Legal Organization (Formation)

Issue:
This brief explains the requirement that a firm must obtain and keep its charter required to operate the business to qualify for the Veterans First Contracting Program.

The Regulations:

13 C.F.R. § 125.13(g) provides:

Licenses. A firm must obtain and keep current any and all required permits, licenses, and charters, required to operate the business.

38 C.F.R. § 74.21(d)(9) provides:

CVE may remove a participant from public listing in the VIP database for good cause upon formal notice to the participant in accordance with § 74.22. Examples of good cause include...Failure by the concern to obtain and keep current any and all required permits, licenses, and charters, including suspension or revocation of any professional license required to operate the business.

What This Means:

A concern applying for the Veterans First Contracting Program must be a legal entity.

• **Limited Liability Company (LLC):** An LLC is formed through the filing of organizational documents (Articles of Organization) with a governmental unit within the United States such as a state, a territory, the District of Columbia, or Puerto Rico.

• **Sole Proprietorship:** A sole proprietorship is a one-person business that, unlike corporations and LLCs, does not have to register with the state in order to exist. However, some jurisdictions may require a D/B/A or fictitious name filing in order to operate. Check state and county laws to determine if registration is required.

• **Partnerships:** There is no specific state filing required to create a general partnership, such as Articles of Organization or Articles of Incorporation. To create a partnership, the parties to the partnership must execute a partnership agreement, which is considered the formation document. However, most jurisdictions require limited liability partnerships to file a Certificate of Limited Partnership or a similar required filing. On a case-by-case basis, CVE must confirm whether there are any state law filing requirements for a Partnership.

• **Foreign filing.** If a concern is conducting business outside of the state of its initial registration or outside of its primary place of business, the state may require a foreign entity filing to conduct business within the state, unless state law requires otherwise.

• **To remain eligible in the VIP database, a concern must remain in good standing following its initial registration in its home jurisdiction and in any jurisdiction in which it conducts business as a foreign business entity. This is generally accomplished by filing with each state a bi-annual report and paying a required fee.**
• CVE may seek to cancel a participant’s verification status in the Vendor Information Pages database, if the concern fails to obtain and keep current any required formation document.

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For more information about VA Small and Veteran Business Programs, visit http://www.va.gov/osdbu.

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