

116TH CONGRESS  
1ST SESSION

# H. R. 1615

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. KELLY of Mississippi (for himself, Mr. CHABOT, Mr. STAUBER, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. FITZPATRICK, Mr. BERGMAN, Ms. KUSTER of New Hampshire, Mr. WATKINS, Mrs. RADEWAGEN, Ms. VELÁZQUEZ, Mr. DAVID P. ROE of Tennessee, Mr. DUNN, Mr. BANKS, Mr. CURTIS, Mr. BALDERSON, Mr. BURCHETT, Mr. CROW, Mr. HAGEDORN, Mr. BILIRAKIS, Mr. JOYCE of Pennsylvania, and Mr. STIVERS) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Verification Alignment and Service-disabled Business  
4 Adjustment Act” or the “VA–SBA Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Transfer date.
- Sec. 3. Amendment to and transfer of veteran-owned and service-disabled veteran-owned business database.
- Sec. 4. Dollar threshold for sole source awards to small business concern owned and controlled by service-disabled veterans.
- Sec. 5. Additional requirement for database.
- Sec. 6. Procurement program for small business concerns owned and controlled by service-disabled veterans.
- Sec. 7. Certification for small business concerns owned and controlled by veterans.
- Sec. 8. Status of self-certified small business concerns owned and controlled by service-disabled veterans and veterans.
- Sec. 9. Transfer of the Center for Verification and Evaluation of the Department of Veterans Affairs to the Small Business Administration.
- Sec. 10. Report.

7 **SEC. 2. TRANSFER DATE.**

8 For purposes of this Act, the term “transfer date”  
9 means the date that is 2 years after the date of enactment  
10 of this Act, except that such date may be extended an un-  
11 limited number of times by a period of not more than 6  
12 months if the Administrator of the Small Business Admin-  
13 istration and the Secretary of Veterans Affairs jointly  
14 issue a notice to Congress and the Law Revision Counsel  
15 of the House of Representatives containing—

16 (1) a certification that such extension is nec-  
17 essary;

1           (2) the rationale for and the length of such ex-  
2           tension; and

3           (3) a plan to comply with the requirements of  
4           this Act within the timeframe of the extension.

5 **SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-**  
6 **OWNED AND SERVICE-DISABLED VETERAN-**  
7 **OWNED BUSINESS DATABASE.**

8           (a) AMENDMENT OF VETERAN-OWNED AND SERV-  
9 ICE-DISABLED VETERAN-OWNED BUSINESS DATA-  
10 BASE.—Effective on the transfer date, section 8127 of  
11 title 38, United States Code, is amended—

12           (1) in subsection (e)—

13                   (A) by striking “the Secretary” and insert-  
14                   ing “the Administrator”; and

15                   (B) by striking “subsection (f)” and insert-  
16                   ing “section 36 of the Small Business Act”;

17           (2) in subsection (f)—

18                   (A) by striking “the Secretary” each place  
19                   such term appears, other than under paragraph  
20                   (7) and in the last place such term appears  
21                   under paragraph (2)(A), and inserting “the Ad-  
22                   ministrator”;

23                   (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking  
2 “to access” and inserting “to obtain from  
3 the Secretary of Veterans Affairs”; and

4 (ii) by striking subparagraph (B) and  
5 inserting the following:

6 “(B) For purposes of this subsection—

7 “(i) the Secretary of Veterans Affairs  
8 shall—

9 “(I) verify an individual’s status as a  
10 veteran or a service-disabled veteran; and

11 “(II) establish a system to permit the  
12 Administrator to access, but not alter,  
13 such verification; and

14 “(ii) the Administrator shall verify—

15 “(I) the status of a business concern  
16 as a small business concern; and

17 “(II) the ownership and control of  
18 such business concern.

19 “(C) If the Administrator receives an applica-  
20 tion from an individual with respect to a business  
21 concern for inclusion in the database, but the indi-  
22 vidual’s status as a veteran or service-disabled vet-  
23 eran, the business concern’s status as a small busi-  
24 ness concern, or the ownership and control of such  
25 business concern cannot be verified under subpara-

1 graph (B), the Administrator may not include the  
2 business concern in the database maintained by the  
3 Administrator.”;

4 (C) by striking paragraphs (4) and (7);

5 (D) by redesignating paragraphs (5) and  
6 (6) as paragraphs (4) and (5), respectively, and  
7 redesignating paragraph (8) as paragraph (6);  
8 and

9 (E) in paragraph (6), as so redesignated—

10 (i) in subparagraph (B)(ii)—

11 (I) by amending subclause (I) to  
12 read as follows:

13 “(I) the Secretary of Veterans Affairs or  
14 the Administrator; or”; and

15 (II) in subclause (II), by striking

16 “the contracting officer of the Depart-  
17 ment” and inserting “the applicable  
18 contracting officer”; and

19 (ii) by striking subparagraph (C);

20 (3) by redesignating subsection (k) (relating to  
21 definitions) as subsection (l);

22 (4) by inserting after subsection (j) (relating to  
23 annual reports) the following:

24 “(k) ANNUAL TRANSFER FOR CERTIFICATION

25 COSTS.—For each fiscal year, the Secretary of Veterans

1 Affairs shall reimburse the Administrator in an amount  
2 necessary to cover any cost incurred by the Administrator  
3 for certifying small business concerns owned and con-  
4 trolled by veterans that do not qualify as small business  
5 concerns owned and controlled by service-disabled veterans  
6 for the Secretary for purposes of this section and section  
7 8128. The Administrator is authorized to accept such re-  
8 imbursement. The amount of any such reimbursement  
9 shall be determined jointly by the Secretary and the Ad-  
10 ministrator and shall be provided from fees collected by  
11 the Secretary under multiple-award schedule contracts.  
12 Any disagreement about the amount shall be resolved by  
13 the Director of the Office of Management and Budget.”;  
14 and

15 (5) in subsection (k) (relating to definitions), as  
16 so redesignated, by adding at the end the following:

17 “(4) The term ‘Administrator’ means the Ad-  
18 ministrator of the Small Business Administration.”.

19 (b) TRANSFER OF REQUIREMENTS RELATING TO  
20 DATABASE TO THE SMALL BUSINESS ACT.—Effective on  
21 the transfer date, subsection (f) of section 8127 of title  
22 38, United States Code (as amended by subsection (a)),  
23 is transferred to section 36 of the Small Business Act (15  
24 U.S.C. 657f), inserted so as to appear after subsection (e).

1 (c) CONFORMING AMENDMENTS.—The following  
2 amendments shall take effect on the transfer date:

3 (1) SMALL BUSINESS ACT.—Section  
4 3(q)(2)(C)(i)(III) of the Small Business Act (15  
5 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking  
6 “section 8127(f) of title 38, United States Code”  
7 and inserting “section 36”.

8 (2) TITLE 38.—Section 8128 of title 38, United  
9 States Code, is amended by striking “section  
10 8127(f) of this title” and inserting “section 36 of  
11 the Small Business Act”.

12 **SEC. 4. DOLLAR THRESHOLD FOR SOLE SOURCE AWARDS**  
13 **TO SMALL BUSINESS CONCERN OWNED AND**  
14 **CONTROLLED BY SERVICE-DISABLED VET-**  
15 **ERANS.**

16 (a) SMALL BUSINESS ACT.—Effective on the transfer  
17 date, section 36(c) of the Small Business Act, as redesign-  
18 nated by section 6(a)(2), is amended—

19 (1) by striking the first dollar figure and insert-  
20 ing “\$7,000,000”; and

21 (2) by striking the second dollar figure and in-  
22 sserting “\$5,000,000”.

23 (b) TITLE 38.—Effective on the transfer date, para-  
24 graph (2) of section 8127(c) of title 38, United States  
25 Code, is amended to read as follows:

1           “(2) the anticipated award price of the contract  
2           will not exceed the amount described under section  
3           36(c) of the Small Business Act; and”.

4 **SEC. 5. ADDITIONAL REQUIREMENT FOR DATABASE.**

5           (a) ADMINISTRATION ACCESS TO DATABASE BEFORE  
6 THE TRANSFER DATE.—During the period between the  
7 date of the enactment of this Act and the transfer date,  
8 the Secretary of Veterans Affairs shall provide the Admin-  
9 istrator of the Small Business Administration with access  
10 to the contents of the database described under section  
11 8127(f) of title 38, United States Code.

12           (b) RULE OF CONSTRUCTION.—Nothing in this Act  
13 or the amendments made by this Act may be construed  
14 as prohibiting the Administrator of the Small Business  
15 Administration from combining the contents of the data-  
16 base described under section 8127(f) of title 38, United  
17 States Code, with other databases maintained by the Ad-  
18 ministration.

19           (c) RECOGNITION OF THE ISSUANCE OF JOINT REG-  
20 ULATIONS.—The date specified under section 1832(e) of  
21 the National Defense Authorization Act for Fiscal Year  
22 2017 (15 U.S.C. 632 note) shall be deemed to be October  
23 1, 2018.

1 **SEC. 6. PROCUREMENT PROGRAM FOR SMALL BUSINESS**  
2 **CONCERNS OWNED AND CONTROLLED BY**  
3 **SERVICE-DISABLED VETERANS.**

4 (a) PROCUREMENT PROGRAM FOR SMALL BUSINESS  
5 CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-  
6 ABLED VETERANS.—Section 36 of the Small Business Act  
7 (15 U.S.C. 657f) is amended—

8 (1) by striking subsections (d) and (e);

9 (2) by redesignating subsections (a), (b), and  
10 (c) as subsections (e), (d), and (e) respectively;

11 (3) by inserting before subsection (c), as so re-  
12 designated, the following:

13 “(a) CONTRACTING OFFICER DEFINED.—For pur-  
14 poses of this section, the term ‘contracting officer’ has the  
15 meaning given such term in section 2101 of title 41,  
16 United States Code.

17 “(b) CERTIFICATION OF SMALL BUSINESS CON-  
18 CERNS OWNED AND CONTROLLED BY SERVICE-DISABLED  
19 VETERANS.—With respect to a procurement program or  
20 preference established under this Act or any other Federal  
21 law applicable to small business concerns owned and con-  
22 trolled by service-disabled veterans, the Administrator  
23 shall—

24 “(1) certify the status of the concern as a  
25 ‘small business concern owned and controlled by  
26 service-disabled veterans’; and

1           “(2) require the periodic recertification of such  
2           status.”;

3           (4) in subsection (d), as so redesignated, by  
4           striking “and that the award can be made at a fair  
5           market price” and inserting “, that the award can  
6           be made at a fair market price, and if each concern  
7           is certified by the Administrator as a small business  
8           concern owned and controlled by service-disabled  
9           veterans”; and

10           (5) by adding at the end the following:

11           “(g) CERTIFICATION REQUIREMENT.—Notwith-  
12           standing subsection (c), a contracting officer may only  
13           award a sole source contract to a small business concern  
14           owned and controlled by service-disabled veterans or a  
15           contract on the basis of competition restricted to small  
16           business concerns owned and controlled by service-disabled  
17           veterans if such a concern is certified by the Administrator  
18           as a small business concern owned and controlled by serv-  
19           ice-disabled veterans.

20           “(h) ENFORCEMENT; PENALTIES.—

21           “(1) VERIFICATION OF ELIGIBILITY.—In car-  
22           rying out this section, the Administrator shall estab-  
23           lish procedures relating to—

24                   “(A) the filing, investigation, and disposi-  
25                   tion by the Administration of any challenge to

1 the eligibility of a small business concern to re-  
2 ceive assistance under this section (including a  
3 challenge, filed by an interested party, relating  
4 to the veracity of a certification made or infor-  
5 mation provided to the Administration by a  
6 small business concern under subsection (b));  
7 and

8 “(B) verification by the Administrator of  
9 the accuracy of any certification made or infor-  
10 mation provided to the Administration by a  
11 small business concern under subsection (b).

12 “(2) EXAMINATIONS.—

13 “(A) EXAMINATION OF APPLICANTS.—The  
14 procedures established under paragraph (1)  
15 shall provide for a program of examinations by  
16 the Administrator of any small business concern  
17 making a certification or providing information  
18 to the Administrator under subsection (b), to  
19 determine the veracity of any statements or in-  
20 formation provided as part of such certification  
21 or otherwise provided under subsection (b).

22 “(B) EXAMINATION OF CERTIFIED CON-  
23 CERNES.—The procedures established under  
24 paragraph (1) shall provide for the examination  
25 of risk-based samples of small business con-

1           cerns certified under subsection (b), or of any  
2           small business concern that the Administrator  
3           believes poses a particular risk or with respect  
4           to which the Administrator receives specific and  
5           credible information alleging that the small  
6           business concern no longer meets eligibility re-  
7           quirements to be certified as a small business  
8           concern owned and controlled by service-dis-  
9           abled veterans.

10           “(3) PENALTIES.—In addition to the penalties  
11           described in section 16(d), any small business con-  
12           cern that is determined by the Administrator to have  
13           misrepresented the status of that concern as a small  
14           business concern owned and controlled by service-  
15           disabled veterans for purposes of subsection (b),  
16           shall be subject to—

17                   “(A) section 1001 of title 18, United  
18                   States Code;

19                   “(B) sections 3729 through 3733 of title  
20                   31, United States Code; and

21                   “(C) section 8127(g) of title 38, United  
22                   States Code.

23           “(i) PROVISION OF DATA.—Upon the request of the  
24           Administrator, the head of any Federal department or  
25           agency shall promptly provide to the Administrator such

1 information as the Administrator determines to be nec-  
 2 essary to carry out subsection (b) or to be able to certify  
 3 the status of the concern as a small business concern  
 4 owned and controlled by veterans under section 36A.”.

5 (b) PENALTIES FOR MISREPRESENTATION.—Section  
 6 16 of the Small Business Act (15 U.S.C. 645) is amend-  
 7 ed—

8 (1) in subsection (d)(1)—

9 (A) by striking “, a” and inserting “, a  
 10 ‘small business concern owned and controlled by  
 11 service-disabled veterans’, a ‘small business con-  
 12 cern owned and controlled by veterans’, a”;

13 (B) in paragraph (A), by striking “9, 15,  
 14 or 31” and inserting “8, 9, 15, 31, 36, or  
 15 36A”; and

16 (2) in subsection (e), by striking “, a” and in-  
 17 serting “, a ‘small business concern owned and con-  
 18 trolled by service-disabled veterans’, a ‘small busi-  
 19 ness concern owned and controlled by veterans’, a”.

20 **SEC. 7. CERTIFICATION FOR SMALL BUSINESS CONCERNS**  
 21 **OWNED AND CONTROLLED BY VETERANS.**

22 The Small Business Act (15 U.S.C. 631 et seq.) is  
 23 amended by inserting after section 36 the following new  
 24 section:

1 **“SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS**  
2 **OWNED AND CONTROLLED BY VETERANS.**

3 “(a) IN GENERAL.—With respect to the program es-  
4 tablished under section 8127 of title 38, United States  
5 Code, the Administrator shall—

6 “(1) certify the status of the concern as a  
7 ‘small business concern owned and controlled by vet-  
8 erans’; and

9 “(2) require the periodic recertification of such  
10 status.

11 “(b) ENFORCEMENT; PENALTIES.—

12 “(1) VERIFICATION OF ELIGIBILITY.—In car-  
13 rying out this section, the Administrator shall estab-  
14 lish procedures relating to—

15 “(A) the filing, investigation, and disposi-  
16 tion by the Administration of any challenge to  
17 the eligibility of a small business concern to re-  
18 ceive assistance under this section (including a  
19 challenge, filed by an interested party, relating  
20 to the veracity of a certification made or infor-  
21 mation provided to the Administration by a  
22 small business concern under subsection (a));  
23 and

24 “(B) verification by the Administrator of  
25 the accuracy of any certification made or infor-

1           mation provided to the Administration by a  
2           small business concern under subsection (a).

3           “(2) EXAMINATION OF APPLICANTS.—The pro-  
4           cedures established under paragraph (1) shall pro-  
5           vide for a program of examinations by the Adminis-  
6           trator of any small business concern making a cer-  
7           tification or providing information to the Adminis-  
8           trator under subsection (a), to determine the verac-  
9           ity of any statements or information provided as  
10          part of such certification or otherwise provided  
11          under subsection (a).

12          “(3) PENALTIES.—In addition to the penalties  
13          described in section 16(d), any small business con-  
14          cern that is determined by the Administrator to have  
15          misrepresented the status of that concern as a small  
16          business concern owned and controlled by veterans  
17          for purposes of subsection (a), shall be subject to—

18                 “(A) section 1001 of title 18, United  
19                 States Code;

20                 “(B) sections 3729 through 3733 of title  
21                 31, United States Code; and

22                 “(C) section 8127(g) of title 38, United  
23                 States Code.”.

1 **SEC. 8. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**  
2 **CERNS OWNED AND CONTROLLED BY SERV-**  
3 **ICE-DISABLED VETERANS AND VETERANS.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-  
5 sion of law, any small business concern that self-certified  
6 as a small business concern owned and controlled by vet-  
7 erans or a small business concern owned and controlled  
8 by service-disabled veterans shall—

9 (1) if the concern files a certification applica-  
10 tion with the Administrator of the Small Business  
11 Administration before the end of the 1-year period  
12 beginning on the transfer date, maintain such self-  
13 certification until the Administrator makes a deter-  
14 mination with respect to such certification; and

15 (2) if the concern does not file such a certifi-  
16 cation application before the end of the 1-year pe-  
17 riod beginning on the transfer date, lose, at the end  
18 of such 1-year period, any self-certification of the  
19 concern as a small business concern owned and con-  
20 trolled by service-disabled veterans.

21 (b) **NON-APPLICABILITY TO DEPARTMENT OF VET-**  
22 **ERANS AFFAIRS.**—Subsection (a) shall not apply to par-  
23 ticipation in contracts (including subcontracts) with the  
24 Department of Veterans Affairs.

25 (c) **NOTICE.**—The Administrator shall notify any  
26 small business concern that self-certified as a small busi-

1 ness concern owned and controlled by veterans or a small  
2 business concern owned and controlled by service-disabled  
3 veterans about the requirements of the Verification Align-  
4 ment and Service-disabled Business Adjustment Act, in-  
5 cluding the transfer date and any extension of such trans-  
6 fer date made pursuant to section 2, and make such notice  
7 publicly available, on—

- 8 (1) the date of the enactment of this Act; and
- 9 (2) the date on which an extension described  
10 under section 2 is approved.

11 **SEC. 9. TRANSFER OF THE CENTER FOR VERIFICATION**  
12 **AND EVALUATION OF THE DEPARTMENT OF**  
13 **VETERANS AFFAIRS TO THE SMALL BUSI-**  
14 **NESS ADMINISTRATION.**

15 (a) **ABOLISHMENT.**—The Center for Verification and  
16 Evaluation of the Department of Veterans Affairs defined  
17 under section 74.1 of title 38, Code of Federal Regula-  
18 tions, is abolished effective on the transfer date.

19 (b) **TRANSFER OF FUNCTIONS.**—All functions that,  
20 immediately before the effective date of this section, were  
21 functions of the Center for Verification and Evaluation  
22 shall—

- 23 (1) on the date of enactment of this Act, be  
24 functions of both the Center for Verification and  
25 Evaluation and the Small Business Administration,

1       except that the Small Business Administration shall  
2       not have any authority to carry out any verification  
3       functions of the Center for Verification and Evalua-  
4       tion; and

5               (2) on the transfer date, be functions of the  
6       Small Business Administration.

7       (c) **TRANSFER OF ASSETS.**—So much of the per-  
8       sonnel, property, records, and unexpended balances of ap-  
9       propriations, allocations, and other funds employed, used,  
10      held, available, or to be made available in connection with  
11      a function transferred under this section shall be available  
12      to the Small Business Administration at such time or  
13      times as the President directs for use in connection with  
14      the functions transferred.

15      (d) **REFERENCES.**—Any reference in any other Fed-  
16      eral law, Executive order, rule, regulation, or delegation  
17      of authority, or any document of or pertaining to a func-  
18      tion of the Center for Verification and Evaluation that is  
19      transferred under this section is deemed, after the transfer  
20      date, to refer to the Small Business Administration.

21      **SEC. 10. REPORT.**

22               Not later than the end of the 1-year period beginning  
23      on the date of the enactment of this Act, and every 6  
24      months thereafter until the transfer date, the Adminis-  
25      trator of the Small Business Administration and Secretary

1 of Veterans Affairs shall jointly issue a report to the Com-  
2 mittees on Appropriations, Small Business, and Veterans'  
3 Affairs of the House of Representatives and the Commit-  
4 tees on Appropriations, Small Business and Entrepreneur-  
5 ship, and Veterans' Affairs of the Senate on the planning  
6 for the transfer of functions and property required under  
7 this Act and the amendments made by this Act on the  
8 transfer date. Such report shall include—

9           (1) whether and how the verification database  
10         and operations of the Center for Verification and  
11         Evaluation of the Department of Veterans Affairs  
12         will be incorporated into the existing certification  
13         database of the Small Business Administration;

14           (2) projections for the numbers and timing, in  
15         terms of fiscal year, of—

16                 (A) already verified concerns that will  
17                 come up for recertification; and

18                 (B) self-certified concerns that are ex-  
19                 pected to apply for certification;

20           (3) an explanation of how outreach to veteran  
21         service organizations, the service-disabled veteran-  
22         owned and veteran-owned small business community,  
23         and other stakeholders will be conducted; and

- 1 (4) other pertinent information determined by
- 2 the Administrator and the Secretary.

○