VA’s Approach to Veterans First Contracting Post-Kingdomware

September 19, 2016
Agenda

Topics

• Supreme Court of the United States Decision on Kingdomware Technologies, Inc. v. United States
• What is the “Rule of Two”?  
• Impact of Supreme Court Decision
• Key Elements of VA Acquisition Policy
• VA Market Research Approach
• MyVA Verification Program
• Competing for Set-Asides
• How Veteran-Owned Small Business (VOSB) Can Improve their Competitive Position in Responding to Set-asides
• What Can VOSB Do to Take Advantage of Increased Opportunities
• National Veterans Small Business Engagement (NVSBE) 2016
• Bottom Line: VA Supports Veterans First
• Information Resources
Supreme Court of the United States Decision on Kingdomware Technologies, Inc v. United States

• Released: June 16, 2016
• Determined that the “Rule of Two” must be applied to all competitive VA contract awards

• Background: VA and lower courts previously interpreted the rule as limited to open market acquisitions only
What is the “Rule of Two”?

Provides that “… a contracting officer of the Department shall award contracts” by restricting competition to Veteran-Owned Small Businesses if the officer reasonably expects that at least two such businesses “… will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.” 38 U. S. C.§8127(d)

– Supreme Court of the United States, KINGDOMWARE TECHNOLOGIES, INC. v. UNITED STATES
Impact of Supreme Court Decision

• Expected increase in opportunities for procurement-ready VOSBs
• Requires VA to update procurement policies and procedures and to train VA staff
• Could potentially slow down some procurements due to increased work load
• Emphasizes necessity for comprehensive and robust Market Research that facilitates identification of procurement-ready VOSBs for VA requirements
• Expected increase in volume of Verification applications and increased significance of the Vendor Information Pages (VIP)
Key Elements of VA Acquisition Policy

• Rule of Two applies to all competitive procurements
• VA continues to promote competitive procurement strategies in order to obtain best value
• Limited use of sole source authority under 38 U.S.C. § 8127 only when appropriate
• Continued use of FSS and other acquisition vehicles if Rule of Two can be met
• VOSB must be verified by VA to be considered under Rule of Two
VA Market Research Approach

• Check VIP Database for VOSB with needed NAICS
• Determine availability of Verified VOSB on existing VA contracts, FSS, and other acquisition vehicles
• Conduct market research for “open market” procurement
• Use of Request For Information (RFI)/Sources Sought through FedBizOpps
MyVA Verification Program

• Implementation of MyVA Verification will improve Veteran experience during the application process
• Transition occurs in September
• Increase in demand will create short term stress on the process
Competing for Set-asides

SBA Rule: Limitations on Subcontracting

• Of amount Government pays the prime contractor, no more than 50% may be subcontracted further (limits are 85% and 75% for general and specialty construction)

  – Exceptions:
    • For supplies and construction, cost of materials is excluded from the amount subject to limit
    • Subcontracts to first-tier similarly situated entities are excluded from the amount subject to limit
    • Contracts that are a mix of supplies and services are subject to the limit that applies to the dominant share of the contract (e.g., a predominantly services contract that includes supplies is governed by services limit, and excludes supplies portion)
How VOSBs can Improve their Competitive Position in Responding to Set-asides

• Consider identifying similarly situated entities for teams to supplement your firm’s capabilities
• If offering on a supply contract as a distributor, be prepared to show you are providing product of a small manufacturer (non-manufacturer rule)
• To provide product of a large manufacturer, SBA will need to waive non-manufacturer rule to allow it
• Non-manufacturer rule is not applicable to service contracts
What can VOSBs Do to Take Advantage of Increased Opportunities?

• Be Verified
• Have a complete profile in VIP Database
• Register in VA Business Intelligence Tool (VA BIT)
• Obtain Federal Supply Schedule as appropriate
• Register for FedBizOpps (FBO) alerts
• Respond to RFI/Sources Sought
• Attend the National Veterans Small Business Engagement (NVSBE)
NVSBE 2016

- **When:** November 1-3, 2016
- **Where:** Minneapolis, MN
- **Number of VA Staff:** 500+
- **Key Activities:**
  - Business Opportunity Sessions, Networking Roundtables, Dining with Decision Makers, Senior Leader Round Tables, Informal Receptions, Learning Sessions, Exhibits, One-on-One Follow-up Meetings
Bottom Line: VA Supports Veterans First

• New policies and procedures have been developed and will apply to all competitive VA contract actions
• Training on policies and procedures is ongoing for VA staff
• Take advantage of opportunities for Access
Information Resources

• VA Vendor Information Pages (VIP)
  – https://www.vip.vetbiz.gov/

• VA Business Intelligence Tool (VA BIT)
  – https://vabit.mybusinessmatches.com/

• VA Kingdomware Information
  – https://go.usa.gov/xKsp5

• Webinar Slides
  – https://go.usa.gov/xKsp5

• VA NVSBE 2016 Registration and Information

• OSDBU Web Site
  – http://www.va.gov/OSDBU/