



Nonprofit that employs the blind says rival violating Veterans First legislation

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A nonprofit that employs the blind says it's illegally losing its contracts with the Department of Veterans Affairs to a business that subcontracts the work to a non-veteran-owned, large business. U.S. Rep. Virginia Foxx, R-5th District, followed with a letter highlighting the dilemma of the nonprofit, Winston-Salem-based IFB Solutions.

IFB Solutions accuses rival PDS, based in Sparta, New Jersey, of violating the rules of Veterans First legislation by subcontracting the contract work to Korrekt Optical. It also alleges the VA failed to conduct an appropriate analysis before skinning the nonprofit of its contracts.

“This ‘transition’ is tantamount to an illegal sole source contract to an entity that does not even qualify as a service-disabled veteran-owned small business,” IFB Solutions wrote in its protest to the U.S. Government Accountability Office filed Tuesday, Aug 13. “For purposes of its contracts with the VA, it appears that PDS simply operates as a pass-through entity for Korrekt.”

This is IFB Solutions' latest move as it fights a federal court ruling that could strip the nonprofit of its contracts with the VA and force it to terminate 137 employees who work in its optical factory in Winston-Salem.

When Congress passed Veterans First, legislation meant to help veteran-owned small businesses, it set off a wave of unforeseen consequences. By failing to specify who enjoyed preference for VA contracts, the legislation created a tug-of-war for the VA's business, which has pitted veteran-owned businesses against AbilityOne nonprofits that employ the blind and disabled.

After veteran-owned business PDS sued for precedence, the U.S. Court of Appeals for the Federal Circuit ruled veterans outranked AbilityOne nonprofits, following the standard practice of weighing more recent laws over their older counterparts.

The loss will cost IFB Solutions dearly. It expects to lay off 137 employees, including 76 blind workers and 15 veterans, when the VA contracts expire.

The contracts were originally set to expire this fall, but IFB Solutions expects its contracts to continue so long as the GAO considers its protest, winning its workers up to 100 days before their jobs are axed.

Blind workers face a 70% unemployment rate. Getting a job is so difficult that more than half of IFB Solutions' blind employees moved to North Carolina to find employment, said IFB Solutions CEO David Horton.

"I was meeting with my optical team on Monday, and after the meeting, many people came up to me, asking if they were going to get a paycheck on Friday," IFB Solutions Chief Operating Officer Dan Kelly said. "That is not a question that you ever want to field, especially from people who are facing a 70% unemployment rate."

When awarding government contracts, VA has given the blind precedence since President Franklin Roosevelt's New Deal. The program expanded in the 1970s, when Congress extended preferential treatment to nonprofits that employed blind or disabled people.

This precedence first became threatened in 2006, when Congress passed the Veterans First Contracting Program. Intended to help veterans start small businesses, the program favors veteran-owned businesses when awarding VA contracts. Veterans must maintain a majority ownership of the business, but the law doesn't require them to hire other veterans.

Accusing PDS of violating the rules of the Veterans First Contracting Program might win IFB Solutions the day, but it will not protect them for long, said Cato Institute Senior Fellow Walter Olson.

"If they are successful, it might solve their short-term problem, but it doesn't solve their long-term problem," Olson said. "If the law and the court's interpretation of the law is against them, they may be able to take down the one opponent, but in the longer run, there will be contractors formed who are not as vulnerable."

IFB Solutions will file an appeal to the U.S. Supreme Court in September.

It's also fighting the federal court's decision through Congress. In July, some 34 legislators signed a letter to Veterans Affairs Department Secretary Robert Wilkie detailing the plight of AbilityOne nonprofits.

On Thursday, Foxx sent a follow-up letter to Wilkie requesting his attention.

"I ask for your personal attention to ensure the VA continues contracting with nonprofit agencies that employ the blind and significantly disabled," Foxx wrote in the letter. "It is my intent to work tirelessly with the VA and other parties to find a swift, permanent, and equitable solution to preserve current AbilityOne contracts and provide further contracting opportunities in the future. Our blind and significantly disabled Americans deserve nothing less."