



FIRST CALL

www.nvsbc.org

June 2023



Let's Celebrate

Last week in Orlando, Florida the NVSBC came together for 3 days with the greater GovCon community and assembled the largest event that NVSBC has ever hosted.

- 1,100 attendees
- 68 sponsors
- 109 exhibitors
- 105 speakers

There is so much to celebrate from the [VETS23 Conference](#) and that's not including our advocacy successes, DC Dinner participation, counseling GovCon's through our partnership in the [SBA Community Navigator Pilot Program](#), and much more.

Organizations of all types are [joining NVSBC](#) as they have experienced first-hand the engagement at our Conference, networking at our events, and trainings both in-person and virtually throughout the year.

And Now Let's Get Back to Business

As the NVSBC continues to serve our coalition members and represent all 48,000 Veteran owned small businesses serving as federal government contractors, we are charging forward to provide national events that bring together the entire GovCon ecosystem – **Federal agency acquisition leadership, large prime industry leaders, service providers, and Veteran entrepreneurs.**

WE WANT YOU to attend the events below to succeed in the federal marketplace by:

- Accessing new business opportunities
- Engaging and meeting the right people
- Developing and enhancing your knowledge & skills

Upcoming NVSBC Events:

- [Charity Golf Tournament](#) (8/14/23)
- [Awards Gala](#) (11/8/23)
- [DC Networking Dinners](#) & [VetFedAcademies](#) (Starting again in Fall 2023)
- [Networking Dinners](#)
 - **Huntsville** (~week of July 24)
 - **Norfolk** (~week of August 1)
 - **Tampa** (~week of August 21)
 - **San Diego** (~week of September 25)

It's an exciting time to be part of the Veteran GovCon community so don't miss your opportunity to take your business to the next level.

Veterans Mean Business

Zack Armstrong
Deputy Executive Director
National Veteran Small Business Coalition



Non Vet Owned, Federal Contractor

GovTech

LARGE BUSINESS

Iron Bow Technologies

Loyal Source Government Services, LLC

Small SDVOSB or VOSB

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Able Logistics, LLC

AmVet Technologies, LLC

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Avility, LLC

B.K.Walker Associates, LLC

Best Value Technology, Inc.

Brightstar Innovations Group, LLC

CIVDEF Group, Inc.

Defutek, Inc.

DNAB SERVICES GRP

E-Health Transformation

EVERPOINT SERVICES

Government Innovative Solutions Corp

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HRS Consulting, Inc.

Integrated Systems Solutions

ITMC Solutions, LLC

L&A Utility Solutions, Inc.

Maveris, LLC

MyVetBENEFITS

Nobis Technology, LLC

Ocho Technology Solutions LLC

RPW ENERGY PARTNERS, LLC

Saebo Consulting

Standard Medical Systems, LLC

Synensys, LLC

TechWerks, LLC

The Terao Group, LLC

Tichenor & Associate, LLP

U R FIRST HOME HEALTH

Veteran Enhanced Technology Services (VETS)

Wendroff & Associates, CPA



**VETERANS
MEAN
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Congratulation to the Newly Elected Board of Directors!



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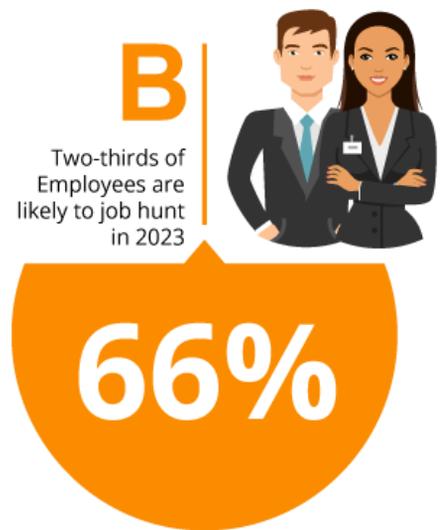
Invest in Your Team!

Locating, hiring, and retaining excellent team members has become more complex than ever since 2020 and Covid. A great team is critical to your company's success. Don't miss these steps to make sure you're leveraging the best talent.

Numerous factors dictated this change, not that it was simple in the first place. So what makes you and your organization stand apart?

1. How do you secure the talent you need?
2. Would you want to work at your Company?

2022 Employee Engagement and Retention Report



Research demonstrates that those workers who expressly do not intend to look for a new job this year are those who feel respected and supported by their employers.

In short, Companies that are winning the talent game are investing more in the development and growth of their teams.

This not only keeps people around, but it's clear, while not overt, signs to potential employees that you care about their personal and professional growth.

The people you want to stick around find value in that and know they'll reap the benefits alongside your bottom line.

As [Growth CFOs](#), we use these strategies all the time and encourage our clients to do the same. So let's unpack this win-win investment scenario.

Collaborate Between Departments

Gestures go a long way in creating group adhesion. Do you host lunch meetings or offsites to create an atmosphere where your team may learn from one another? What about weekly sessions to align, communicate, and collaborate?

Soft skills such as wishing everyone a Happy Birthday and a Happy Work Anniversary are zero-cost ways of showing that you care.

A consistent meeting rhythm is a low-cost, effective way to educate your team as to what is going on, measure workload, assure alignment with key priorities, share ideas and collaborate as a team. On top of every survey we are aware of, teammates want to be heard! Really heard. What also exists are opportunities for people to get to know each other on a more personal level.

At the end of the day, everyone's work collaborates toward the same goal of the company: furthering growth. Even if two separate employees never naturally cross paths, getting them to become more acquainted can lead to exponential insights that can influence their work separately.

If you've been wondering how to bridge the gap, start here. You'll be surprised what other ideas arise – for collaboration and otherwise – by just **putting your best minds in the same room**. The best tip is to plan an agenda or topic for each week. The conversation will propagate on its own, but having an objective, especially at first, will get the ball rolling.

Start Adding Outside Talent

If you're a regular reader of our [Growth CFO](#) content, you'll know this is our "MO". Webinars and educational conferences are great for any team. Taking it one step further: paralegals and case managers, for instance, can hugely benefit from bringing in outside expertise to speak. As CEOs, we have a nearly unlimited learning library and event invites in front of us. Most rank & file do not. Think about the budget you have in place for 2023 dedicated to employee development, possibly on a quarterly basis.

Get People Certified

Let's continue with the paralegal example. Most owners are familiar with Continuing Legal Education (CLE) for attorneys. Like with that situation, **you can invest in certifying team members**. Bookkeepers offer to cover the costs for them to become [QuickBooks](#) certified, or whatever accounting or ERP you may use at your company.

Employees ranging from writers to case agents can attend certification sessions in-house (especially if you set up the right infrastructure) to learn, better their work, and strengthen their prowess.

If in doubt, ask!

We are often surprised when our clients ask their employees in what areas they would like to up their game. The investments pale in comparison to the benefits received. This is a clear way to gain a significant edge in the fierce competition for top talent.

Make the Investment

With everything mentioned above, it will be easier to understand what people are thinking. So keep the momentum up and an ear open. It requires some effort upfront, but once you employ some of these strategies, the talent success plan becomes more clear. It's also a great use of your growth capital!

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.

August 14

Army Navy Country
Club, Arlington, VA,
9 a.m. Shotgun Start

2023

Sponsorships are now open. Choose yours and secure your foursome!

Showcase your company and your golf skills. Support NVSBC's nationally recognized training, networking, and advocacy for veteran small business entrepreneurs. With price points for every business, your company can get into the game. View the Prospectus for details.

Golfer registration will open once sponsorships are sold.



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Don't Make The Most Common Bid Protest Mistakes! Part 9: Know When to Fold 'Em

Welcome back, all. Today, we're bringing you the penultimate installment of our Bid Protest Mistake series. We've come a long way so far, and you guys have been troopers! As you may remember, in previous months we have covered: [the difference between size/status protests and bid protests](#); [protest deadlines for protests challenging solicitation terms](#); [exclusions from the competitive range](#); [post-award protest deadlines](#); [demystifying debriefings](#), [jurisdictional limits on task award protests](#); [prejudice](#); and [intervention](#). This month, we're talking about how to determine if you have a winning protest, or not.

Make no mistake. Bid protests are difficult to win. The standard is demanding. The sustain rate is lower than protestors would like it to be (though, notably, that does not take into account voluntary corrective action taken by the agency). Even if you escape the protest pitfalls relating to— for example – jurisdiction, standing, or prejudice, you still aren't out of the woods. The GAO and the COFC routinely defer to agency judgement, and will not substitute their own judgement for that of the agency. That means that a protestor's mere subjective disagreement with the agency's opinion (whether concerning a contractor's merit, the way in which the contractor was evaluated, or the rating that the contractor received) is not enough to prevail. To win, a protestor must show that the agency made an **objective** error, or acted arbitrarily or capriciously, or in a manner inconsistent with law or the stated evaluation framework.

It is sometimes hard to differentiate between subjective disagreement, and more objective types of arguments challenging the agency's conduct. Often, it may seem like splitting hairs to try and identify protest bases as falling into one or the other category. And admittedly, one can never eliminate **all** subjectivity; every disagreement necessarily has a little bit of opinion baked in. That said, there **are** ways of distinguishing between the stronger, more objective type of arguments on one hand and the weaker, more subjective type of arguments on the other. I find that it is easier to see the difference in these types of protest arguments by looking at real examples, as opposed to talking about them in the abstract. So, with that in mind, let's take a look at some different examples arising out of the same theoretical solicitation.

In our theoretical solicitation, the evaluation factors are Technical Expertise, Past Performance and Price. The solicitation explains that Technical Expertise is more important than Past Performance, and the non-price evaluation factors taken together are far more important than price. In the debriefing, the protestor learns that it was assigned a Factor 1 Technical Expertise rating of "Marginal" (the possible ratings being: Excellent; Good; Acceptable; Marginal, Unsatisfactory). The agency explained that it rated the protestor "Marginal" because of one assigned weakness the agency found in the proposal.

- A protest where the protestor simply argues that the alleged weaknesses should not have been deemed a weakness is not the strongest protest (though admittedly, sometimes that is all you have) because it rests solely on trying to disagree with the subjective judgement of the agency. Generally, protests where you do nothing but argue "I am better than you think I am!" are hard to win.
- A stronger protest would be if the protestor could not only challenge the agency's judgement regarding what is or is not a weakness, but rather show that the agency's assignment of a "weakness" was an objective error because it was based on unstated evaluation criteria. Here

is what that looks like: Let's say the theoretical solicitation described above was an Army solicitation. The Technical Expertise factor was supposed to evaluate how many projects - similar to the procurement at issue in terms of price, scope and nature - the offerors had performed in the last three years. The agency assigned the protestor a weakness because, while the protestor had indeed in the last three years performed five projects virtually identical to the procurement at issue in scope and nature, and at or above the same dollar magnitude, none of the projects were for the *Army* specifically, and the agency rated Army-specific experience higher when evaluating proposals. That would arguably be improper here. Because nothing in the solicitation limited offerors to listing projects for the *Army* only, or advised offerors that past projects for the *Army* would be considered preferable to similar projects for other agencies, the agency's preferential treatment of agency-specific experience could very well be considered an unstated evaluation criteria. "I should have been rated higher because the only weakness the agency assigned was based on unstated evaluation criteria, not listed in the solicitation" is a ***much*** stronger protest argument than "I should have been rated higher because what the agency sees as a weakness I just don't see as a weakness."

- "I would have been rated higher if the agency had not misapplied the adjectival rating definitions" could be an equally strong, if not even better, argument. This is how you build an argument like that: Consider if the protestor, in addition to having one weakness, also had three strengths, and the theoretical solicitation defined the rating of "Good" as something like "having no more than one weakness, and at least three strengths," the rating of "Acceptable" as "having no more than two weaknesses and at least one strength" and the rating of "Marginal" as "having more than two weaknesses." In such a case a protestor could argue that, even assuming the weakness assigned was legitimate (but never conceding that it was), one weakness and three strengths should ***still*** have resulted in a rating of "Good" and not "Acceptable" let alone "Marginal." The agency's failure to follow the stated adjectival rating definitions is an objective error. It does not require GAO or COFC to disagree with the agency's subjective opinion as to the weakness itself, but rather just to acknowledge the definitional error.
- Now, what if the offeror also had one weakness and three strengths, and somehow was rated "Good" or "Acceptable," even though the protestor got a "Marginal" with the exact same number of strengths and weaknesses? That could be used as evidence supporting an argument of unequal or disparate treatment. Another example of unequal or disparate treatment would be if both the protestor and the offeror were rated "Satisfactory Confidence" for the Past Performance factor (the possible ratings being: Substantial Confidence, Satisfactory Confidence, Limited Confidence and No Confidence), even though the protestor had twenty recent and relevant projects and the awardee was, for example, a brand new company with no past performance, or, alternatively, an established company that had recently been terminated for default on three projects after getting negative CPARS for years. In either case, it would be hard for the agency to justify assigning the protestor and the awardee the exact same past performance rating.

Using these types of examples, you can start to see how different types of protest arguments are more objective than, and therefore preferable to, others based on mere subjective disagreement.

Indeed, not all protests are created equal. The keys to success in the protest world are: recognizing that there is a sliding scale in which some protest arguments are more likely to succeed than others; figuring out where on that scale you are, based on the information you currently have and the arguments that your current information can support; and determining what additional information you might be able to gather to support additional, better arguments. Oftentimes this means working with a legal professional to come up with appropriate debriefing questions and trying to see what comparative information about the awardee(s) you can gather. While protesting is hard, you can win, **if** you know what you are doing and **if** you engage in the proper analysis concerning the likelihood of success early on.

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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for

VETS 24

MAY 21-24, 2024

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**The Nation's Leading VSO-Sponsored Training,
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Small Businesses Serving as Federal Contractors**



Calendar of Events

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
- VetFedAcademies
- Washington DC Networking Dinners
- Many more...

7
June



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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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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Showcase your business in **FIRST CALL**

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.

Quarterly Sponsor - 3 months	Price
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A La Carte	Price
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For more information, contact Zack Armstrong, Deputy Executive Director at zack.armstrong@nvsbc.org