functions articulated in section 8127(f) of title 38 U.S.C. as a verified small business, would the preference stated in § 8128 apply if the contract were awarded from the FSS?

Generally, VA contracting practices do not seem to recognize a requirement of law when VA procurements are made from the FSS. If legitimate means exist to ignore this provision of law, we request VA General Counsel to articulate those means. We would also request that the General Counsel of the General Services Administration be afforded the opportunity to comment on VA's General Counsel formal opinion on the questions presented above.



Regards,

/s/Timothy J. Foreman

Executive Director

Editorial, from page 4

b) based on these three site visits, the OIG *believes* that two companies were not in compliance with SDVOSB regulations. The third company is still being reviewed.

c) “Appropriate courses of action are currently undergoing consideration for these two companies. The OIG is continuing its review of the third company...”

Now let me get this straight, correct me if I’m wrong. Of the ten companies identified by the Government Accountability Office in their October 2009 report, *NONE* of the cases have been closed and *NONE* of the companies have been held accountable for lying to the government and screwing SDVOSB?

First of all, OIG *believes* that two companies were not SDVOSB, and “*appropriate courses of action are undergoing consideration...*”? We realize this response was developed by the finest lawyers SBA can buy, so we submitted another FOIA request to find out how those lawyers define “believes” and what are “appropriate courses of action.” *VLM* expects to receive straight, easy-to-understand answers. We’ll let you know how that turns out.

Ergo, we have here another golden case of the government chasing its tail around the mulberry bush and telling us that real progress is being made.

Our heads are spinning and we’re really not sure if these steaming piles we’re standing in are cow patties.

And the beat goes on...but something has got to increase the sense of urgency within the SBA.~~



“Appropriate courses of action are currently undergoing consideration for [fraud] ... The OIG is continuing its review of the third company...”

**Glenn Harris
Counsel to the SBA Inspector General**

(Johns, from page 1)

Johns: “Training is one of the key ways to ensure the goal is met. In fact, the Interagency Task Force on Small Business Contracting recommended requiring training on small business contracting, procurement policies and regulations, and creating focused refresher materials for continuous learning.”

VLM: Thank you, Ms Johns for taking the time with *VetLikeMe*.

Johns: My pleasure.

Business Group Launched For Disabled Veterans

Help for Iraqi, Afghan Entrepreneurs

Washington, D.C. (MSP News Services) – March 16, 2011 – A group of disabled veteran business owners announced today the formation of a political action committee to increase business opportunities for Service Disabled Veteran Owned Small Business (SDVOSB).

Few employment opportunities exist for disabled veterans returning to the United States, and many have no vocational experience beyond their military skills. **VetBizFirst** will work to open doors within the federal government procurement industry for contract set-aside opportunities that wounded warriors have earned for deployment in Iraq, Afghanistan and their military service to the United States.

“The idea behind **VetBizFirst** is to increase federal business opportunities for these soldiers that they’ve earned,” said Lynn Lowder, a decorated combat disabled veteran who enlisted to serve in Vietnam. Lowder, owner of an SDVOSB, added: “The vast majority of federal agencies are no where near the 3% minimum in procurement set-asides mandated for SDVOSB. Federal agencies simply ignore Public Law 106-50, the mandated guidelines that President Bill Clinton and the 106th Congress assured them they would have.”

VetBizFirst will track several key Congressional Committees, including the House Veterans Affairs (VA) Committee on Economic Opportunity, the House VA Committee on Contracting and Technology, the House Small Business Committee, the Senate Committee on Small Business and Entrepreneurship, the Government Accountability Office and the VA OIG.



“President Obama signed an Executive Order last April that directed the Small Business Administration to facilitate a Task Force that includes several major government agencies,” Maggie Bullard-Marshall, a veteran business owner noted. “That Task Force should be working on strategies to increase the 3% minimum.”

VetBizFirst will examine other government agencies that effect SDVOSB. Public Law 109-461, the Veterans Benefit, Health Care, and Information Technology Act of 2006 directed the VA to consider veterans first when awarding contracts. The VA ignores this mandate. “These honorable men and women have served our country, often with injury to themselves and sacrifices by their family. There is no group more deserving of contracting preference and priority than SDVOSB,” said Chet McClendon, owner of an SDVOSB. “We deserve to have the law enforced to help our small businesses.”

#

**For further information, contact Hardy Stone
301-845-1330 Bluepoint1@comcast.net**

Short Takes

—**The Senate Committee on Small Business and Entrepreneurship** last year introduced a bill for federal contract officer training. If re-introduced, *VLM* will track progress.
<http://tinyurl.com/45o5uw8>

—**SBA Needs More Time** for SDVOSB Appeals.
<http://tinyurl.com/47vzpsr>

—**Is Five Hundred Employees** a ‘Small Business?’
<http://tinyurl.com/4nur32j>

—**Sen. Snowe Says SBA** Investigations Unsuccessful.
<http://tinyurl.com/4dkbemo>

Other Voices

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

Email: bluepoint1@comcast.net

Identifying information from these forums is redacted.

Linked .

——"**One problem not mentioned** is that past performance outside the Public sector is not counted. I was low bidder on a \$942k project for the VA and was passed over due to no VA past performance. They paid an extra \$42k to an out of state contractor in business since 2007. I have been a GC for 32 years, have a Mechanical BS Degree, and my last project in 2009 was \$3.2M...but I guess none of that can be counted.

Let's not even start on the rampant fraud in SDVOSB and the non-VA Contracting Officers (i.e. ACE, DOE, DHS, GSA, etc) that require no proof of status before awarding contracts. Hopefully the new cert requirements will help, but I doubt it.

Also, lets remember, the construction industry is in big trouble. Almost all the big primes I deal with are also down 60% or more on sales. Many have failed. Winning bids are less than cost. How long can that go on? That's Federal, State, and all others across the board. One pre-bid meeting at a VA project last month drew 80 contractors. At least 30 were GCs. The job was under \$1M.

I had bid \$22.5M in 2010 on 6 projects with all the winning awards going for less than my costs. That's the state of affairs right now, and I don't see anything that can change it."

——"**I have the same problem.** Great track record in private sector. Can't convert that in gov't or VA even though we have the bonding capabilities. Nuts..."

——"**Parity** refers to equal status for consideration by the CO for awarding a contract to bidders within a set-aside category...HUBzone, 8a, WOSB, SDVOSB. Before the Small Biz Act '10, HUBZone language indicated that the CO "shall" award to HUBzone...now the language is the CO "may" award, which is what it always has been for SDVOSB. All set-aside groups that have a preference in contracting are equal."~



VetLikeMe is published bi-monthly by *BluePoint Productions*

Editor and publisher: Hardy Stone

SBA Interview facilitated by Dennis Byrne, SBA Communications

Copyright *BluePoint Productions*, April 2011

bluepoint1@comcast.net www.bluepointgov.com

Please duplicate, Tweet, Re-post, FaceBook, forward and spread widely. Airborne!

