



Decision

Matter of: Magellan Solutions USA, Inc.

File: B-424079

Date: January 29, 2026

Xerxes S. Hammond for the protester.

Natica Chapman Neely, Esq., Department of Veterans Affairs, for the agency.

Kasia Dourney, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly procured switchboard operating services from AbilityOne non-profit agency, rather than from service-disabled veteran-owned small business, is denied where protester fails to show that the procurement violated the requirements of the Department of Veterans Affairs Contracting Preference Consistency Act.

DECISION

Magellan Solutions USA, Inc., a service-disabled veteran-owned small business (SDVOSB) of Melbourne, Florida, protests the Department of Veterans Affairs' (VA) decision to award a sole-source contract to VIA Visually Impaired Advancement for switchboard operation services at the Buffalo VA Medical Center (VAMC) in Buffalo, New York. The protester contends that the agency improperly awarded the contract to VIA, an AbilityOne non-profit agency, without establishing that the requirement qualifies as a "covered service" under the Department of Veterans Affairs Contracting Preference Consistency Act (Consistency Act), Pub. L. No. 116-155, § 2, 134 Stat. 698, 698-699 (2020), and section 8127(d)(2) of title 38 of the United States Code. The protester contends that the agency was instead required to consider setting aside the requirement for SDVOSBs.

We deny the protest.

On October 2, 2025, the VA published an award notice on the SAM.gov¹ (System for Award Management) website, announcing its sole-source award of a contract to VIA. Contracting Officer's Statement (COS) at 1; Agency Report (AR), Exh. 3, Award Notice at 1. The award notice indicated that the agency was procuring the services under the AbilityOne program.² AR, Exh. 3, Award Notice at 1.

After the agency posted the notice, Magellan submitted this protest. Magellan generally asserts that the agency improperly procured these services under the AbilityOne program instead of setting the requirement aside for SDVOSBs. See, *generally*, Protest. Specifically, the protester contends the VA failed to show it was permitted to procure the services at issue from an AbilityOne non-profit agency, with the agency improperly relying on a "narrow AbilityOne exception" created by the Consistency Act, which requires that: (1) the product or service being sought has been on the AbilityOne procurement list "on or before December 22, 2006, and (2) an AbilityOne contract for that same requirement [was] in effect on August 7, 2020."³ *Id.* at 2. As such, Magellan

¹ The SAM.gov website is the current governmentwide point of entry, which serves as "the single point where Government business opportunities greater than \$25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public." Federal Acquisition Regulation (FAR) 2.101.

² The AbilityOne program is among the nation's largest sources of employment for people who are blind or have significant disabilities. The program is administered by the U.S. AbilityOne Commission, which is the operating name for the Committee for Purchase From People Who Are Blind or Severely Disabled, which Congress established pursuant to the Javits-Wagner-O'Day (JWOD) Act. The AbilityOne Commission has the exclusive authority to establish and maintain a procurement list of supplies and services provided by qualified non-profit agencies for the blind or significantly disabled under the AbilityOne program. 41 U.S.C. §§ 8502(a), 8503(a); 41 C.F.R. § 51-2.8.

The JWOD Act provides governmentwide authority for noncompetitive acquisitions for specified supplies or services. See FAR 6.302-5(b)(2); subpart 8.7. Federal agencies are required to obtain all supplies and services that are on the procurement list from a central non-profit agency or their designated AbilityOne participating non-profit agencies. FAR 8.705-1(a). The switchboard services being procured here have been on the procurement list maintained by the AbilityOne Commission since 1996. AR, Exh. 4, Additions to the Procurement List, 61 Fed. Reg. 21444 (May 10, 1996).

³ Magellan asserts that the VA failed to provide "documentary evidence" demonstrating that an AbilityOne contract for switchboard operation services at the Buffalo VAMC was in effect on August 7, 2020. Protest at 1-2; Comments at 2. The protester also contends that the agency failed to conduct a "written scope-equivalency" determination to show that the instant requirement is "essentially the same" as the switchboard

(continued...)

alleges that by awarding the contract under the AbilityOne program--without first satisfying the requirements of the Consistency Act--the agency violated the "Rule of Two," *i.e.*, the statutory obligation to give priority to SDVOSBs under 38 U.S.C. § 8127(d), which requires the agency to set aside a procurement for SDVOSBs when there are two or more qualified firms that can perform the work at fair and reasonable prices.

The VA argues that the protester "cites to no authority to demonstrate that SDVOSB vendors have priority for VA procurements pursuant to 38 U.S.C. § 8127 over the qualified non-profit agency for the blind where the required services have been on the [p]rocurement [l]ist since June 10, 1996." Memorandum of Law (MOL) at 5. The VA adds that Magellan "fails to provide any authority requiring the [a]gency to provide documentary evidence to [p]rotester demonstrating that an AbilityOne contract for switchboard operation services for the Buffalo VAMC was in effect on August 7, 2020[.]" *Id.* Similarly, the agency maintains that Magellan failed to demonstrate the VA had to prove that the procured services are "essentially the same as the switchboard operation services listed on the AbilityOne [p]rocurement [l]ist." *Id.* Finally, the agency contends that the protester "fails to demonstrate, or even claim, that the VA Rule of Two can be satisfied here or that an SDVOSB sole-source award is required by statute." *Id.* We agree with the agency and deny Magellan's protest.

The Veterans First Contracting Program, established by the Veterans Benefits, Health Care, and Information Technology Act of 2006, codified at 38 U.S.C. § 8127, provides the VA with independent authority to set aside procurements for SDVOSB and veteran-owned small business (VOSB) concerns. 38 U.S.C. § 8127; *Buy Rite Transport*, B-403729, B-403768, Oct. 15, 2010, 2010 CPD ¶ 245 at 2-3. Under the Veterans First Contracting Program, and its "Rule of Two," the VA is required to set aside all acquisitions for SDVOSB or VOSB under the "Rule of Two." 38 U.S.C. § 8127(d)(1).

The Consistency Act, signed into law on August 8, 2020, addresses the interplay between the JWOD Act and the Veterans First Contracting Program by introducing an exception to the application of the Rule of Two. Department of Veterans Affairs Contracting Preference Consistency Act of 2020, Pub. L. No. 116-155, § 2, 134 Stat. 698, 698-699 (2020). The Consistency Act amended 38 U.S.C. § 8127 and requires VA contracting officers to procure items meeting the definition of "a covered product or service" from a qualified AbilityOne non-profit agency, notwithstanding the statute's general preferences for setting aside procurements for SDVOSB or VOSB concerns. *Id.*; 38 U.S.C. § 8127(d)(2)(A). A "covered product or service" is defined as a

(...continued)

operation services listed on the procurement list. Protest at 1-2; Comments at 1-2. Accordingly, the protester contends that the agency has not established that the requirement qualifies as a "covered service," a requirement for AbilityOne procurements under the Consistency Act and 38 U.S.C. § 8127(d)(2). Protest at 1-2; Comments at 2.

product or service that is currently listed on the procurement list and that was added to the procurement list on or before December 22, 2006. 38 U.S.C. § 8127(d)(2)(C).

Here, we note that the switchboard operation services for the Buffalo VAMC have been on the procurement list maintained by the AbilityOne Commission since May 10, 1996. AR, Exh. 4, Additions to the Procurement List, 61 Fed. Reg. 21444 (May 10, 1996). In addition, an AbilityOne qualified agency for the blind has been performing the services “that are the subject of this protest uninterrupted since June 10, 1996.” MOL at 5 n.5. The protester disputes both of these points but has not provided evidence demonstrating that the agency’s representations are incorrect. And, while the protester speculates that the scope of the services has changed, it has not demonstrated that the 1996 procurement list entry for “Switchboard Operation” at the Buffalo VAMC, AR, Exh. 4, Additions to the Procurement List, 61 Fed. Reg. 21444 (May 10, 1996), would no longer apply to Buffalo VAMC switchboard operations occurring as part of the instant requirement. Finally, Magellan fails to demonstrate, or even allege, that the VA could procure the services at issue here satisfying the “Rule of Two.”

In sum, we conclude that consistent with the JWOD Act and the Consistency Act, the agency was required to procure the services from an AbilityOne qualified agency for the blind, which it did here with an award to VIA. The agency therefore properly did not consider an award to an SDVOSB.

The protest is denied.

Edda Emmanuelli Perez
General Counsel