

PTAC Link

PROCUREMENT TECHNICAL ASSISTANCE CENTER – CONNECTING BUYERS & SUPPLIERS

Progress Through Regional Cooperation In The Alleghenies

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Events at the SAP&DC PTAC

The Southern Alleghenies PTAC is looking forward to three upcoming outreach events to serve the companies of our area! All of these events are in partnership with other PTACs to serve our clients in western and central Pennsylvania!

COSTARS Training with Northwest PTAC, North Central PTAC and the Clarion SBDC - September 14, 12:30 to 4:30 p.m. Registration for suppliers & vendors is **FREE** and can be found at <http://nwpaptac.ecenterdirect.com/events?centerid=1> Registration will close 09/06/2016.

CONNECT 2016 with JARI PTAC - September 27, 2016, 9:30 AM to 3:30 p.m., Frank J. Pasquerilla Conference Center, Johnstown, PA. This event was previously called the Small Business Opportunities & Resources Forum in 2014. It will be held again, with government agencies and prime contractors meeting local small

VA doesn't waste time in implementing Supreme Court decision

The Veterans Affairs Department acted unusually quickly to comply with the U.S. Supreme Court's ["rule of two" decision](#) in the Kingdomware case.

So much so that it both surprised observers and had them wondering if VA was acting too hastily.

VA issued new acquisition regulations July 25, just more than a month after the decision, which found VA's interpretation of a law requiring the agency to set-aside all procurements if at least two veteran-owned small businesses are qualified was flawed. The nation's highest court reversed the lower court's decision on June 16 by an 8-0 vote, finding VA must use the "rule of two" for supply schedule contracts even if it has met its statutory contracting goals.

"We expect to set aside a greater volume of VA contracts to service disabled veteran-owned small business and veteran-owned small business suppliers," said a VA spokesman in response to questions from Federal News Radio. "VA senior officials will be developing market research principles during a two-day integrated process team meeting Aug. 10-11. These principles will be transformed into a comprehensive policy, which will be used by all VA requirements personnel in the conduct of market research. In addition, a training course is currently being developed by the VA Acquisition Academy, and Disadvantaged Business Utilization (OSDBU) is improving its existing market research platform to provide more robust research and analysis capability."

Additionally, it said it completed training on its acquisition workforce by Aug. 5 through its VA Acquisition Academy.

Small business experts said VA's actions show it's taking the [court's decision](#) seriously and not dragging its feet.

But they also said VA's new acquisition policy leaves a few

businesses to meet their contracting needs. As of this writing, there is a keynote speaker, Ms. Gloria Larkin of TargetGov. Attendance registration can be found here:

<http://jari.ecenterdirect.com/events/601>

COSTARS Training with SEDA-COG PTAC - October 4, 2016
10:00 a.m. to 12:00 Noon, 253 Transfer Road, Bellefonte, PA.
To register, please visit
http://www.ptassist.com/services/ptac_web_register.php?id=832BF48228

Doing Business with Tobyhanna Army Depot - November 1, 2016,
8:00 to 1:00, Park Inn by Radisson,

Mechanicsburg, PA. We're very excited about this one! As of this writing, we don't have a registration link, but keep an eye on our Twitter & LinkedIn feed for more information!

Doing Business with Penn State University - November 17, 2016,
10:00 - 12:00, 253 Transfer Rd, Bellefonte, PA . A favorite of businesses around the area! As of this writing, we don't have a registration link, but keep an eye on our Twitter & LinkedIn feed for more information!

If you have any questions on the above events, or would like to see a course put on, please contact James Gerraughty at jgerraughty@sapdc.org or (814) 949-6528 with your ideas.

DLA is Set to Expire CAGE Codes

The Defense Logistics Agency is changing the way it manages Commercial and Government Entity codes by assigning an expiration date to all new or updated codes after August 25.

This is the first time in the 44 years since CAGE codes have been assigned that DLA will expire CAGE codes, and it will be accomplished in a phased approach, said Wyoma Smith, CAGE program manager in DLA Information Operations.

areas unclear.

"The veteran small business community is cautiously optimistic this will lead to an expansion of contract opportunities, but given VA's past history of [implementing VETS First](#), there is justifiable skepticism," said **Scott Denniston**, executive director of the National Veterans Small Business Coalition (NVSBC). "VA Procurement Policy Memorandum (2016-05) is vague as to the extent of market research required: Use of the veterans information portal (VIP) versus system for award management (SAM) versus issuing sources sought, etc. We are concerned the VA will use the wording of 'fair and reasonable price that offers best value to the United States' to exclude veteran owned small businesses before providing opportunities to submit offers."

The [11-page policy](#) and [decision tree](#) that VA released with the policy tries to give contracting officers a process to ensure they are doing everything they can to follow the rule of two, which calls for VA to set-aside the contract if they can find at least two qualified veteran-owned firms to bid.

The policy relies heavily on oversight by the OSDDBU director as well as documentation by the contracting officer.

"OSDBU has a statutory mandate to make recommendations to the contracting officer whether an action should be set-aside. ... This review process is more effective when conducted collaboratively and early, both as the program office develops its acquisition package and as the contracting officer conducts the acquisition. As part of its VA Form 2268 reviews, OSDBU examines market research developed as part of other acquisitions from other offices," the policy stated.

The VA also is mandating contracting officers use the VIP database "as the initial source to identify verified SDVOSBs or VOSBs that may meet VA eligibility requirements."

Steve Koprince, managing partner of Koprince Law LLC, said the policy is pretty straightforward and the emphasis on market research wasn't surprising.

"Overall, for most veteran-owned small businesses, the policy is going to be welcome. I say most because the policy for the most part prioritizes veteran owned acquisition and makes clear, as the Supreme Court ruled, the rule of two does apply to schedule contracts," he said. "I'm hearing from my veteran-owned clients that they are getting calls from VA, and VA is reaching out to them to determine capabilities and he included in market research packages. It seems like that kind of outreach hasn't happened before."

But this level of outreach doesn't come without its challenges. The VA spokesman said the agency also believes the lead time for acquisitions may increase because of the requirement to do more comprehensive market research.

So that may be bad news for veterans in terms of how long it takes to get new services in place.

Additionally, the policy doesn't address all the issues. Koprince said there is still some need for clarification about how the

"Taking action to expire CAGE codes is a step in the right direction for data quality," Smith said. "Requiring customers to renew their business information through an update to their CAGE record on a regular basis is good business for all. Ultimately, the goal is to provide current and correct information to everyone using this data."

In the first place, expiration dates will only be applied to domestic U.S. CAGE codes that are new or updated after August 25, Smith said. Records used in verification transactions will have an expiration date set if the record is saved. Records that are associated with [System for Award Management](#) registration will have their expiration dates reset based on the date of an update or assignment of a CAGE Code, Smith said. For example, if a customer renews their registration every year, their expiration date will reset every year. Or, if a customer renews an expired SAM registration, CAGE will pick up that data and reset the expiration date.

CAGE code expiration dates will be displayed in CAGE Search & Inquiry, the new search tool that launched in February as part of the new CAGE Public website. Downstream systems, will receive the updated CAGE status code just like the systems do today.

Existing CAGE records will not be assigned an expiration date until a way forward is determined for Phase 2, Smith said. Phase 2 will require auto-generated email notifications to customers whose codes will have an expiration date assigned; these notifications will be modeled after the SAM notifications and customer will receive four separate notifications to take action. After Phase 1 is complete, a test set of old CAGE records will be expired to determine the effect on the system and plan how to handle the rest of the records, she said.

*Article posted courtesy of
Information Operations Strategic
Communications of DLA*

mandatory source rule fits in with the rule of two. He said VA has been clear that procurements for Ability One and Federal Prison Industries programs still out rank the rule of two.

"The Court of Federal Claims a year or so ago agreed with VA that Ability One and Federal Prison Industries and other mandatory sources trump the rule of two. I think there is a conflict between the statutes, and of course, the Court of Federal Claims got Kingdomware wrong, so I view that as an open decision," Koprince said. "There is also a question about existing contracts. I get this from companies about whether VA can do limited competition on Schedule 70, for instance, if there are two or more qualified veteran-owned small businesses. The memo says if the companies have an existing vehicle and two or more that have them are qualified and VA wants to use them, then they can and don't have to go to the open market. GAO ruled on this a few years ago too."

Denniston added VA also needs to further address how it will address the Prime Vendor program in the medical commodities area, and whether they will split orders to say under the \$3,500 small purchase threshold. For those procurements, VA is not required to use the rule of two.

"We hope VA embraces the spirit and intent of VETS First," he said.

*Article posted courtesy of:
Jason Miller*

Agency Spam Filter Excludes Proposal; Offeror Loses Protest

An agency's spam filter prevented an offeror's proposal from reaching the Contracting Officer in time to be considered for award-and the GAO denied the offeror's protest of its exclusion.

A recent GAO bid protest decision demonstrates the importance of confirming that a procuring agency has received an electronically submitted proposal because even if the proposal is blocked by the agency's own spam filter, the agency might not be required to consider it.

GAO's decision in [Blue Glacier Management Group, Inc., B-412897 \(June 30, 2016\)](#) involved a Treasury Department RFQ for cybersecurity defense services. The RFQ was issued as a small business set-aside under GSA Schedule 70.

The RFQ required proposals to be submitted by email no later than 2:00 p.m. EST on November 9, 2015. The RFQ advised that the size limitation for electronic submission was 25MB.

Blue Glacier Management Group, Inc. electronically submitted its proposal at 10:55 a.m. EST on the due date. The total size of BG's attachments was below the 25MB limitation specified in the RFQ.

But unbeknownst to BG or the contracting officer, the email was captured in the agency's spam filter. The contracting officer did not receive the proposal email or any type of quarantine/spam

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notification. Five other proposals were timely received from other offerors without incident.

BG sent a follow-up email to the contracting officer on January 29, 2016, over two months after it first submitted its proposal. But, because the contracting officer did not recognize BG as a recent offeror for the proposal, she did not respond.

Another month passed before BG followed up again by phone on February 26, 2016. The contracting officer indicated that, from her standpoint, it appeared that BG had not submitted a proposal. BG explained that it had submitted a proposal and thought it was being considered for the award.

BG re-submitted its proposal via email on February 26, 2016, just as it had done on November 9. The contracting officer again did not receive it. The contracting officer consulted with the agency's IT department and discovered the February 26 email had been captured in the spam filter. However, the IT department was unable to recover the original November 9 email because the agency's email network automatically deletes emails in spam filter after 30 days.

At this point, Treasury was in the final stages of evaluating proposals. The contracting officer declined to evaluate BG's re-submitted proposal.

BG filed a GAO bid protest challenging the agency's decision. BG's argued, in part, that BG was not to blame for the fact that its proposal (which complied with the 25MB size limit) had been blocked by the agency's spam filter.

The GAO wrote that "it is the vendor's responsibility, when transmitting its quotation electronically, to ensure the delivery of its quotation to the proper place at the proper time." However, there is an exception where a proposal is under "government control" at the proper time. In order for the government control exception to apply, "a vendor must have relinquished custody of its quotation to the government so as to preclude any possibility that the vendor could alter, revise or otherwise modify its quotation after other vendor's competing quotations have been submitted."

In this case, "because Blue Glacier did not seek prompt confirmation of the agency's receipt of its quotation, Blue Glacier's November 9 email was automatically deleted from the agency's system after 30 days." The GAO continued:

Accordingly, the agency has no way to confirm the contents of the Blue Glacier email that entered the Treasury Fiscal Services network on November 9; that is, it has no way to confirm that the November 9 email included a quotation identical to the quotation furnished by the protester on February 26. Whether the protester actually altered its quotation is not the issue; rather, the issue is whether, under the circumstances, there is any possibility that the protester could have altered its quotation. This requirement precludes any possibility that a vendor could alter, revise or otherwise modify its quotation after other vendor's competing quotations have been submitted. Because Blue Glacier was not precluded from altering its quotation her, the government control exception is inapplicable in this instance.

The GAO denied Blue Glacier's protest.

Electronic proposal submission is increasingly common, and offers many advantages. But, as the *Blue Glacier Management Group* decision demonstrates, electronic submission can also carry unique risks - like agency spam filters. As shown by *Blue Glacier Management Group*, it's a very good idea for offerors to confirm receipt of electronic proposals, just in case.

*Article posted courtesy of:
Steven Koprince and Meghan Carroll, Koprince Law, LLC*

About Us

The PTAC at SAP&DC is an economic development entity that bridges the gap between supplier and buyer in the government marketplace. The PTAC stands ready to support businesses in the Alleghenies region in their pursuit to secure contracts with local, state and/or federal government agencies nationwide by:

- Identifying niche government markets and specific contract opportunities
- Assisting with bid and proposal preparation
- Preparing the required vendor registrations
- Navigating your company through the requirements and procedures of government contracting
- Enhancing competition by obtaining applicable socio-economic certifications
- Providing guidance to ensure successful post-award contract performance

Due to the generous support of our Commonwealth and Federal funding partners, services provided by the PTAC are free of charge.

Whether you are an experienced contractor or new to the government marketplace, the PTAC will provide one-on-one counseling utilizing the following program resources to increase your share of contact awards.

PTAC Resources

- Electronic Bid Matching for products and services
- Military/Commercial specifications and standards
- Past procurement information and pricing histories
- State and Federal regulations guidance
- Professional training and outreach events
- Quality assurance and packaging guidance

Contact us today at [The PTAC at SAP&DC](#) to get started!



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