

VA's Approach to Veterans First Contracting Post-Kingdomware

September 19, 2016



U.S. Department
of Veterans Affairs



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
 - <http://go.usa.gov/xKsp5>
- Webinar Slides
 - <http://go.usa.gov/xKsp5>
- VA NVSBE 2016 Registration and Information
 - <http://www.nvsbe16.com>
- OSDBU Web Site
 - <http://www.va.gov/OSDBU/>