



Employer of blind North Carolinians loses first VA contract

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The nation's largest employer of the blind hasn't decided which employees will lose their jobs, but 47 people will go in the first round of cuts.

After a federal court ruling downgraded the preferential status of nonprofit employers of the blind and disabled, IFB Solutions lost its first contract with the Department of Veterans Affairs to a veteran-owned small business.

IFB Solutions has been fighting to hold onto its contracts with the VA for three years, but its latest ploy failed to prevent the VA from jettisoning one of its contracts at the end of August. Another two contracts will expire this fall, placing 137 employees at risk for losing their jobs, including 76 blind people and 15 veterans.

"People are scared. They know they're going to lose their job," blind employee and Navy veteran Scott Smith said. "Depression is already starting to set in on a lot of people. They don't know where to turn, don't know if they will have a job at the end of the month."

The company tried to delay the layoffs by filing a protest with the U.S. Government Accountability Office, alleging its competitor was violating Veterans First legislation by contracting the work out to a third party. It asked the VA to freeze the removal of its contracts until the GAO heard its protest, but a judge denied its request on Sept. 4.

"Knowing that they face that 70% unemployment rate, it's not something where you ever want to sit across from a table from someone and tell them that we don't have a spot for you," said IFB Solutions COO Dan Kelly.

The struggle over federal preference has been escalating for years, as IFB Solutions appealed each unfavorable court ruling. Its case finally hit the Supreme Court when IFB Solutions filed a petition on Monday night.

"We're exercising our right to take this to the highest court in the land to protect equal rights to employment for people who are blind," Kelly said. "We'll wait and see in the next couple of months to see if they believe our arguments and are willing to take us up in court."

Though the federal government has privileged employers of the blind ever since the New Deal, the status of these AbilityOne nonprofits sunk when Congress passed Veterans First legislation, which rated veteran-owned small businesses over AbilityOne nonprofits when awarding VA contracts.

The tug-of-war for precedence first began when PDS, a veteran-owned business in Sparta, New Jersey, sued for precedence under the Veterans First legislation. As the more recent law, Veterans First legislation carried more weight than the tradition of privileging employers of the blind.

The U.S. Court of Appeals for the Federal Circuit ruled against IFB solutions, requiring the VA to favor veteran-owned businesses above AbilityOne nonprofits.

Looking to the U.S. Supreme Court for help is dubious at best, said Cato Institute Senior Fellow Walter Olson.

“The Supreme Court takes a very small share of petitions, and a lot of the cases it takes have certain earmarks,” Olson said. “They profile these sorts of cases only infrequently. ... It sounds like a long shot, but you never know until you see what the arguments are.”

Making matters worse, none of the appellate judges dissented on the rulings against IFB Solutions.

IFB Solutions is trying to place some of the employees it must layoff.

“Knowing that the opportunities that having a job at IFB have provided people — independence, confidence, being able to buy their first home, having their first job and the pride that gives them,” said IFB Solutions CEO David Horton. “It’s tough to have to look in the face of these folks and tell them what they are faced with.”

The company’s most likely hope lies in persuading Congress to reshape the law, said Olsen.

“What are their chances to get Congress to reconsider? Because it’s Congress that put them in this box,” Olson said. “Congress will listen to some personal stories that have human interest appeal ... That would be their best chance of getting some change, but it wouldn’t be overnight. It’s always a chancy progress.”

PDS failed to immediately respond to a request for comment.