

## Regulations for Fun and Profit



### **A funny thing happened on the way from the Forum.**

Leaving the February NVSBC Dinner, I spoke briefly with Tom Leney. For those of you that know me and my adventures with verification, Tom's comments were unexpected: "You're my hero. You read the regulations and worked the regulations." It was an interesting compliment that has significant underlying context.

### **The Service-Disabled Veteran Journey has lots of regulatory landmines.**

At every step of the journey to become a verified/certified Service-Disabled Veteran Owned Small Business (or any other small business certification) there are complex regulations that can either be roadblocks or enablers. After service, which may include months or years of rehabilitation, comes the application for VA Compensation and Pension. While regulations provide multiple paths forward, many stop with the first denial. Next is seeking VA healthcare. In my case, it was months before I could get my first appointment for an evaluation. Next, was looking to CVE for verification. At each waypoint, not understanding the regulations was an almost guaranteed failure.

### **Do I really have to know all that crap?**

No. This is where the benefits of organizations such as National Veteran Small Business Coalition bring you significant return on investment which shortens your learning curve and prepares you for major changes. ***If your organization isn't a member yet, I highly encourage you to join the coalition.***

- The webinars, training, conference and counseling help you **learn from the experience of others** and help prevent you from stepping on the landmines or stepping in something else.
- NVSBC advocacy can give you **months or years of earlier visibility** to regulatory changes that will impact your strategic objectives and day-to-day operations.

### **Unlike the Weather, You Can Help Change the Regulations (and Legislation!)**

The move of CVE responsibilities to SBA required new regulations. NVSBC and NVSBC members provided inputs that substantially changed proposed regulation, 13 CFR 128. For those of you who have used the new SBA VetCert system, this is a major factor in the simplification of the new system and process. With one exception, SBA acted on each of the combined NVSBC comments to the proposed regulation. The exception was due to statutory language. You can help by supporting NVSBC legislative initiatives for this and other needed changes.

## Regulations (Con't)

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### Yeah, but what about the fun and profit?

Fun might be a bit of a stretch, but the profit has been real. The text above may have implied that Tom Loney's comments were about verification and certification. They weren't. His comments were really about how I was able to understand the regulations and obtain certification as an 8(a) in a way that other Service Disabled Vets can learn and repeat That is part of what help me to accelerate a successful journey and growth. It's something that I can continue to pay forward to NVSBC members, Service Disabled Vets and others. That's where my fun factor is.

Marc Goldschmitt,  
Founder and CEO  
Goldschmitt and Associates, LLC  
**NVSBC Board of Directors**

## Around the NVSBC

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***Congratulations to all our NVSBC members!***

## Part 7: Conduct a Comprehensive Prejudice Analysis

Welcome back, First Call readers! If you've been following along, you will know that this is part seven of our series on common contractor bid protest mistakes. So far we have covered: [the difference between size/status protests and bid protests](#); [exclusions from the competitive range](#); [post-award protest deadlines](#); [demystifying debriefings](#) and, most recently, [jurisdictional limits on task award protests](#). This month, we're talking prejudice.

\* \* \* \* \*

In real life, we all know that prejudice is a bad thing. But in the unique world of bid protests, success can actually depend on establishing prejudice. Two different types of prejudice, in fact, if you can believe it! Of course, "prejudice" means something very specific – and different than the everyday meaning of the word – in the world of government contracting. Let's take a look at what it means (and what you need to do with it) in the bid protest context.

When you file a bid protest, you need to think about two types of prejudice. First, you need to be able to show prejudice in the context of establishing "standing." Not everyone has standing to bring a protest. You need to be an "interested party". That means that, to successfully bring a protest at the U.S. Court of Federal Claims (COFC) (pursuant to the imputation of the [CICA](#) definition of "interested party" to the [Tucker Act](#)) you must be "an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." The [same standard](#) applies at GAO. Satisfying that first "actual or prospective bidder or offeror" piece is often pretty straight-forward. If you responded to the solicitation, or *would* have, if not for the error you are protesting about, you most likely check that box. It is that "direct economic interest" piece that gets a little more complicated.

To show a "direct economic interest," "a protestor must demonstrate prejudice." Prejudice can mean different things depending on what type of protest is being filed. In a post-award bid protest, a protestor must show that it would have had a "substantial chance" of receiving the contract award but for the alleged errors in the procurement process. In a pre-award protest, a protestor can demonstrate prejudice by establishing a "non-trivial competitive injury which can be addressed by judicial relief." These analyses seem simple, but can be more nuanced and complicated than they appear. All the same, if you can establish this type of prejudice, you have gotten through the first part of the obstacle course. That's the good news. The bad news? You still have another prejudice hurdle to clear.

Now you need to think about whether you can establish the second type of prejudice: Prejudicial error on the merits. What is the difference? In a 2019 case, COFC explained:

For standing, we presume the party bringing a bid protest will succeed on the merits of its claim and ask whether it has alleged an injury (or prejudice) caused by the procuring agency's actions. But once we find that a party has standing, we must turn to the merits of the party's claim and determine whether it can prove it was prejudiced based on the record evidence.

In other words, did the protestor actually suffer injury – most likely, the loss of a contract award it would have received – because of the procurement error(s) alleged in the protest?

## Ten Biggest Bid Protest Mistakes

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A protestor must show that its substantial rights were affected by the procurement error(s) in question, and, further, that the correction of those errors would have yielded a different result. This can be a tricky thing to do. Maybe you can show that the agency made several mistakes, but if the result would have been the same even if those mistakes were corrected, there is no prejudicial error.

It is critically important, when you are planning to file a protest, to fully analyze the prejudice issue(s) with your attorneys. You might be able to show that the government messed up, and you might be hopping mad about it! But unless you can show both types of prejudice, a protest might be a waste of time and money. The key is to frame your protest in such a way as to overcome both barriers, and survive a motion to dismiss. If you have questions about a bid protest, or how to establish standing and demonstrate prejudicial error, consult a government contracting attorney.

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That's it for this month, folks. We're coming up in the home stretch now – only three installments left

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*[Maria Panichelli](#) is a partner in McCarter & English LLP's Government Contracts & Global Trade group, and she focuses her practice exclusively on federal contracting and small business procurement. McCarter's more than 375 sophisticated and exceptionally skilled lawyers in 11 offices deliver solid results and innovative solutions to our clients nationwide. We are trusted business advisors to our clients, which include an array of Fortune 100, mid-market, and emerging growth companies. Check out the NVSBC's webinar 'Charlie Mike' featuring Maria Panichelli on the ['Top Ten Tips About Protests: Fighting for and Keeping the Contracts You Deserve.'](#)*



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# The Difference Between a Growth CFO and an Accountant

As Foresight CFO grows, we encounter new obstacles to growth affecting a diverse array of CEOs. An obstacle we frequently see is the failure of CEOs to recognize the differences between a [Growth CFO](#) and an Accountant. “Why do we need another role dedicated to bookkeeping and tracking the numbers?”

While an accountant and CFO share some of the same roles, the difference is stark and can separate your company from merely treading water and driving forward in your industry in a meaningful way.

### The Difference in the Division of Labor.

Let’s break down some of the main differences between a [Growth CFO](#) and an accountant outright, as some skills overlap and lead to more confusion among CEOs who could strongly benefit from a growth-centric mindset.

#### An Accountant handles:

- Reporting and tracking, including profit and loss (P&L) and balance sheet reports
- Producing periodic (monthly, quarterly, and so on) activity reports
- Filing and tracking of all numbers-related statements
- Handling payroll
- Performing reconciliations, such as with banking and dealing with creditors and debtors

#### By contrast, a Growth CFO will assist with these tasks alongside:

- Developing and implementing a comprehensive business strategy
- Facilitating organization and cash management
- Utilizing forecasting and pipeline reporting
- Modeling financials and budgeting
- Communicating and reporting relevant information to stakeholders
- Advising you and your board, as well as other executives

And honestly, the list of differences between a Growth CFO and an Accountant goes on – for miles. Just take a look at that list and really think about how having an expert in your pocket to navigate these critical areas could impact your workflow and free your time. Better yet, think about how **having a team of Growth CFOs at your disposal would streamline this process and accelerate your growth.**

### The Major Difference: Looking towards the Future

If you know what you’re doing, you’re always looking toward the future as a CEO. Accountants deal primarily with the past and sometimes the present: financials, book balancing, reports, and tax filing. **A Growth CFO manages your future, develops sound strategies, and structures ways to virtually remove any obstacles in your way.**

Both roles are critical, but there’s no reason to split the difference. A Growth CFO can tackle all of this in one package or even work alongside your current accountant to complement their work.

## Finance (Con't)

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But the stark differences between a Growth CFO and an accountant mean you're losing out on valuable real estate to simply live in the past and ignore such a vital component you might be lacking.

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*KIRK W. MCLAREN MBA, CPA, IFM | CEO Foresight CFO | Georgetown University Lecturer*  
Having built and sold his first company before graduating from high school, Kirk is a natural at building growth companies and helping talented CEOs and their leadership teams exploit opportunities by obliterating obstacles that might get in their way.

## Calendar of Events

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### NVSBC Events

NVSBC Events are specially designed to provide networking and training for those VOSB & SDVOSB ready to take their business to the next level! These include:

- Charlie Mike Webinar Training Series
- VetFedBootCamps
- Washington DC Networking Dinners
- Many more...

8  
March



VetFedAcademy  
Time: 4:00 p.m.  
DC Networking Dinner  
Time: 5:30 p.m.

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Let us help you get "Procurement Ready!" Click on the on the button below to learn more and register.

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### Federal Procurement Events

Grow your business through events provided by agencies within the Federal government including outreach, matchmaking, networking, training, and additional activities. If you have a Federal Procurement Event you'd like NVSBC to consider adding to this page, please contact [members@nvsbc.org](mailto:members@nvsbc.org) with respective details.

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## Opportunities

Take a look at our **Opportunities Board** where we provide access to unique subcontract opportunities with federal prime contractors.

**Prime Contractor:** Post your [opportunities here](#) to access the finest VOSB's and SDVOSB's.

**VOSB's / SDVOSB's:** We encourage you to frequently visit the NVSBC Opportunities Board to review the most current opportunities for contracting and subcontracting. The prime contracting opportunities listed have been brought to NVSBC's attention as preferred veteran small business opportunities.

[Opportunities Board](#)

## Corporate Partner Deals

Take advantage of benefits where NVSBC has created partnerships that bring value to your business. If you would like NVSBC to consider a partnership with your business, please contact [members@nvsbc.org](mailto:members@nvsbc.org) with respective details.

[Partner Deals](#)

## Membership and Sponsorship Supports NVSBC Programs

Did you know that NVSBC is a **non-profit organization** that relies on membership and sponsorship to provide our programs and services? **If you benefit from our Training, Networking, and Advocacy, join the coalition or sponsor NVSBC today and strengthen our voice!**

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NVSBC's First Call newsletter delivers Veteran-focused small business information training content and information on small business operations, laws, rules, and regulations. 12 issues per year are provided to an audience of greater than 48,000. This newsletter is co-authored by recognized leaders in the SDVOSB/VOSB and small business communities and provides timely updates to upcoming events and activities.

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For more information, contact Zack Armstrong, Deputy Executive Director at [zack.armstrong@nvsbc.org](mailto:zack.armstrong@nvsbc.org)