

Resources

The Small Business Administration May Now Review Center for Veterans Enterprise Protests and Appeals

October 17, 2018

The Veterans Administration (VA) maintains the Vendor Information Pages (VIP) database of Veteran-owned small businesses (VOSB) and service-disabled Veteran-owned small businesses (SDVOSB). This database is available at www.vip.vetbiz.va.gov. The VIP database is managed by VA's Center for Veterans Enterprise (CVE) who determines whether an offeror is eligible to be listed on the database. A VOSB or SDVOSB must be registered on the VIP database to be eligible under the Vets First Contracting Program which provides VA set aside contracts. A VOSB or SDVOSB is eligible to be on the VIP database if its meets certain control, ownership, and other criteria previously established by the VA.

With the passage of the 2017 National Defense Authorization Act (NDAA 2017), Congress directed the SBA to establish uniform definitions and procedures of who is (and who is not) a valid VOSB or SDVOSB. Effective October 1, the SBA amended its regulations to implement provisions of the NDAA 2017. Part of these new regulations allow offerors to file a CVE Protest or CVE Appeal at the SBA Office of Hearings and Appeals (OHA). As a result, disappointed offerors may now file a CVE Protest with OHA, challenging whether a proposed awardee meets the eligibility requirements for verification in VIP database. Additionally, contractors may now file a CVE Appeal with OHA, protesting the CVE's denial or cancellation of the contractor's verification in the VIP database. Once a CVE Protest or CVE Appeal is filed with OHA, the cases proceeds like other SBA proceedings and appeals, including the production of the entire CVE case file. In the past, protesters never received a copy of CVE's case file and had to rely on VA's representations that its decision was justified. Now an SBA judge will review the VA's decisions and provide meaningful transparency to the CVE validation process.

These new protest and appeal rights are good news for disappointed offerors and contractors who believe they were wrongfully excluded from a VA set aside procurement or denied a contract award because the awardee was ineligible.

If you have any questions about the information in this alert, please contact John Dulske (jdulske@dykema.com) or your Dykema relationship attorney.

Attorneys

John C. Dulske

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