



FIRST CALL

www.nvsbc.org

May 2023



As this is my final entry in First Call, I simply want to say “Thank You” for allowing me to be a part of your Veteran small business journey. It has been an honor and privilege to be of service to you. I truly hope I made a difference in helping you grow your small business. I want to take this time to personally thank for these amazing people for their advice, generosity, guidance, and friendship throughout my time at the NVSBC. Their leadership, professionalism, and extensive knowledge of the Veteran small business community was instrumental and a big influence in my success. I had too much fun to call this a job, but they made working in this position a wonderful experience.

THANK YOU...

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Scott Jensen, Zack Armstrong, Staff and Board of Directors,

Being around this passionate group of professionals is astounding (minus my 3-month “vacation” ☺)! Sometimes I’m in awe in what you guys “cook up in the kitchen” to help veteran small businesses achieve their dreams. I wish everyone could witness the incredible synergy within this group that I hope to recreate in the future. Thank you for the opportunity to allow me to turn your ideas and vision into reality.

And to my friend, mentor and brother, *Scott Denniston*. Can’t believe it has been 23 years since that faithful day at The Pentagon studio. You took me under your wing and helped me both professional and personally through your wisdom, humor and at time tough love. Thank you for the opportunity and believing in me. I’m forever grateful!

Earl Morgan aka “The Batman”
Professional Photographer
Former Program Director, NVSBC

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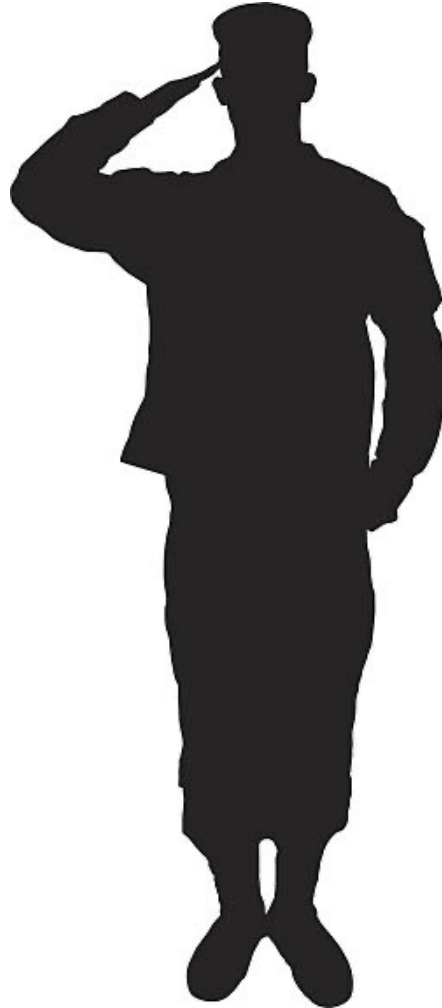
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Charting a Course Through the Next Recession

The global economy has been on an upward trajectory since the start of the decade, with growth rates reaching all-time highs in many countries. However, there is growing evidence that we are at a tipping point. Experts have been warning for some time now that the next recession could be just around the corner, and many are now predicting that it could hit as soon as 2023.

What CEOs are Doing to Prepare for a Recession in 2023?

As the economy begins to slow down in the face of a potential recession, CEOs across industries are taking steps to prepare their organizations for the coming economic downturn. In a recent survey of CEOs from various industries, the consensus was that CEOs are taking proactive steps to weather the storm and stay ahead of the competition. Many CEOs are taking a conservative approach to their budgeting and spending. They are cutting costs in areas that are not essential to the business and are taking a wait-and-see stance on new investments. They are also investing more in technology to automate processes and streamline operations, reducing the need for additional labor. Other CEOs are turning to more creative solutions. They are looking for new markets to explore, new products and services to develop, and new ways to monetize their current offerings.

They are also seeking out strategic partnerships and alliances with other organizations in their industry to leverage their resources and capabilities. Finally, many CEOs are adopting a long-term view. They are developing plans for the future, focusing on creating strong foundations for their businesses and looking for ways to diversify their income sources. They are also considering investments in employee development and training, and are investing in developing their organizational culture. By taking these proactive steps, CEOs are ensuring that their businesses are ready to weather the storm and remain competitive. As the economy fluctuates, it is important for CEOs to be prepared for the long term and focus on creating a strong foundation for their organizations.

How CEOs Can Overcome Recession Problems?

[The 2020 recession](#) has been especially rough for business leaders, with many companies facing challenges that have never been seen before. As the recovery begins, it's time to look ahead to the next recession—which may be just around the corner. As the CEO, it's your job to prepare for the next downturn. Here are a few strategies that can help you weather the storm:

- 1. Review your cost structure:** During recessions, cash flow is often tight, so it's important to review your cost structure and identify areas where you can cut back. Look for ways to reduce overhead, streamline processes, and eliminate unnecessary expenses.
- 2. Prune unproductive customers, products, and services:** Examine outcomes with an 80/20 lens. Frequently, cutting aspects of your business that do not bear fruit frees up time and financial resources to feed the parts that matter.

Focus on customer experience: During a recession, customer loyalty is more important than ever. Make sure your customers are getting the best possible experience with your products and services. Invest in customer service and look for ways to differentiate your business in the market. Joey Colman has a great approach in his book *Never Lose a Customer Again*.

Maximize the use of technology: Technology can be a great way to streamline processes, cut costs, and improve customer service. Invest in the right tools and systems to help your business become more efficient and effective. Artificial Intelligence and robotics are expected to dramatically impact how we work sooner than you may think.

Build relationships with lenders: When cash flow is tight, having access to capital can be a lifesaver. Build relationships with lenders and other funding sources ahead of time so you can access the resources you need when the time comes.

Focus on cash flow: Managing cash flow is one of the most important things you can do to ensure the survival of your business during a recession. Make sure you have visibility into your cash flow and look for ways to optimize it including building a reserve.

Strategies for Charting a Course Through the Next Recession

The next recession is looming, and many business leaders are feeling uncertain about how to best prepare for what lies ahead. To better understand the strategies CEOs are using to navigate these uncertain times, a survey was done by Bloomberg across the United States in the early months of 2023. The results of the survey indicate that CEOs are primarily focused on maintaining financial health and stability within their organizations. To achieve this, they are focused on cutting costs, increasing efficiency, and diversifying their revenue streams. Many CEOs are also leveraging technology to innovate and increase their competitive advantage.

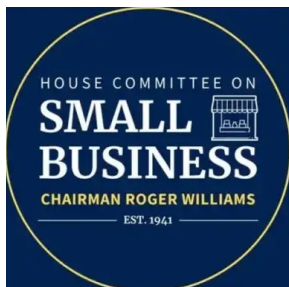
This includes investing in new software, automating processes, and capitalizing on the opportunities that digital transformation can bring. CEOs are developing new strategies for retaining and motivating employees, while also exploring ways to make their organization more agile and responsive to changing customer needs. Finally, CEOs are looking to the future and focusing on long-term sustainability. This includes developing strategies for investing in new markets, developing new products and services, and creating resilient business models that can withstand the next recession. By focusing on financial stability, leveraging technology, engaging their teams, and looking to the future, CEOs can chart a course that will carry their organizations through the next recession and beyond.

Conclusion: Preparing for the Future in Uncertain Economic Times

While the specifics of the recession are unknown, the advice of the surveyed CEOs is clear: build robust financial reserves, diversify revenue streams, invest in technology, and prepare to be flexible and adaptive. By taking these steps, businesses will be better positioned to weather the storm when it arrives, and to emerge stronger and more agile on the other side. By taking proactive steps now, businesses can be prepared for whatever the future may bring.

KIRK W. MCLAREN MBA, CPA, IFM | CEO Foresight CFO | Georgetown University Lecturer
Having built and sold his first company before graduating from high school, Kirk is a natural at building growth companies and helping talented CEOs and their leadership teams exploit opportunities by obliterating obstacles that might get in their way.

Labor Shortage Issues Examined in Subcommittee Hearing on Innovation, Entrepreneurship, and Workforce Development



Small businesses across the United States are experiencing a severe labor shortage, according to a hearing held by the Small Business Subcommittee on Innovation, Entrepreneurship, and Workforce Development. The hearing, titled “Help Wanted: Exploring How Alternative Paths to Student Debt Can Help to Strengthen Small Business,” aimed to examine the labor shortage and explore potential solutions to help small businesses recruit and retain workers.

During the hearing, Meloni Raney, President and CEO of TEXO, addressed the perception issue with the construction industry. She stated that many people view construction as a last resort career option, which is not only untrue but also a significant barrier to entry for the industry. To combat this perception, TEXO works to show middle and high school students the potential for a bright career in construction, the salary ranges, and the opportunities available. Raney explained that TEXO puts people who look like the students in front of them to showcase that construction is open to anyone. TEXO starts engaging with students in middle school and follows them throughout their high school journey to bring them into the industry.

Chairman Molinaro echoed Raney’s sentiments and stated that the current education structure is not working and demoralizes some of the brightest minds. He emphasized the need for alternative education structures that cater to different skill sets and interests. Rep. Ellzey highlighted the need for guidance counselors to guide students towards alternative career paths, and Raney agreed, stating that building relationships with students and partnering with specific schools can lead to success in recruiting and retaining workers.

Chairman Williams brought up the issue of occupational licensing, which can become a barrier to entry for certain individuals seeking to enter specific career paths. Ms. Patrice Onwuka explained that occupational licensing is a state-level issue that can prevent immigrants, people with criminal records, and military spouses from participating in certain occupations. Chairman Williams emphasized the need to address these credentialing issues and fill the gap in the labor market to complete the circle of the economy and business.



Don't Make The Most Common Bid Protest Mistakes! Part 8: ALWAYS Intervene!

Hello loyal readers! After a brief hiatus last month, we are back! Thanks for your patience. I hope you are excited because we are now officially in the home stretch of our 10-part series covering common contractor bid protest mistakes! So far, we have covered: [the difference between size/status protests and bid protests](#); [protest deadlines for protests challenging solicitation terms](#); [exclusions from the competitive range](#); [post-award protest deadlines](#); [demystifying debriefings](#), [jurisdictional limits on task award protests](#) and, last time, [prejudice](#). This month, we are tackling **Intervention**.

So, you may be asking, what *is* intervention in the bid protest context? Well, “intervening” in a bid protest is what a contractor does in order to enter bid protest litigation when their award has been challenged. In other words, if you went after a contract opportunity and (good news) got it! - but (bad news) later found out that your contract award was protested by a disgruntled competitor, you may **intervene** in the protest that was filed. Many contractors think they are without options, or are unable to be involved in the protest process in this type of situation. That is not true. But to get involved, and make a difference, contractors need to know the rules and best practices relating to intervention.

Remember what we covered way back in installment one: *Bid protests* concern a challenge to the action taken by the agency in connection with a specific procurement – like selecting inappropriate terms for a solicitation, or the miscalculation of offerors’ proposals. In contrast, *size/status protests* focus on a competitor’s eligibility for the set-aside contract at issue. Because a bid protest technically challenges the *agency’s* actions in connection with the source selection, government counsel will step in to defend its actions, and the subsequent award decision. If the protest is at the GAO, it will be agency counsel defending the award. At Court of Federal Claims, it will be the Department of Justice, supported by agency counsel. A lot of contractors wonder: “If the government is going to step in to defend my award, why shouldn’t I just sit back and let them?” Admittedly, it is a good question. But the answer is that, if protested, you need to intervene because **no one but YOU is going to protect YOUR interests**. The government is looking out for the *government’s* interests. Which at times *can* be, but will not *always* be, the same as yours.

Indeed, though at the outset of any protest, your interests might align with those of the government – i.e. you both want the award decision to stand, and for you to keep the award – things can change quickly as litigation unfolds. For example, the government might be swayed that corrective action is necessary and wish to cancel your award and redo the source selection evaluation in whole or in part. Even if corrective action does not become an issue, government counsel might be new and inexperienced, or miss or disagree with an argument you think is critical to winning the protest and keeping your award. In order to have any say where the bid protest litigation goes, you have to be admitted as a party to the litigation. In other words, you must intervene.

The good news is that it is pretty quick and easy to do so. Your lawyer can file a simple document stating that you were the awardee, that you therefore have an interest in the case, and asking for permission to intervene in the case. Once permission to intervene is granted, your lawyer will have to file another quick form gaining access to the protected bid protest litigation

docket and documents. After that, it is up to your lawyer and you how much effort (and legal fees) you want to expend. The key, though, is that if you intervene, you have your foot in the door and therefore have the ability to make that decision. Without it, you are left in the dark, waiting weeks if not months to hear from the government about whether they canceled your award or not. After intervening, you can monitor filings, discuss strategy with government counsel, and modulate your efforts depending on how convincing the protestor's arguments are, and how well you believe government counsel has the situation handled. I have been involved in cases, intervening on behalf of a client, where the government counsel was knocking it out of the park. So we sat back and let them; we joined in their briefs rather than write our own and, as a result, legal costs were comparatively small. But even with so little effort spent, my contractor client had peace of mind, knowing how the case was going and the likelihood of success. The client could plan accordingly in terms of staffing, budget, and BD pipeline. In other cases, I have had to take a laboring oar, drafting supplemental briefs to cover critical arguments I felt the government counsel had missed or covered insufficiently. In those cases, had we not intervened, my clients likely would have lost their awards. Intervention saved them.

Best practice is to intervene as soon as possible after you receive notice of the protest. This allows you to be part of the discussion with government counsel concerning potential motions to dismiss. That happens very quickly, usually within the first after protest filing. You absolutely want to be in the litigation, and admitted to the protective order, by the time the agency record is circulated (30 days after the protest was filed). The Agency record will contain a CO statement and legal memorandum, which explains the government's response and rebuttal to the protestor's arguments. You, like the protestor, will then have 10 days after the AR is filed to draft "Comments to the Agency Report," to the extent you feel them necessary.

With regard to the kinds of defenses you can raise, there are all sorts. You might argue for dismissal based on the protestor's failure to timely file (you will remember from our previous installments how tricky it is to properly calculate bid protest deadlines), or on the basis that the protest is pure speculation. You might be able to raise arguments about jurisdiction, standing, or prejudice (all of which we have discussed in prior posts). The key is to find anything you can to defeat the protest and keep your award.

Though this series is focused on bid protests, I do want to offer one critical clarification regarding size and status protests, and that is: Everything I said above pertains to bid protests only. Remember that, unlike bid protests, size and status protests do not allege that the government did anything improperly. Accordingly, government counsel does NOT step in to defend the award. The key issue(s) in size and status protests relate to the eligibility of the awardee. Which means, if you are an awardee whose eligibility is challenged, the government is not coming to help you. It is on you – and you alone – to defend your eligibility and keep your award.

If you have questions about bid protest intervention, or size/status protest defense, consult a legal professional.

[Maria Panichelli is a partner in McCarter & English LLP's Government Contracts & Global Trade group, and she focuses her practice exclusively on federal contracting and small business procurement. McCarter's more than 375 sophisticated and exceptionally skilled lawyers in 11 offices deliver solid results and innovative solutions to our clients nationwide. We are trusted business advisors to our clients, which include an array of Fortune 100, mid-market, and emerging growth companies. Check out the NVSBC's webinar 'Charlie Mike' featuring Maria Panichelli on the \['Top Ten Tips About Protests: Fighting for and Keeping the Contracts You Deserve.'\]\(#\)](#)

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10
May



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FIRST CALL

NVSBC's First Call newsletter delivers Veteran-focused small business information training content and information on small business operations, laws, rules, and regulations. 12 issues per year are provided to an audience of greater than 48,000. This newsletter is co-authored by recognized leaders in the SDVOSB/VOSB and small business communities and provides timely updates to upcoming events and activities.

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