FIRST CALL

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# Category Management: Observations from a Small Business After 30 Years in Government Contracting

As one of the first members of the National Veteran Small Business Coalition and a more than 30-year veteran of federal contracting, I have witnessed a fair share of contracting initiatives and programs designed to help small businesses grow and supply the federal government the goods and services it needs to operate. Were some initiatives and modifications better than others? *Of course*. Will some stand the test of time? *Certainly*. Will some push small businesses forward and make them able competitors for contracting dollars? *Undoubtedly*. But a better question is, after 30 years, has the contracting shift to category management helped or hindered small businesses and impacted competition in the SB space?

The category management initiative launched in 2014 (General Services Administration, 2021) was a move away from strategic sourcing and billed as a way to eliminate redundancies, increase efficiency, and deliver a higher degree of value and savings to the government by mandating that, whenever possible, agencies collaborate to negotiate the best possible deal on goods, programs, and services. To measure and track the success of the government-wide category management initiative, the program management office created best-in-class procurement vehicles and key performance indicators. Agencies are required to increase their spending under category management, while key performance indicators identified how and where government money is being spent and whether spending meets agency goals for small businesses.

The federal government is the largest single buying entity in the world, contracting $6.8T in FY2021. (U.S. Department of the Treasury, n.d.) For businesses that are in the federal government's 'small' socioeconomic category, the amount of dollars spent – and the agencies that buy – represent unparalleled access to a diverse market. Small businesses are the engines of growth for the U.S. economy ; it makes good business sense to open paths to federal dollars through contract vehicles that are specifically created for small businesses.

But category management may have had the opposite effect. Looking at the tools and mechanisms in place to ensure that small businesses can compete effectively as best-in-class vehicle holders, coupled with FPDS data from 2016 to 2019, the results of category management are unfavorable at best. OMB designates best-in-class contracts as government-wide acquisition solutions that can be used by multiple agencies and satisfy key criteria that OMB defines. There is no specific definition of best-in-class in the FAR. Instead of creating an advantage for small businesses to compete in federal providing goods and services shrinking by 17 percent. Last October during a House Small Business

## Category Management Con't

Committee hearing on small business engagement in government contracting, participants noted a nearly 40 percent decline in small businesses, attributed in part to category management since inception. (Riotta, 2022) As a result, category management and its use of best-in-class vehicles has not created more opportunity for small businesses across all federal agencies; it seems to have created fewer opportunities.

OMB's memorandum M-22-03 takes a step forward to address this by advising agencies that "category management plans shall not prioritize spending on "Best in Class" (BIC) solutions at the expense of meeting socioeconomic small business goals and providing maximum practicable opportunity to contracting, small businesses were actually *disadvantaged*, with the rate of small businesses small businesses."

Supporting small business, which accounts for most U.S. businesses and employees, is often a talking point for politicians during election campaigns but that support is often a victim of bickering and partisanship during legislative sessions, often leaving big businesses as the main benefactor.

As small business government contractors, we must do more to ensure that equity in practice, not just word, is part of federal contracting. It is the responsibility of our Congress to implement the necessary rules and laws that would support diversity and the focus on small businesses, and it is our responsibility to press our congressional representatives to deliver on their election promises.

Small businesses must become our own best champions through persistent engagement and advocacy aimed at strengthening existing federal contracting rules and modifying rules that are not beneficial. Organizations such as the NVSBC as well as other socio-economic entities must band together and demand that Congress support the interests of their constituencies rather than partisan motives.

**Norris Middleton, CEO and President**
**Management Support Technology, Inc.**
**Board of Director, NVSBC**

On behalf of the National Veteran Small Business Coalition Board, executives and staff, we wish to convey our sincere and deepest condolences to co-founder and former NVSBC President John Moliere on the sudden passing of his wife, Susanne and son, John Moliere, Jr.

May God give you comfort during this difficult time.
May their memory be a blessing.

# 1st Annual NVSBC Veteran GOVCON Awards Gala

On September 13th at the Army Navy Country Club in Arlington, VA, the members and Board of Directors of the National Veteran Small Business Coalition recognized those major organizations, both federal agencies and large business prime contractors who have shown exceptional support for service-disabled veteran small businesses by exceeding the 3% goal and by exceeding 8% in awards to veteran small businesses.

***For Exceptional Support of Service-Disabled Veteran Owned Small Business in FY 2021 - Prime***

- *AECOM*
- *Boeing*
- *Northrop Grumman Defense Systems*

***For Exceptional Support of Both Veteran Owned Small Business & Service-Disabled Veteran Owned Small Business in FY 2021 - Prime***

- *Amentum*
- *BAE Systems*
- *BAE Systems Incorporated Ship Repair, Norfolk*
- *Ball Aerospace & Technologies Corporation / ATIS*
- *Booz Allen Hamilton*
- *CACI International Inc.*
- *CGI Federal*
- *Deloitte*
- *General Dynamics Information Technology (GDIT)*
- *IBM Consulting*
- *Jacobs*
- *KBR*
- *L3Harris Technologies Inc.*
- *Parsons Government Services*
- *SAIC*
- *Weston Solutions Incorporated*
- *Wood*

***For Exceptional Support of Service-Disabled Veteran Owned Small Business in FY 2021 – Federal***

- *Defense Information Systems Agency*
- *U.S. Department of Agriculture*
- *U.S. Department of Commerce*
- *U.S. Department of Defense*
- *U.S. Department of Homeland Security*
- *U.S. Department of Justice*
- *U.S. Department of Labor*
- *U.S. Department of State*
- *U.S. Department of the Interior*
- *U.S. Department of the Treasury*
- *U.S. Department of Transportation*
- *U.S. Department of Veterans Affairs*
- *U.S. Environmental Protection Agency*
- *U.S. General Services Administration*
- *National Science Foundation*
- *Nuclear Regulatory Commission*
- *Office of Personnel Management*
- *U.S. Small Business Administration*
- *Social Security Administration*

# 1st Annual NVSBC Veteran GOVCON Awards Gala


*The Honorable John "Sean" Coffey, General Counsel of the Department of the Navy; NVSBC Executive Director, Scott Jensen and NVSBC President, Ed Tuorinsky with the recipient Gordon H. Mansfield Veteran Small Business Award, Robert Santmyer.*

*2022 NVSBC Veteran Small Business Advocate of the Year (Prime), Rita Brooks, Director of Small Business Programs for SAIC during her acceptance speech.*

*Larry Stubblefield, Associate Administrator of the Office of Veterans Business Development at U.S. Small Business Administration accepts the 2022 NVSBC Veteran Small Business Advocate of the Year (Federal) from SBA Administrator, Isabella Casillas Guzman.*

# 1st Annual NVSBC Veteran GOVCON Awards Gala


*The team from Baker Botts – Event Sponsor.*

*Attendees enjoying pre-gala function.*

*Medal of Honor recipient and Pentagon's Hall of Heroes inductee, Kyle White.*

*NVSBC Board of Director, Nancy Langer entertains the crowd!*

*The Honorable John "Sean" Coffey, General Counsel of the Department of the Navy addresses the gala attendees.*


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## Part 2: Learn to Identify Pre-Award Protests, Which Must Be Filed Before the Solicitation Response Deadline

Welcome to part two of our series on common contractor bid protest mistakes! Last time, I talked about the difference between size and status protests on one hand, and bid protests on the other. This installment addresses how to identify a specific type of bid protest that needs to be filed earlier than many other types. The goal is to help you identify these types of pre-award protests, so that you don't miss the deadline. Specifically, I will be discussing how to identify, pre-award bid protests based on challenges to the terms of a solicitation itself. (Pre-award protests in FAR Part 15 competitive range situations will be addressed in a later installment).

Every year, I see contractors make the same mistake: I see these contractors confuse pre-award protests with post-award protests, wait too long to file, and lose their protest rights. This is likely because the majority of contractors are most familiar with the latter type of bid protest, those that happen ***post***-award. (Post-award protests arise in situations where the contractor receives an unsuccessful offeror notice, or otherwise gets notice that another company has received the award the contractor was competing for). Fewer contractors are familiar with the circumstances leading to pre-award protests – especially those challenging the terms of a solicitation – and fewer still are aware that the timeline to le such protests is different than the old post-award protest they are familiar with.

Under GAO regulations, a protest concerning alleged improprieties in a solicitation must be filed ***prior to bid opening or the time set for receipt of initial proposals***. In other words, if you think there is something improper about the terms of a solicitation itself (we will talk about some examples in just a moment), you need to file that protest ***before bids or proposals are due***! If you follow the typical post-award timeline and wait until after award, you will be too late. Very likely, you will have lost your right to protest all together. Don't make this all-too-common mistake! To avoid it, it is critically important that you learn how to identify those issues that should be challenged before submission of bids/proposals.

So, what are some examples of the types of protest issues you need to raise at this stage? In short, anything challenging the terms of the solicitation itself. Some of the most common issues are as follows:

- **Ambiguity in the solicitation terms or contradictory provisions**. If you think the terms are vague, confusing, or in conflict with one another, protest now! Of course, if there is an opportunity to ask questions of the agency first, avail yourself of that. But keep an eye on the calendar and make sure you leave yourself enough time to get a protest in before the date for bid/proposal submission.

- **Exclusion of a required provision, or inclusion of a term or provision that should not be there**. These are also common bases for pre-award protests. (We have all seen governmental cut and paste errors!) For example, if you are a HUBZone company and you notice that the agency should have, but did not, include the HUBZone preference provision, don't wait until the agency improperly evaluates offerors' prices and gives the award to another offeror. You need to protest early!

- **The agency's use of "unduly restrictive" terms.** This is another big one. While federal agencies have a lot of discretion in selecting the evaluation criteria they will use to evaluate and compare offerors, that discretion is not unfettered. If the agency structures a solicitation in a way that restricts competition, and the agency cannot explain why such restrictions are necessary to meet the agency's legitimate needs, that is protestable as unduly restrictive. We have handled many protests of this nature; if you can show that the agency's restrictions serve no legitimate purpose, the agency may ultimately need to go back to the drawing board and revise its evaluation criteria. So, if you think that the terms of a solicitation are unduly restrictive and therefore impair your ability to compete or put you at an unfair disadvantage as compared to your competitors, protest it!

- **Protests dealing with "rule of two" or set-aside issues**. These are sometimes called, in the SDVOSB context, "Kingdomware protests". They are another type of challenge that should be raised before submitting bids/proposals. The decision to set-aside a procurement is considered a term of the solicitation and, is in any event, is something that is evident on the face of the solicitation. If you think the agency made a mistake in setting aside (or not setting aside) a procurement, raise it pre-award.

- **Challenges based on an agency's allegedly improper use of Lowest-Priced, Technically Acceptable (LPTA) procedures.** This is also something you want to protest pre-award. Recent regulatory changes limit the government's use of LPTA. Undoubtedly, as the industry gets accustomed to these new limitations, there will be solicitations that include LPTA-type procedures when they shouldn't. This would be an appropriate basis for a pre-award protest.

Sometimes it can be hard for contractors to differentiate between these types of issues relating to solicitation terms. Learn to spot the issues. If you have any questions, it is wise to consult an attorney and ***consult them early***, so you can make sure to meet any pre-award deadlines. Do NOT roll the dice. Don't wait to see how the evaluation shakes out and try to protest the award only if it doesn't go your way. By then it will most likely be too late. Act on these ones fast, or forever hold your peace.

*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.'*

## CVE TRANSFER TO SBA LEAVES UNANSWERED QUESTIONS

On September 23, 2022, the SBA issued a memorandum to small businesses self-certified as SVOSBs in the System for Award Management (sam.gov). This, in part, addresses the transfer of VetBiz verification from the VA to the SBA, which has been expected to occur as of January of 2023. It is important to note, however, that a deadline much earlier than this is important to keep in mind: **October 24, 2022.** This is the date that firms must have their verification or re-verification applications submitted to the VA if they want to compete for *VA contracts* set aside for veteran-owned small businesses (VOSBs) or service-disabled veteran-owned small businesses (SDVOSBs).

The memorandum sets forth a number of points every veteran firm seeking set-aside contracts should know, regardless of whether their work is with the VA or other federal agencies:

- If a firm is self-certified as an SDVOSB on Sam.gov, it can rely on that self-certification for one year (until January 1, 2024). It must, however, apply for "official" certification within that one-year period in order to take advantage of the grace period. (The memorandum does not discuss what happens if a firm's application is not processed by January 1, 2024. As the grace period is only one year, it would appear there would be a gap in certification (i.e., between January 1, 2024 and the date the application is processed). As such, firms should submit their certification application with several months to spare).

- If a firm is self-certified and tries to have a VetBiz application processed with the VA prior to the transfer date but fails, that VA application will have no impact on the grace period. The firm must still apply with the SBA between January 1, 2023 and January 1, 2024 to take advantage of the grace period.

This memorandum addresses *self-certified* firms. In the coming weeks, we can expect to receive further guidance on the effect of the transfer, particularly as it applies to firms verified in the VetBiz registry hoping not to encounter the SBA's process for some time due to a recent verification. *The SBA has clarified for the NVSBC that eligibility for SDVOSB contracts will continue for all federal agencies through the end of a verification period, and a final rule will issue to reflect that.*

One point is crystal: if a firm wishes to compete for VA set-asides and its eligibility period expires soon, it must submit its verification application or re-verification application with the VA on or before October 24, 2022. Otherwise, it will need to wait for the transfer to the SBA *and* the processing of its application.

Access the guidance for self-certified firms here.

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*Sarah Schauerte is an attorney specializing in helping veteran-owned small businesses (VOSBs) grow. She specializes in assisting VOSBs in maximizing opportunities offered by federal government contracting programs.*

# What is Incremental Cash Flow?

How often do you think about how incremental cash flow impacts your business? For many organizations, few people consider it at all. It's common for companies to look at all revenue the same. Still, the best way to grow your business progressively and get ahead of the competition is by examining what incremental cash flow means to your goals.

Working out the cash flow generated by new projects gives you a better sense of where you should invest your capital. Whether a group effort or one you designate to a qualified individual, incremental cash flow analysis should be at the center of your company's growth plan.

**Explaining Incremental Cash Flow**

Incremental cash flow refers to the money generated by a new project or initiative. Positive incremental cash flow means your business' cash flow stands to increase when you accept the project, giving you data-driven reasons to go for it. If you determine an undertaking would yield a negative cash flow, it's best to forgo the opportunity.

This tool proves excellent at discovering which new opportunities will be lucrative, providing a new focus for your company's long-term planning. Still, you should not rely on just incremental cash flow when analyzing new opportunities. Sometimes business politics and relationships will influence the direction you need to go as a company.

Likewise, you could enter a deal with a company in an industry you're trying to transition your company into, taking slight losses for the sake of future endeavors. While that's fair, you should keep incremental cash flow in mind to assess how much of a loss you might take for a project you might want to avoid in the future.

**Why it is Important to Understand Incremental Cash Flow?**

Incremental cash flow determines if your company is ready and able to invest. Anyone investment can significantly affect your company's trajectory, profitability, and future business operations.

You can easily use incremental cash flow to determine the viability of investing in new equipment, replacing a manufacturing plant, or starting a new product line.

**Many managers and business owners utilize different techniques to calculate capital budgeting costs, including:**

- **Payback period:** This is when your company gathers funds for the project. For example, if you have ten years to pay back a $1,000 loan, they can pay $100 back per year plus any interest.

- **Net present value:** This measures the difference between inflows and outflows of money. This offers more detail and specificity than calculating profitability, accounting for discounted rates, and unforeseen expenditures.

- **Accounting rate of return:** This measures the percentage return from an investment compared to cost. Subtract depreciation and annual expenses to get a yearly net profit.

- **Internal rate of return:** This gives you a great sense of how you should grow and where to expand in the future.

- **Profitability index:** This calculates the present value of cash flows paired with the money needed to invest in a venture. Typically, businesses utilize this to show investors why they should invest – while providing a quantified value of that investment.

**Calculating Incremental Cash Flow**

Suppose your company has two opportunities in front of it. However, you only have the resources to dedicate to one project. This would be a great time to perform an incremental cash flow analysis. Let's refer to these opportunities as "Option 1" and "Option 2."

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You project Option 1 to yield $300,000 in revenue with an initial cash outlay of $20,000 and $135,000 in expenses. Alternatively, Option 2 will yield $600,000 with a $85,000 initial outlay and $390,000 in expenses. Luckily, solving for incremental cash flow is not complex. You can calculate the incremental cash flow as follows:

*Option 1 ICF = $300,000 – $20,000 – $135,000 = $145,000*

*Option 2 ICF = $600,000 – $85,000 – $390,000 = $125,000*

While Option 2 appears enticing with double Option 1's raw revenue number, it's clear that your company would benefit more from Option 1, as the costs you're inputting detract from the overall revenue gained. This example might seem straightforward, but that's how incremental cash flow works, meaning it's just as easy to utilize this concept in situations relevant to your business.

**Limits of the Formula**

While straightforward and generally effective, the incremental cash flow formula has a few weaknesses. In many cases, the dollar values will not be so easy to predict, let alone as definite numbers. Additionally, market and regulatory changes can significantly affect your expenses after taking on a project, especially if the timeline spans more than a few years. Be careful to avoid adding sunk costs into your analysis, as these do not apply to incremental cash flow – an analysis of present and future expenses. Focus on things that happened after your company decided to invest.

Likewise, distinguish between cash flows related to the project and cash flows from other business operations. While these factors together will play a role in business expansion, you want to calculate each value independently so you can compare opportunities with one another. Failing to do so will give you flawed data and a false sense of how to

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**The Differences Between Total Cash Flow and Incremental Cash Flow**

Contrary to incremental cash flow, total cash flow measures the cash that comes to your business after completing a project. Many companies constantly calculate cumulative cash flow over time, whereas incremental cash flow measures the benefits of changing a project.

**Final Thoughts – How can you Make Incremental Cash Flow Work for You?**

If you want substantial business growth, year after year, you're going to want to start employing the incremental cash flow formula every time you are presented with or are considering a new opportunity. Set incremental cash flow goals as needed, automatically rejecting projects that don't meet your criteria. Making the decision ahead of time to jump on or abandon a project based on incremental cash flow will make the decision easier when the time comes, keeping the process objective and taking the emotions out of committing to an opportunity

# Calendar of Events - NVSBC

## Tuesday, October 11, 2022

### VetFedBootCamp

**4:00 PM – 5:00 PM**

This October Boot Camp event is created in partnership with

Pinnacle FINANCIAL PARTNERS

### Washington DC Networking Dinner

**5:30 PM - 8:30 PM**

This October DC Dinner event is created in partnership with

JPMorgan Chase & Co.

ARMY NAVY COUNTRY CLUB
1700 Army Navy Drive, Arlington, VA 22202

Register Now!


## October Schedule

11 Oct - Sales to the Power of Story: Accelerate Sales & Prospecting Success with Storytelling

18 Oct - Understanding Industry Groups with Robert (Bob) Santmyer and John Manolios

Register Today!