

Testimony of Joseph K. Forney

July 15, 2004

My name is Joseph Forney. I own VetSource Inc., a Service Disabled Veteran Owned Small Business (SDVOSB) in California. I have been in business 12 years.

I would like to thank Chairman Akin, Chairman Brown and the other members of the committees for holding this hearing today.

I will submit my written testimony for the record, and then share with the members my experiences and concerns with the Sole-Source and Restricted Competition components contained in the Veterans Benefit Act of 2003.

The Subcommittees' invitation to testify included a request to, "detail your experiences in the federal procurement process as a service-disabled veteran-owned small business, and your general thoughts on the changes made in P.L. 108-183. Additionally, you indicated that, "any positive comments regarding particular federal agencies outreach in this regard would be appreciated."

My most positive testimony would be that this Congress and especially your committees are demonstrating their dedication and commitment to help in the rehabilitation of our country's Service Disabled Veterans. They are doing so by ensuring that federal agencies have the tools and use these tools to bring new Service Disabled Veteran-Owned Small Businesses into the federal procurement arena.

Experiences with federal procurement opportunities I will share today are largely personal, and will center on the Department of Veterans Affairs.

Among the products my company sells are air-conditioning filters. I chose this particular commodity as my lead product to the VA because of its simplicity and its uniform usage throughout federal buildings.

Another attractive feature of this commodity that immediately struck me is that there is no standardization or centralized procurement for filters within the VA. It seems to be an ideal product to identify, standardize, and obtain a contract for through either Sole-Source or Restricted Competition authority, the two components found in P.L. 108-183.

I currently hold contracts for my filters with the country's largest utility company, Sempra Energy Company, which includes San Diego Gas and Electric and Southern California Gas Co.

I have made a concerted effort to prove myself and my product to the private sector. And one would think that it would be a natural fit within the VA.

To date I have not seen one solicitation, nor have I been able to obtain a contract with Department of Veterans Affairs. In fact, though I have sought assistance from the VA Office of Small and Disadvantaged Business Utilization for several years, I have never been successful in obtaining a contract with the VA.

I have marketed my firm to the VA, specifically VISN 22, which is my home district and the VISN within which I'm seen as an outpatient in Southern California.

One of my employees made a call concerning air filters to the maintenance supervisor at the VA Medical Center in Loma Linda, California.

He was informed that there were no opportunities to provide air conditioning filters as they were happy with their current supplier. When my employee asked him if he was familiar with the new law, he was informed, "we're not here just to serve veterans." Upon hearing this news I was stunned.

With my years of advocating here in Washington, I was able to get an audience with Mr. Tom Ryan, senior adviser to the Deputy Secretary of the U.S. Department of Veterans Affairs.

Mr. Ryan met with me and another Service Disabled Veteran business owner from California, who also had been to the same VA hospital in Loma Linda, except that he was informed with respect to the new VA policy concerning sole source and restricted competition contracts for Service Disabled Veterans that, "we get that stuff from Washington all the time, we don't pay any attention to that."

My fellow SDV business owner and I related our experiences to Mr. Ryan. Mr. Ryan was shocked to hear that we were met with such recalcitrance.

Mr. Ryan, I, and my associate went downstairs and met with Mr. David Derr, deputy assistant secretary for acquisition and material management. We informed him of our experiences and he asked us to contact Mr. Richard Trevino, director of VISN 22, and to keep him apprised of our dealings with Mr. Trevino.

On June 21, 2004, a group of five Service-Disabled Veteran business owners attended a meeting with Mr. Trevino and three of his staff members.

When Mr. Trevino was informed of our treatment at the hands of his employees at Loma Linda Medical Center, Mr. Trevino stated that the purchases that are being made by his maintenance people at the hospital within his VISN were beyond his control and that there was a cultural bias. I then asked Mr. Trevino, "what do you think it would take to break this cultural bias, AN ACT OF CONGRESS?"

We then requested a following meeting with his chief maintenance people at his facility with us in attendance. It was my intention that we would have a follow-up meeting before this hearing, which would allow me to come to you folks with a success story. As of yet that meeting has not taken place.

Sempra Energy was recently awarded a contract by VISN 22 to reduce the energy consumption at the VA Medical Center located in La Jolla, California, just outside of San Diego. This contract is valued at an estimated \$8 million. The purpose of the contract is to find cost savings through energy-efficiency. One of the reasons I have an

ongoing contract with Sempra Energy for my air-conditioning filters is their superior craftsmanship and cost-saving qualities.

Ronald Ferrer, associate director of VISN 22, informed me that he was the contracting officer for this contract. I asked him if Sempra was awarded this contract even if there was ZERO (0) procurement participation with Service Disabled Veteran businesses. I asked Mr. Ferrer if he would please provide me with a copy of form numbers 294 and 295. As you know, these forms indicate the extent of procurement participation by SDVOSB's, if any. To date I have not received these forms, nor have I heard back from Mr. Ferrer.

His lack of correspondence may reflect the VA's failure to require its prime contractors to comply with to the 3 percent subcontracting goal mandated by P.L. 106-50. According to the Federal Procurement Data Center Summary Subcontract Report for FY 2002, the VA's prime contractors achieved a mere .02% procurement spending with SDVOSBs in that year.

I have also attempted to sell air conditioning filters to VISN 19. I've traveled to Denver numerous times to speak with many various VA officials and other employees. After contacting a maintenance worker at the Denver VA Medical Center who is tasked with the acquisition and periodic changing of the filters, he informed me that they, "don't bid air-conditioning filters" and that "the same company has been providing them for over 10 years."

I then found my way to Danny Freeman, a VISN 19 contracting officer headquartered in Glendale, Colorado. I related the information I received from the maintenance worker at the Denver VAMC. Mr. Freeman stated, "you may have something here." He then promised me that he would check with the six medical centers within his VISN, ascertain how filters are being purchased, and get back to me with his findings. I have not received any further communication from Mr. Freeman, though the date of that meeting was June 10, nearly 35 days ago.

Finally, the 2004 GSA Global Supply Catalog displays a standard air conditioning filter and lists the best price at \$1.73. I would have

trouble sleeping at night if I sold this product to the government for more than \$1.00.

Another group of SDVOSBs from California that provides equipment to state and federal agencies during our all too frequent forest fires contacted the U.S. Department of Agriculture. As you know, this agency oversees the Forest Service. A letter was sent in December, 2003, to Mr. David Shea, chief of that agency's procurement policy division, looking for new opportunities as a result of the Veterans Benefit Act of 2003. On the very day the interim rules were published in the Federal Register, Mr. Shea wrote a letter attributing his agency's failure to meet the 3% goal "to the lack of known SDVOSB firms."

Another paragraph in Shea's letter is highly descriptive of the general response many SDVOSBs have reported hearing from federal contract officials since enactment of P.L. 108-183: "I point out that the use of these authorities is discretionary, not mandatory."

In fiscal year 2002, three years after enactment of P.L. 106-50, the U.S. Army spent just .04% of its procurement budget with SDVOSBs. With this service branch's procurement spending growing at an average of little more than ten hundredths of a percent a year, Service Disabled Veterans would wait 300 years to see the 3% mandated goal achieved! Yet, thirty- seven federal agencies spent nothing in the same year.

To end my statement on a positive note, however, I'd like to call attention to the dedicated efforts of Major James Blanco, assistant to the Director, Office of Small and Disadvantaged Business Utilization and the entire Army OSDDBU unit.

In order to ensure that SDVOBs benefit from P.L. 108-183 during their lifetime, the Major and I are working on a plan to help support returning wounded servicemembers from Iraq and Afghanistan. It is our mission to identify those wounded veterans and pair them up with established SDVOSBs to obtain federal contracting opportunities.

We have dubbed this the *Battle Buddy Program*. The Major and I believe, as your committees and the entire Congress of the United

States of America believe, that THE REHABILITATION OF OUR
SERVICE DISABLED VETERANS IS MANDATORY, NOT
DISCRETIONARY!

Thank you for your support of this most worthy endeavor.

Joseph K. Forney SDV-USN