

JOBS FOR WOUNDED WARRIORS: INCREASING ACCESS TO CONTRACTS FOR SERVICE DISABLED VETERANS

HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, INFORMATION
POLICY, INTERGOVERNMENTAL RELATIONS AND
PROCUREMENT REFORM

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

FEBRUARY 7, 2012

Serial No. 112-143

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.fdsys.gov>
<http://www.house.gov/reform>

U.S. GOVERNMENT PRINTING OFFICE

74-458 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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JOBS FOR WOUNDED WARRIORS: INCREASING ACCESS TO CONTRACTS FOR SERVICE DISABLED VETERANS

TUESDAY, FEBRUARY 7, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT
REFORM,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to call, at 11:06 a.m., in Room 2154, Rayburn House Office Building, Hon. James Lankford [chairman of the subcommittee] presiding.

Present: Representatives Lankford, Kelly, Chaffetz, Walberg, Meehan, Farenthold, Issa, and Connolly.

Staff Present: Ali Ahmad, Majority Deputy Press Secretary; Michael R. Bebeau, Majority Assistant Clerk; Richard A. Beutel, Majority Senior Counsel; Robert Borden, Majority General Counsel; Molly Boyd, Majority Parliamentarian; John Cuaderes, Majority Deputy Staff Director; Adam P. Fromm, Majority Director of Member Liaison and Floor Operations; Linda Good, Majority Chief Clerk; Jaron Bourke, Minority Director of Administration; Krista Boyd, Minority Counsel; Adam Koshkin, Minority Staff Assistant; Lucinda Lessley, Minority Policy Director; Suzanne Owen, Minority Health Policy Advisor; Rory Sheehan, Minority New Media Press Secretary; and Cecelia Thomas, Minority Counsel.

Mr. LANKFORD. The hearing on Jobs for Wounded Warriors: Increasing Access to Contracts for Service Disabled Veterans will come to order.

Let me read a quick mission statement from the Oversight and Government Reform Committee.

We exist to secure two fundamental principles: first, Americans have a right to know that the money Washington takes from them is well spent; second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights.

Our solemn responsibility is to hold government accountable to taxpayers because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy. This is the mission of the Oversight and Government Reform Committee.

Let me make a brief opening statement, set the context for the day.

The men and women of our armed forces understand that serving their Nation in the armed forces as a soldier, sailor, airmen, Marine, is part of what citizenship is all about. The men and women of the armed forces take an oath that begins with “I do solemnly swear” and ends with “if necessary, with my life, so help me God.”

More than 40 million Americans have responded to that call and served their Country in wartime. More than 1 million Americans who heard that call did not come home. Millions of others have been gravely injured in defense of our basic freedoms. As the long conflicts in Iraq and Afghanistan begin to wind down, thousands of service-disabled veterans are coming home. Today we have one of those veterans, Bill Puopolo, who has served tours of duty in both Iraq and Afghanistan.

As if their personal challenges are not enough, these soldiers, airmen, and Marines return home to hard economic times and an extremely tight economy. The least we can do to support our wounded veterans is to ensure they have access to jobs and economic opportunities. Service-disabled veterans should have a level playing field in obtaining economic opportunity. This is the least we can do to provide for them.

This basic obligation to honor their service and support them upon their return from foreign fields has been recognized since at least 1999. At that time, Congress passed legislation directing Federal agencies to place at least 3 percent of their contract spending with service-disabled veterans small businesses. Unfortunately, almost no agency has come close to meeting this goal.

The Department of Defense has a special responsibility to service-disabled veterans, but their percentage is also not close to 3 percent. President Bush directed Executive Branch agencies to do better by an Executive Order in 2004. President Obama, in 2009, established an interagency task force to improve capital access, business development opportunities, and goals for service-disabled veterans.

As a quick side note, as a part of our request for information and testimony, this Committee requested from OMB a person to testify about the progress of the President’s interagency task force. Mr. Jordan has testified on these issues in 2009 before the Veterans Committee, but the Administration was unwilling to allow him to appear today to give an update on the interagency task force progress and the progress of this Committee.

This hearing is not a partisan issue or a single administration issue. We understand very well that the failure to strengthen and monitor the service-disabled veterans program is not unique to the current Administration, but it is well passed time to fix it.

Agencies across the Federal Government are woefully behind in meeting their obligations to our wounded warriors. Several reports have documented an unacceptable level of waste, fraud, and abuse in the service-disabled veterans program. In too many instances disabled veterans are cynically engaged to serve as fronts so that companies and individuals can get access to contracts and business opportunities that are supposed to be going to wounded warriors.

In other instances charlatans pose as wounded warriors and steel valor, thereby syphoning off precious program resources.

No honest American should stomach fraud in a program designed to help our wounded warriors. This waste and fraud hurts the entrepreneurship of our veterans by taking away the business opportunities available to eligible service-disabled veterans when the Federal Government purchases goods and services.

The award of service-disabled veterans contracts to ineligible businesses reduce the funding available to eligible businesses and the accuracy of VA's reported socioeconomic goal accomplishment data. Examples of fraud in this program are legion, but let me just give you one. A business received one sole-source and two set-aside veterans' contracts for duct cleaning and maintenance work valued at \$343,500.

Although the owner had self-certified his business as being service-disabled, the military system did not have record of him and he had no disability rating. When the contracts were investigated, the disabled veteran stated he was in the Marine Corps for five weeks when he attended boot camp, but had injured his leg during a pick-up football game, resulting in his discharge from the military.

These frauds take precious program dollars away from service-disabled veterans. The VA inspector general projects that VA awards ineligible businesses a minimum of 1,400 veteran sole-source and set-aside contracts valued at \$500 million annually, and could award a minimum of \$2.5 billion to ineligible businesses over the next five years. Given VA's unique and special responsibility to veterans, these numbers are staggering.

Today we have three distinguished panels to address these issues. First we will hear from the honorable former senator from Georgia, Max Cleland. Senator Cleland is a distinguished Vietnam veterans. Senator Cleland served in the United States Army during the Vietnam War, attaining the rank of captain. He was awarded the silver star and bronze star for acts of valor in combat. Senator Cleland has been a tireless advocate for the veteran community and we welcome him here today.

Next we have Congressman Bill Johnson from the 6th District of Ohio. Congressman Johnson is himself a distinguished veteran and is currently the chairman of the Subcommittee of Oversight and Investigations Committee on Veterans Affairs. Congressman Johnson has been a forceful advocate on behalf of service-disabled veterans.

Both these gentleman will have a brief statement from them in a moment. We won't field questions, necessarily, from them, to allow them to make a statement from the record, and we are very honored that you are here.

Our second panel consists of the overseers. We have Assistant Inspector General Belinda Finn and Assistant Inspector General James O'Neill from the Veterans Administration Office of the Inspector General to discuss the recent report and audit on service-disabled veterans program. We have Rick Hillman from the Government Accountability Office to discuss the recent findings on the scope of waste and fraud and abuse in these program.

Our final panel consists of veterans representatives and agency officials. We have Mr. Andre Gudger, Director of the Office of Small Business Programs in the Office of the Undersecretary of Defense.

We also have Mr. Thomas Leney, who is the Executive Director for Small and Veteran Owned Business Programs at the Department of Veterans Affairs; we have Mr. Rick Weidman, the Executive Director of the Vietnam Veterans of America, representing a coalition of veterans groups called VET-Force; and we have Mr. Bill Puopolo, who is President of Verissimo Global Incorporated, a service-disabled veteran, owner of a small business.

Thank you all for being here today.

The second and third panel we will swear in at that time. It is our habit to not swear in members of Congress or former members of Congress, former Senators.

Any other members will have seven days to submit opening statements and extraneous material for the record.

I would now like to welcome our first panel. Mr. Bill Johnson represents Ohio's 6th District, as I mentioned before. I would be honored to be able to receive your testimony today, Mr. Johnson.

STATEMENT OF WITNESSES

STATEMENT OF BILL JOHNSON

Mr. JOHNSON. Good morning Chairman Lankford, Ranking Member Connolly, distinguished Members of the Subcommittee. I appreciate the opportunity to testify today in support of our nation's veterans and Service-Disabled Veteran-Owned Small Businesses, or SDVOSBs.

I strongly believe that veterans are the segment of society that most deserves our sincere gratitude and assistance, and I am grateful to the brave men and women who have and continue to serve our Country. As a 26-year Air Force veteran who also serves on the House Veterans' Affairs Committee, I am aware of the sacrifice and commitment that these brave men and women, in addition to their families at home, endure everyday to protect the freedoms we enjoy as Americans.

Due to advances in medical technology, more of our veterans than ever before are returning home, including many who may not have survived in the past. Now that is good news. But some of these veterans are coming home severely injured, with PTSD, TBIs, and sometimes with multiple limbs missing. However, you wouldn't believe the positive attitudes of these veterans I have met who have come home with such severe injuries. These veterans want to use their talents to lead meaningful lives despite their condition, and we owe it to them to provide the rehabilitation programs and support they need to be successful.

Speaker Boehner couldn't be more clear when he stated last November, "the men and women who wear the uniform of our Armed Forces deserve our full support when they serve and after they come home, especially now in the middle of a tough economy." With 815,000 veterans unemployed, a number, by the way, that is far too high, our Government needs to act immediately. I am deeply troubled that nearly one in twelve of our Nation's heroes are unable to find a job after sacrificing so much for our Nation.

Contracting with Service-Disabled Veteran-Owned Small Businesses is just one way in which our Government can act now to support these brave warriors. Compared to other Government

agencies, the Department of Veterans Affairs is considered to have the best SDVOSB program. According to the Small Business Goaling Report for Fiscal Year 2010, approximately 20 percent of the VA's contracts are going to these worthy veteran-owned businesses. However, VA contracts only account for 30 percent of Government contracting, meaning the vast majority of Government contracts are not affected by the VA or their SDVOSB program.

Currently, a mere 1.8 percent of Department of Defense contracts are with SDVOSBs. This is unacceptable. The Department of Defense trained these former warriors. They are tremendous assets to our Nation because of the experience gained in our armed forces. It is time the DOD and other Government agencies considered contracting at higher percentages with the SDVOSBs.

The VA's SDVOSB program is by no means perfect. As Chairman of the House Veterans' Affairs Subcommittee on Oversight and Investigations, I chaired two hearings last year on this issue. However, I can say with certainty that the VA is attempting to produce positive results in their SDVOSB program. And be assured, I will be keeping track of the VA's progress to reform the SDVOSB program and streamline the certification process to better serve our veterans.

Furthermore, I would argue that instances of fraud within the VA's SDVOSB program warrant a need for other Government agencies to also take a look at their SDVOSB contracts. The fact that there are fraudulent companies claiming to be veteran-owned underscores the need to build stronger SDVOSB programs across our Government to ensure that our Nation's heroes, our veterans, are the ones receiving these contracts.

I believe America would greatly benefit from contracting with more veteran-owned small businesses. Our service members and veterans are highly trained, skilled professionals with a solid work ethic. They have already demonstrated their abilities and dedication to our Country. Why wouldn't our Government strive to work with an increased number of these upstanding men and women?

Mr. Chairman, Ranking Member Connolly, thank you again for the opportunity to speak on behalf of our Nation's veterans and the need to assist Service-Disabled Veteran-Owned Small Businesses. I am pleased to answer any questions you may have.

[Prepared statement of Mr. Johnson follows:]

STATEMENT OF
HONORABLE BILL JOHNSON (OH-6)
CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
HOUSE VETERANS' AFFAIRS COMMITTEE

BEFORE THE
SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT REFORM
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

February 7, 2012

Good morning Chairman Lankford, Ranking Member Connolly, and distinguished Members of the Subcommittee. I appreciate the opportunity to testify today in support of our nation's veterans and Service-Disabled Veteran-Owned Small Businesses, or SDVOSBs.

I strongly believe that veterans are the segment of society that most deserves our sincere gratitude and assistance, and I am grateful to the brave men and women who have and continue to serve our country. As a 26 year Air Force veteran who also serves on the House Veterans' Affairs Committee, I am aware of the sacrifice and commitment that these brave men and women – in addition to their families at home – endure everyday to protect the freedoms we enjoy as Americans.

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government agencies, the Department of Veterans Affairs is considered to have the best SDVOSB program. According to the Small Business Goaling Report for Fiscal Year 2010, approximately 20 percent of the VA's contracts are going to these worthy veteran-owned businesses. However, VA contracts only account for 30 percent of government contracting – meaning the vast majority of government contracts are not affected by the VA or their SDVOSB program.

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I believe America would greatly benefit from contracting with more veteran-owned small businesses. Our servicemembers and veterans are highly trained, skilled professionals with a solid work ethic. They have already demonstrated their abilities and dedication to our country. Why wouldn't our government strive to work with an increased number of these upstanding men and women?

Mr. Chairman, Ranking Member Connolly, thank you again for the opportunity to speak on behalf of our nation's veterans and the need to assist Service-Disabled Veteran-Owned Small Businesses. I am pleased to answer any questions you may have.

Mr. LANKFORD. Thank you, Mr. Johnson.
Senator Cleland.

STATEMENT OF THE HONORABLE MAX CLELAND

Mr. CLELAND. Thank you, Mr. Chairman. May I say that it is nice to be back in the people's house. Forty-seven years ago I was an intern across the street, in the Longworth House Office Building, in the summer of 1965. I am making progress; I am not across the street here. So we are delighted to be with all of you and my friend, Bill Johnson from Ohio. Thank you for focusing on this.

I have had some time to think a little bit about what really is important to a disabled veteran. There are a lot of things that go on in your mind after the turbulence of getting wounded in war and then surviving it, and maybe spending the rest of your life trying to figure out why you survived. After the rehabilitation, after the VA services, after the voc rehab, after all that, we are dealing with young people who still have their lives ahead of them.

Therefore, nothing solidifies the life of a disabled veteran like a job. It provides focus, it provides meaning, it provides purpose in living. And when one is so confused in many ways about why they survived, how did they survive, how did they get wounded, what was the war all about, then that job seems to provide the glue with which all of this seems to come together and make some sense and give some sense of direction. That is why I think a job for a disabled veteran is really the key to that successful reentry into this Country again.

Now, we can't put the toothpaste back into the tube. We can't reverse the stream of history. We can't rewind the war backwards. We have to live in the present. But our disabled veterans have to live in the present and the future, and dealing with the present and preparing for that future is what they are all about. Nothing does that better than a job.

I have thought a lot about what is most important, and that is the glue that holds it all together. So thank you for your focus on this issue. Thank you, Congressman Johnson, and all of you for focusing on this. And the incredible thing that Mr. Johnson pointed out was that these young men and women, what I like to borrow the phrase from my friend, General Hal Moore, who said, "you may not be a member of the greatest generation, but you are the greatest of this generation."

So for the greatest of this generation, we owe all of our efforts toward providing them the opportunity to make sense of their lives, and nothing does that better than a job. And the amazing thing about it is that these young people, blown apart as they are, wounded as they are, sometimes mentally, physically, and emotionally, provide, believe it or not, tremendous leadership skills on the job, tremendous examples of courage and faith to other people around them. It just works that way. They seem to be strong at the broken places, to use a phrase that Ernest Hemingway, who was wounded in World War I, used in his great war novel.

So I would like to conclude my remarks by just saying that in the words of a World War II chaplain about disabled veterans, here is the way I see it: out cruelty they learned compassion; from living in hate they have learned love; from the loss of freedom they have

learned the love of freedom. They shall return not only eager to create a better world, what is far more important, they shall come back prepared to create that world.

Thank you, Mr. Chairman.

Mr. LANKFORD. Thank you, Senator. You are always welcome to be here in the House as well. Glad to be able to have both your testimonies. I know we weren't fielding any questions on that.

Let me just make a statement to both of you. Thank for your service. As one of the people that has stood next to the parade clapping, very much appreciate what you have done and what you have given for our Nation's service on this. In my own city of Oklahoma City and the surrounding areas, there are many employers that pursue veterans when they come back because they do not know how to quit and they don't know how to stop until it is done.

So many of these veterans that are coming home in Oklahoma are coming home to find employers eager to be able to hire them because of their leadership and their great work ethic, and thank you for reminding Americans that that extends also to service-disabled veterans.

The Ranking Member, would you like to make any quick comment before I dismiss this first panel?

Mr. CONNOLLY. Thank you, Mr. Chairman, and I do have an opening statement. I will hold off, with your permission, until the next panel.

But I did want to thank particularly Senator Cleland and Representative Johnson for being here. Max Cleland represents the finest tradition of service to his Country and left an awful lot of himself physically back in Vietnam, but in terms of spirit he is very much present here and I think represents, as I said, the finest tradition of public service, both in the military and here in the Congress, to his community. We are honored with his presence. Thank you.

Mr. LANKFORD. Thank you. Let's take a short recess and allow the clerks to be able to reset the panel for our second panel.

Thank you, Representative Johnson.

[Recess.]

Mr. LANKFORD. I am going to yield for just a moment to the Ranking Member, Mr. Connolly, for a quick opening statement, and then we will go directly to our second panel.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you for convening this very important hearing to review contracting policy for service-disabled veterans. I appreciate your attention to this issue, which is of critical importance to our Nation's veterans.

We have, in my view, a sacred obligation to support those who chose to wear the uniform. That support, however, does not end when veterans leave the service; we must do everything in our power to help veterans and their families transition back to civilian life.

As the war in Iraq comes to a close and we begin to transition, we will see even more veterans transfer out of the service, come back home into our respective congressional districts. After years of personal and family sacrifice, combined with unique training and a willingness to serve, it is important to remember the desire of many veterans to continue to serve their Country.

In 2011, 27 percent of post-9/11 veterans worked for Federal, State, and local governments, compared to 14 percent of the civilian population. In 2011, I hired a veteran of the Iraq war through the Wounded Warrior Fellowship Program, to work in my office, and I would like Joe Wearing to stand and be recognized for his service to his Country.

[Applause.]

Mr. CONNOLLY. Joe is a Purple Heart recipient. His tireless work ethic and desire to elevate the voices of a new generation of veterans has proven an enormous asset in our community. Programs like the Post-9/11 GI Bill, passed by Congress in 2008 and used by over half a million veterans, are essential in providing veterans the opportunity to contribute as civilians.

I have seen firsthand the benefits of veterans who utilize the Post-9/11 GI Bill at local colleges, universities, community colleges, and trade schools, and I know how important this benefit is, especially for younger veterans, in order to have access to educational opportunities and to compete in this troubled economy.

After 10 years of war and with incredible advances in lifesaving technology, we are seeing many of our veterans return with wounds, both physical and emotional. These life-altering experiences, however, are not all created equal and should not be seen as a detriment to an ability to contribute in the civilian workforce. There is hope, however, and we know programs aimed at supporting our veterans in making an impact.

The Administration's efforts to lower veteran unemployment by providing hiring tax credits and securing private sector commitments to hire service members separating from the military are not only good for veterans, but actually good for our economy and for our respective communities. As service-disabled veterans begin to build their own small businesses, we must understand and improve their opportunity to become certified and to compete for governmental contracts.

President Obama signed the Veterans Benefits Act of 2010 in October last year. Section 104 of that law expands the VA's requirement to verify business status as owned and operated by veterans, service-disabled veterans, or eligible surviving spouses. This important piece of legislation helped ensure that no small business applicant may appear in the VA's vendor information pages, also known as VetBiz, and their website database unless it has been verified as owned and controlled by a veteran or a service-disabled veteran. Furthermore, the Department of Veterans Affairs has met and exceeded goals for VA government contracts since the law was implemented in 2010.

Although we have seen vast improvements after the VA implemented its review in 2010, some businesses found to be ineligible by the VA are still registering with the Federal Government in the Central Contractor Registration database. We must improve verification programs throughout the Government in order to prevent businesses from obtaining contracts after being found ineligible by the Department of Veterans Affairs, because when they do that they take away opportunities from those who are eligible.

Thank you again, Mr. Chairman, for holding this hearing for veterans who have sacrificed so much for their Country.

Mr. LANKFORD. Thank you, Mr. Connolly.

We will now welcome our second panel. Ms. Belinda Finn is the Assistant Inspector General of the Department of Veterans Affairs; Mr. James O'Neill is Assistant Inspector General for Investigations at the Department of Veterans Affairs; and Mr. Rick Hillman is Managing Director of Forensic Audits and Investigative Service Team at the Government Accountability Office.

Ms. Finn and Mr. O'Neill, I understand that you all are sharing, you both have a written testimony that has been submitted and one of you will do oral testimony, but may both testify or answer questions, so I would ask you both to be sworn in.

If you would all rise, as you already are. Would you raise your right hands?

Do you solemnly swear or affirm that the testimony you are about to give this Committee to be the truth, the whole truth, and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Mr. LANKFORD. Let the record reflect that all witnesses answered in the affirmative.

You may be seated.

In order to allow time for discussion, please limit your testimony to five minutes. Your entire written statement, of course, will be made part of the record. You have a timer in front of you, which I am sure you will recognize the green, yellow, red on it, and will be honorable with your time, and thank you for being here.

Ms. Finn, I recognize you first.

STATEMENT OF BELINDA FINN

Ms. FINN. Thank you, Chairman. Chairman Lankford, Ranking Member Connolly, members of the Subcommittee, thank you for the opportunity to testify on our audits and investigations of Veteran-Owned and Service-Disabled Veteran-Owned Small Business programs. Although our work focuses on the implementation of these programs in the Department of Veterans Affairs, our findings and results have significance for other Federal agencies.

As you stated, with me today is Mr. Jim O'Neill, the Assistant IG for Investigations in VA.

At the end of fiscal year 2010, the Department of Veterans Affairs reported that they had awarded about \$3.5 billion through its Veteran-Owned Business contracting programs. Our audit of these programs found that 76 percent of 42 randomly selected businesses were ineligible for the programs and/or the specific contract awards. We projected these ineligible businesses received \$46.5 million in contract awards. We projected that VA annually awards a minimum of 1400 contracts, valued at \$500 million, to ineligible businesses. This equates to \$2.5 billion over 5 years that is awarded to ineligible businesses.

Our results also throw VA's reported procurement dollars awarded to veteran-owned and small disadvantaged veteran-owned businesses into question. VA reported awarding 23 and 20 percent of its procurement dollars to these businesses. We believe this could be overstated anywhere from 3 to 17 percent.

These awards occurred because of several reasons. First, VA did not always review veterans' ownership and control of businesses

thoroughly. Second, the VA contracting officers did not check the businesses' eligibility at the time of award and properly assess the subcontracting and partnering agreements to ensure that the veteran-owned businesses met program requirements for substantial participation in the work.

We recommended VA improve management and program controls, enhance verification processes, and coordinate contract monitoring to reduce the number of ineligible businesses that received awards. VA has taken steps to improve its verification programs, both during and since our audit.

The VA OIG Office of Investigations is aggressively pursuing allegations that ineligible businesses are misrepresenting themselves as veteran-owned and service-disabled veteran-owned businesses to win contracts. We currently have 88 open investigations and, to date, have issued 369 subpoenas and executed 26 search warrants. We recently won a conviction against the CEO of a non-veteran-owned business on charges of fraud against the United States, mail fraud, witness tampering, and making false statements. This business had received more than \$16 million in VOSB and SDVOSB set-aside construction contracts from the Department of Veterans Affairs and the Department of Army.

Three other investigations have resulted in the arrest of six individuals and we anticipate additional prosecutions in other investigations in the near future.

Mr. Chairman, thank you for the opportunity to be here today. As I said earlier, we believe our findings have significance across the Government, especially since the Department of Veterans Affairs is the only Federal agency that validates the veteran and service-disabled status of a business owner, as well as attempting to verify the veteran ownership and control of a business.

Mr. O'Neill and I are here to answer your questions. We would be pleased to respond.

[Prepared statement of Ms. Finn follows:]

STATEMENT OF
BELINDA J. FINN
ASSISTANT INSPECTOR GENERAL FOR AUDITS AND EVALUATIONS
OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS, AND PROCUREMENT REFORM
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
"SERVICE DISABLED VETERAN OWNED BUSINESS PREFERENCE
IN FEDERAL PROCUREMENT"
FEBRUARY 7, 2012

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Office of Inspector General's (OIG) work related to the Department of Veterans Affairs' (VA) Veteran-Owned and Service-Disabled Veteran-Owned Small Business (VOSB and SDVOSB) programs. Last summer, we issued a report, *Audit of Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs*, that found that 76 percent of businesses we reviewed were ineligible for either the program and/or the specific VOSB or SDVOSB contract award, potentially resulting in \$2.5 billion awarded to ineligible businesses over the next 5 years. I am accompanied by James J. O'Neill, Assistant Inspector General for Investigations. To date his office's work has resulted in the conviction of one company official for falsely self-certifying a business as an eligible VOSB and SDVOSB, and three additional investigations have resulted in criminal charges against six individuals and one company. We are actively pursuing 87 investigations.

BACKGROUND

On December 22, 2006, Public Law (PL) 109-461, *Veterans Benefits, Health Care, and Information Technology Act of 2006*, established participation goals and other requirements to increase VA contracting opportunities for veteran-owned small businesses. VA implemented these requirements by establishing the Veterans First Contracting program. The program placed SDVOSBs and VOSBs first and second in VA's hierarchy of socioeconomic contracting preferences and required businesses to register in VA's VetBiz Vendor Information Pages (VIP) to be eligible for contract awards. VetBiz VIP is VA's congressionally-mandated database of businesses that are eligible to participate in its VOSB and SDVOSB programs. VA's Office of Small and Disadvantaged Business Utilization (OSDBU) monitors VA's implementation and execution of socioeconomic programs, including the VOSB and SDVOSB contracting programs. The Center for Veterans Enterprise (CVE) within OSDBU verifies the eligibility of veteran-owned businesses and maintains VetBiz VIP as required by PL 109-461. VA is the only agency within the Federal government that verifies the status of veteran-owned businesses participating in its VOSB and SDVOSB programs.

With the introduction of the Veterans First Contracting program, VA's VOSB and SDVOSB programs have grown significantly from \$2.1 billion in fiscal year (FY) 2008 to \$3.5 billion in both FY 2010 and FY 2011, an increase from 15 to 23 percent of VA's total procurement dollars. The VOSB and SDVOSB contracting programs increase contracting and subcontracting opportunities for veterans and service-disabled veterans and ensure these businesses receive fair consideration when VA purchases goods and services.

The growth in the VOSB and SDVOSB programs has also spurred growing concerns that veteran-owned businesses may not be receiving the full benefit of these contracting programs. As a result, the OIG performed an audit of the VOSB and SDVOSB programs and began investigating an increasing number of referrals alleging that businesses had misrepresented themselves as veteran-owned businesses to obtain VA contracts. Our audit work disclosed that VA had awarded numerous VOSB and SDVOSB sole-source and set-aside contracts to businesses that did not meet program and contract requirements. In addition, we are pursuing numerous other investigations involving alleged "pass throughs" where a VOSB wins a contract, performs little to none of the work, and passes through the contract to an ineligible company for a fee or percentage of the award.

AUDIT OF THE VOSB AND SDVOSB PROGRAMS

In our report, *Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs* (July 25, 2011), we examined VA's VOSB and SDVOSB programs to determine if businesses that received contracts under these programs met program and contract eligibility requirements and if program controls were effective. We found that 76 percent of the businesses we reviewed were ineligible for either the program and/or the specific VOSB or SDVOSB contract award. From the 42 statistically selected businesses we reviewed, 32 ineligible businesses received \$46.5 million in VOSB and SDVOSB contracts. These awards included \$26.7 million in Recovery Act funded contracts.

We projected that VA annually awarded at least 1,400 VOSB and SDVOSB sole-source and set-aside contracts valued at \$500 million to ineligible businesses and that it would award a minimum of \$2.5 billion over the next 5 years if VOSB and SDVOSB verification and program controls were not strengthened. Further, the award of VOSB and SDVOSB contracts to ineligible businesses reduced the funding available to eligible businesses and the accuracy of VA's reported socioeconomic goal accomplishment data. For FY 2010, OSDBU reported that VA procurements totaled \$15.4 billion, of which \$3.5 billion went to VOSBs and of that \$3.5 billion, \$3 billion went to SDVOSBs. Our audit results indicate that VA awarded somewhere between \$500 million to \$2.6 billion in VOSB and SDVOSB contracts to ineligible businesses during a 12-month period. If we adjust the goal data for our findings, VA's reported FY 2010 VOSB and SDVOSB procurement dollars would decrease somewhere between 3 to 17 percent. VA, in reality, may be barely meeting the Secretary's VOSB and SDVOSB procurement goals of 12 and 10 percent.

PROGRAM AND CONTRACT ELIGIBILITY DEFICIENCIES

The audit reported two major areas of risk in VA's assessment of VOSB and SDVOSB eligibility: the verification of ownership and control to establish the eligibility of the business for the programs and the review of subcontracting and partnering agreements at the time of award to establish the eligibility of the business for the contract. We found that veterans either did not own or control the businesses or veteran-owned businesses "passed through" or subcontracted more work to nonveteran-owned businesses than allowed under Federal regulations. In some instances, businesses had multiple ownership, control, and subcontracting issues that made them ineligible.

Veterans Did Not Own or Control Businesses

Thirty-eight percent of the reviewed businesses were ineligible for the programs because veterans did not own and/or control the businesses. Sixteen ineligible businesses improperly received 28 VOSB and SDVOSB sole-source and set-aside contracts valued at \$8.5 million. To be eligible for the programs, Title 38, Code of Federal Regulations (CFR), Part 74.1, requires one or more veterans or service-disabled veterans to unconditionally and directly own at least 51 percent of the business and to manage and control the operations of the business concern. Further, veterans must be involved in long-term decision-making and day-to-day management of the business operations, hold the highest officer position in the business (president or chief executive officer), and must have managerial experience commensurate with the extent and complexity needed to operate the business.

In many cases, the self-certifications for the businesses on VetBiz VIP, the Central Contractor Registration (CCR), the Online Representations and Certifications Application, and other documents indicated a veteran owned the business. However, 2 of the 16 businesses that CVE had previously verified as eligible for the program through their review of available online documents such as the CCR, Dun and Bradstreet reports, and obligation amounts from the USA Spending Web site, were, in fact, ineligible. Our interviews and observations often showed that business managers or nonveteran family members managed, operated, and controlled the day-to-day business operations. We concluded that online document reviews were insufficient to establish program eligibility and ensure businesses meet Federal ownership and control requirements. Instead, we believe interviews with veteran owners and business managers and the review of documents such as corporate bylaws, stock certificates, tax returns, resumes, and negotiated checks during onsite visits are critical to establishing a veteran's ownership and control of a business. For example, in the case of an SDVOSB that provided VA duct cleaning and maintenance services, reviews of key documents, such as the past 3 years of tax returns, showed that the veteran's spouse received 100 percent of the business' profits and owned the business instead of the veteran.

Businesses "Passed Through" Contracts or Did Not Meet Subcontracting Requirements

Fifty-seven percent of the reviewed businesses were ineligible for the awarded VOSB and SDVOSB contracts because the businesses did not meet Federal incurred cost and subcontracting performance thresholds. The 24 ineligible businesses received

57 VOSB and SDVOSB sole-source and set-aside contracts valued at \$39.3 million. Federal regulations at 13 CFR 125.6(b) and 48 CFR 52.219-27(c) prescribe thresholds and limitations on subcontracting for VOSB and SDVOSB contracts. For service contracts, the VOSB or SDVOSB must incur at least 50 percent of the cost of the contract using its own employees. For general construction contracts, the VOSB or SDVOSB must incur at least 15 percent of the cost of the contract using its own employees. In addition, VOSBs and SDVOSBs are required to submit partnering agreements with their bid proposals so contracting officers can review them prior to award.

Despite these requirements, 18 businesses with 42 VOSB and SDVOSB contracts valued at \$35 million had passed through the majority of the contracts' work requirements and funds to nonveteran-owned businesses. Pass through contracts occur when businesses or joint venture/partnerships list veterans or service-disabled veterans as the majority owners of the business, but the nonveteran-owned business either performs or manages the majority of the work and receives the majority of the contracts' funds. Six additional businesses with 15 SDVOSB contracts valued at \$4.3 million also exceeded the VOSB and SDVOSB subcontracting thresholds or limitations established in Federal regulations. These thresholds deter pass through arrangements because they limit the amount of work that can be subcontracted to other businesses and establish the minimum amount of work to be completed by the veteran-owned business. All 24 of the businesses generally lacked the technical expertise and/or the resources to complete the required amount of work on the contracts. For example, the resume of a veteran-owner of an SDVOSB showed that he lacked the technical expertise to manage and control a construction business because he had no experience in construction. Instead, the veteran-owner's resume indicated that he had 31 years of experience in the banking industry where he served as a senior officer, president, and CEO of various financial organizations.

From our discussions with business owners, we concluded that these types of subcontracting agreements were common practice. VOSBs and SDVOSBs solicit partnerships with nonveteran-owned businesses that possess the technical capability to do the work. Likewise, ineligible nonveteran-owned businesses initiate relationships with VOSBs and SDVOSBs to gain access to Federal VOSB and SDVOSB contracts. We believe partnerships and mentoring relationships between VOSBs, SDVOSBs, and other businesses are valuable in promoting the development and advancement of veteran-owned businesses. However, VOSBs and SDVOSBs need to adhere to Federal incurred cost and subcontracting performance requirements. This will ensure, in keeping with the goals of the VOSB and SDVOSB socioeconomic programs, that eligible businesses perform the specified amount of contract work and receive a commensurate amount of the funds and benefits from the contract awards.

VOSBs Improperly Used the SDVOSB Status Preference

Two VOSBs also improperly used the service-disabled veteran preference to obtain 13 set-aside and sole source contracts valued at \$5.6 million. To be eligible for SDVOSB contracts, the Federal regulations define a service-disabled veteran as a

veteran with a VA service-connected disability rating between 0 and 100 percent. The veteran owners of these two businesses self-certified in the CCR and VetBiz VIP that they had service-connected disabilities and requested CVE verification to participate in the SDVOSB program. CVE could not verify the claimed service-connected disabilities in the Veterans Benefits Administration's Beneficiary Identification Records Locator Subsystem and sent letters to the two businesses informing the veteran owners that it could not verify that they were service-connected veterans. At that time, legislation allowed CVE to accept the businesses' self-certifications and did not require CVE to remove businesses from the VetBiz VIP database. Because CVE did not remove these two businesses from view in the VetBiz VIP database, the VOSBs improperly benefitted from the receipt of SDVOSB contracts and potentially blocked eligible SDVOSBs from receiving these contracts.

FACTORS CONTRIBUTING TO AWARDS TO INELIGIBLE BUSINESSES

Several factors within VA facilitated the award of VOSB and SDVOSB contracts to ineligible businesses. In general, OSDBU lacked the management controls needed to effectively oversee the VOSB and SDVOSB programs, to ensure the effectiveness of CVE verification processes, and to coordinate the oversight of contracting officers with VA's major acquisition offices. Inadequate OSDBU program oversight and the lack of coordination with VA's Office of Acquisition and Logistics (OA&L) and the Veterans Health Administration's (VHA) Procurement and Logistics Office (P&LO) contributed to the improper award of VOSB and SDVOSB contracts to ineligible businesses. OSDBU's coordination with VA's acquisition community should have addressed issues such as the need to review VOSB and SDVOSB subcontracting and partnering agreements that can result in pass-throughs to nonveteran-owned businesses.

OSDBU Lacked Effective Management Controls

OSDBU and CVE lacked a formal organizational structure and an accurate, updated organizational chart. Further, staff performing business verifications lacked documented duties, roles, and responsibilities and some staff lacked job descriptions that accurately described their current job functions. In addition, OSDBU and CVE did not have current policies and procedures for the administration of the verification program. CVE had last updated its verification program policies and procedures in August 2009. Thus, its policies and procedures did not address changes in VetBiz VIP and revised verification processes needed to comply with the *Veterans Benefits Act of 2010* (PL 111-275). On April 15, 2011, CVE issued updated internal policies and procedures for its verification processes. At the time of our audit, neither OSDBU nor CVE had yet developed additional guidance needed for management oversight functions such as accountability for the completion of assigned verification duties and responsibilities and the establishment of verification performance measures and reporting requirements.

Finally, at the time of our audit, OSDBU and CVE lacked an effective performance management system to effectively monitor and evaluate staff performance and CVE business verification processes. OSDBU and CVE's weekly performance monitoring meetings focused on the progress made on the verifications but did not address the

timeliness and quality of staff performance and verifications and the maintenance of VetBiz VIP data. In conclusion, we found OSDBU lacked the management processes needed to determine if it has the right staff, resources, and processes in place to timely implement and monitor current VOSB and SDVOSB program requirements and possible future process improvements.

CVE Lacked Effective Verification Processes

CVE verification processes needed strengthening to reduce the number of ineligible businesses participating in the programs. In the past CVE's verification processes consisted of limited electronic document reviews to assess ownership and control and the selective completion of onsite reviews for businesses deemed high-risk. This verification process allowed businesses to self-certify as VOSBs or SDVOSBs with little supporting documentation and little chance of an onsite review. At the same time, CVE did not properly maintain the VetBiz VIP database. For example, CVE staff did not remove a business from VetBiz VIP after OSDBU sustained a protest of the business' veteran-owned status, thus allowing the ineligible business to continue receiving VOSB and SDVOSB sole-source and set-aside contracts.

Laws and regulatory changes enacted since May 2010 (the end period for the obligation amounts and businesses in our sample that we reviewed) now require CVE to verify each small business concern listed in the VetBiz VIP database to ensure a veteran or a service-disabled veteran owns and controls the business. Further, as of September 2010, all prospective VOSB and SDVOSB awardees are required to apply and undergo verification by CVE prior to receiving a contract award. To comply with these requirements, CVE initiated a Fast Track program to verify businesses with pending awards within 21 business days, implemented additional verification documentation requirements, and notified businesses of the new requirements. The additional document reviews CVE has recently implemented have stopped businesses from self-certifying as VOSBs and SDVOSBs and required the businesses to provide evidence of veteran ownership. However, OSDBU and CVE did not have strategies and risk analyses to better identify high-risk businesses, and conduct onsite reviews when they identify high-risk or potentially ineligible businesses.

Contracting Officers Lacked Oversight When Awarding VOSB and SDVOSB Contracts

OSDBU's lack of program oversight and coordination with OA&L and P&LO also contributed to the high number of ineligible businesses awarded VOSB and SDVOSB sole-source and set-aside contracts. OSDBU did not coordinate the monitoring of contracting officers with OA&L and P&LO to ensure they complied with VOSB and SDVOSB contracting requirements. As a result, contracting officers did not adequately assess the eligibility of the business for the VOSB and SDVOSB contracts as required by the Federal Acquisition Regulation and VA Acquisition Regulation during the contract award process. Fifty-seven percent of the reviewed businesses were ineligible for \$39.3 million in VOSB and SDVOSB contracts because contracting officers either did not review or properly assess the businesses' subcontracting and partnering agreements at the time of award. Moreover, contracting officers often did not check VetBiz VIP or the business' North American Industry Classification System codes

assigned by the Small Business Administration (SBA) to ensure businesses met program and size eligibility requirements.

ELIGIBILITY AND CONTRACTING DEFICIENCIES IN RECOVERY ACT CONTRACTS

We also reported that 14 of the 42 statistically selected businesses had received 24 VOSB and SDVOSB contracts funded with \$27.3 million from the American Recovery and Reinvestment Act. We noted that 13 of the 42 businesses had improperly received \$26.7 million in VOSB and SDVOSB contracts funded by the Recovery Act. As discussed previously, these businesses were ineligible due to a lack of demonstrated ownership and/or control, improper subcontracting practices, improper use of SDVOSB status, or a combination of these factors. Contracting officers also awarded 9 businesses 10 VOSB and SDVOSB Recovery Act contracts valued at \$5.3 million that had at least one contracting deficiency.

REPORT RECOMMENDATIONS AND ACTION PLANS

We recommended VA and OSDDBU implement effective management and program controls, enhance verification processes, and implement a coordinated contract monitoring activity for VOSB and SDVOSB contracts to ensure the long-term success of the VOSB and SDVOSB programs. The Deputy Under Secretary for Health, the Executive Director of the Office of Small and Disadvantaged Business Utilization, and the Executive Director of the Office of Acquisition, Logistics, and Construction agreed with our report's findings and recommendations and provided acceptable action plans. Nevertheless, VA will need to address P&LO, OA&L, and OSDDBU's shared and interrelated responsibilities in administering and overseeing VA's VOSB and SDVOSB programs as it develops an enterprise-wide strategy to reduce the number of ineligible businesses receiving contract awards. The effectiveness, and ultimately the success, of an enterprise-wide strategy will depend on OSDDBU, P&LO, and OA&L's continued collaboration, coordination, and follow through on the planned corrective actions.

VA has reported that action on two of the six recommendations is complete.

- The establishment of an oversight function to ensure the completion of site visits for all VOSBs and SDVOSBs identified by CBVE as high risks to ensure that they meet Federal requirements for control, ownership, and program eligibility.
- The establishment of a comprehensive management control system, a performance management system, and the update of policies and procedures to ensure the effective administration of the VOSB and SDVOSB programs

We will continue to monitor the implementation and coordination of the offices' respective action plans as we follow up on the report's recommendations and monitor the VOSB and SDVOSB programs.

OIG INVESTIGATIVE WORK RELATED TO VOSBs AND SDVOSBs

The OIG's Office of Investigations is aggressively pursuing allegations and referrals regarding ineligible businesses that obtain VOSB and SDVOSB contract awards. As of January 2012, we have 87 open investigations and have issued approximately 369

subpoenas and executed 26 search warrants. Our efforts have resulted in the conviction of one business official and an additional six individuals and one company have been charged. We anticipate additional prosecutions in the future.

Most of our investigations involve "pass through" schemes where an ineligible large business has allegedly created an SDVOSB with the assistance of a service-disabled veteran. The SDVOSB owned by the service-disabled veteran then wins SDVOSB sole-source and set-aside contract awards, but does not perform any of the work. The SDVOSB simply functions as a shell business and "passes through" the work to the ineligible large business. Details from recent investigations include:

The CEO of a construction management and general contracting business, that received SDVOSB set-aside construction contracts, was convicted of committing fraud against the United States, mail fraud, witness tampering, and making false statements. An OIG joint investigation with SBA OIG and the Army Criminal Investigations Division revealed that the CEO falsely self-certified that his business was an eligible VOSB and SDVOSB in order to obtain over \$16 million in contracts from these programs. During the investigation, the defendant made false statements to a Federal agent claiming that another person who had served in the military was the majority owner of his business. He is awaiting sentencing, but he and the company have been debarred from doing business with the Federal government.

A company and four individuals were indicted on charges of conspiracy to defraud the Government, major program fraud, wire fraud, conspiracy to commit money laundering, and false statements. An OIG joint investigation with SBA OIG, General Services Administration OIG, and Defense Criminal Investigative Service determined that the SDVOSB acted as a pass-through company for a larger company and that the owner of the SDVOSB was not a service-disabled veteran.

An individual was charged with conspiracy to commit wire fraud and major fraud against the United States. An OIG investigation determined that the veteran agreed to allow a company to use his name and service-disabled status to be awarded VA SDVOSB set-aside contracts.

An individual was charged with 14 counts of wire fraud and one count of major program fraud after an OIG joint investigation with SBA OIG, U.S. Department of Agriculture OIG, and Department of Homeland Security OIG determined that the individual approached a Vietnam War veteran, who was bedridden from multiple surgeries related to his war injuries, and proposed the idea of starting a joint venture that would use the veteran's disabled status to obtain Federal contracts that are set aside for SDVOSBs. The individual used the veteran's status to bid on contracts, all of which were reserved for small businesses owned and operated by service-disabled veterans. The veteran performed no work for either company, did not have an ownership stake, and did not control the management or daily operations of either business.

CONCLUSION

To fix the problems identified, VA must ensure that legitimate veteran-owned businesses are receiving the contracts intended for them. VA is currently the only Federal agency that verifies the status of veteran-owned businesses, yet many contracts are still going to companies that are ineligible for the program or do not meet the specific contract requirements. VA is taking actions to strengthen its CVE verification and its contracting practices. Collaboration between OSDBU, OA&L, and P&LO in the development of a management control system for VA's VOSB and SDVOSB procurements should promote the participation of eligible businesses and ensure VA has adequate VOSB and SDVOSB program and contract oversight from the time of award through contract performance. We will monitor the implementation of VA's corrective actions and perform follow-up work to assess the effectiveness of the future verification and contracting practices.

Mr. Chairman, thank you for the opportunity to discuss the OIG's work related to VA's VOSB and SDVOSB programs. We would be pleased to answer any questions that you or other members of the Subcommittee may have.

Mr. LANKFORD. And we look forward to those questions.
Mr. Hillman.

STATEMENT OF RICK HILLMAN

Mr. HILLMAN. Chairman Lankford, Ranking Member Connolly, and members of the Subcommittee, I am pleased to be here today to discuss the fraud prevention controls within the Service-Disabled Veteran-Owned Small Business program, or the SDVOSB program.

This program, established by the Veterans Benefit Act of 2003, is designed to honor disabled veterans' service by providing them with exclusive contracting opportunities. This program permits contracting officers to award set-aside and sole-source contracts to small business concerns owned and controlled by one or more service-disabled veterans.

In fiscal year 2010, Federal agencies awarded \$10.8 billion to SDVOSBs, according to the Small Business Administration. Of this amount, the Department of Veterans Affairs awarded \$3.2 billion, or approximately 30 percent of the government-wide awards.

In prior work we reported on weaknesses and the fraud prevention controls in both the government-wide program and VA's program. My testimony today summarizes the status of government-wide fraud prevention controls over this program and discusses our recent assessment of fraud prevention control improvements instituted by VA as part of its verification program.

Regarding our first objective, our prior work has shown that the government-wide fraud prevention control weaknesses over the Service-Disabled Veteran-Owned Small Business program leave it vulnerable to fraud and abuse. In October 2009, we reported on 10 selected firms that misrepresented their status as SDVOSBs which allowed them to win approximately \$100 million in SDVOSB set-aside and sole-source contracts. Cases like this happen because the government-wide program relies on firms to self-certify annually in the Federal Government's contractor registry that they are owned and controlled by service-disabled veterans, and most agencies do not validate this information.

The firms have exploited the lack of effective government-wide fraud prevention programs using a variety of schemes, including setting up front companies to pass contracts on to larger, sometimes multinational, firms ineligible for the program. Other firms receive contracts even though no service-disabled veteran was associated with the firm. Or, if one was employed, he or she did not manage or control the business.

The primary government-wide fraud prevention control in place is SBA's bid protest process, in which interested parties can contest contract awards. In prior work we found that the process lacked effective controls because firms could complete contracts even after SBA found them ineligible, rendering the process ineffective.

In contrast, through the limited fraud prevention controls for the government-wide program, the Veterans Benefits, Healthcare and Information Technology Act of 2006 required VA to institute controls over its SDVOSB contracts. Specifically, the Act required VA to verify firms' eligibility and maintain a database, now called VetBiz, of the SDVOSBs it verified starting in June of 2007.

Over time, VA has made progress implementing a verification program for firms seeking SDVOSB contracts from VA. GAO testified, in November 2011, that VA's program includes an initial verification process involving document reviews, site visits to contractor offices, and risk assessments for each applicant firm.

In addition, VA has instituted a status protest process and a debarment committee designed to help ensure only eligible firms receive contracts and that ineligible firms face consequences for misrepresenting their status. Those improvements may help VA reduce the risk that ineligible firms will gain access through VA's SDVOSB contract dollars.

Nonetheless, GAO also made 13 recommendations to VA for improving its verification program and further reducing the risk of fraud and abuse. In particular, we noted in a November 2011 testimony that there was room for improvement in the area of debarments since, as of the date of that statement, only one firm and related individuals had been debarred by VA, but at the same time VA had rejected 1800 firms from further consideration as part of this verification process and had referred to VA's IG's office 70 firms for potentially fraudulent actions. VA generally concurred with our recommendations and stated that they have taken numerous actions to address the identified issues.

To improve government-wide fraud prevention controls, we recommended SBA and VA coordinate with the Office of Federal Procurement Policy in order to explore the feasibility of expanding VA's verification process government-wide. However, agency officials stated that legislative changes would be necessary in order for Federal agencies to change the government-wide program from a self-certification process into using VA's VetBiz verification program.

We also suggested that Congress consider expanding the VA verification program government-wide to employ more effective fraud prevention controls over the billions of dollars awarded to SDVOSBs outside of VA's fraud prevention control process.

While a bill calling for this passed the Senate last fall, no legislation to address this issue has become law.

Chairman Lankford, Ranking Member Connolly, and members of the Subcommittee, this completes my prepared statement. I would be pleased to address any questions at the appropriate time.

[Prepared statement of Mr. Hillman follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Technology,
Information Policy, Intergovernmental Relations
and Procurement Reform, Committee on
Oversight and Government Reform, House of
Representatives

For Release on Delivery
Expected at 10:00 a.m. EST
Tuesday, February 7, 2012

**SERVICE-DISABLED
VETERAN-OWNED SMALL
BUSINESS PROGRAM**

**Governmentwide Fraud
Prevention Control
Weaknesses Leave Program
Vulnerable to Fraud and
Abuse, but VA Has Made
Progress in Improving Its
Verification Process**

Statement of Richard J. Hillman, Managing Director
Forensic Audits and Investigative Service





Highlights of GAO-12-443T, a testimony before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

In fiscal year 2010, federal agencies awarded \$10.8 billion to Service-Disabled Veteran-Owned Small Businesses (SDVOSB), according to the Small Business Administration (SBA). The Department of Veterans Affairs (VA) awarded \$3.2 billion, or approximately 30 percent of governmentwide SDVOSB awards. The SDVOSB program, established by the Veterans Benefit Act of 2003, is designed to honor disabled veterans' service by providing them with exclusive contracting opportunities. Since 2009, GAO has issued seven reports or testimonies on the SDVOSB program, focusing on its vulnerability to fraud and abuse and agencies' actions to prevent contracts from going to firms that misrepresent themselves as SDVOSBs.

For this testimony, GAO was asked to (1) summarize the status of governmentwide fraud prevention controls over the SDVOSB program and (2) discuss GAO's recent assessment of fraud prevention control improvements instituted by VA over its verification program.

This testimony is based on prior GAO products on the SDVOSB program. GAO also reviewed applicable laws, regulations, and guidance including the Comptroller General's *Standards for Internal Controls in the Federal Government* and related findings from VA's and SBA's Inspector General.

View GAO-12-443T. For more information, contact Richard J. Hillman at (202) 512-6722 or hillmanr@gao.gov.

February 7, 2012

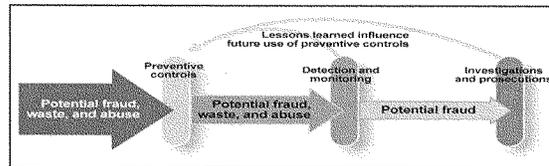
SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS PROGRAM

Governmentwide Fraud Prevention Control Weaknesses Leave Program Vulnerable to Fraud and Abuse, but VA Has Made Progress in Improving Its Verification Process

What GAO Found

Governmentwide fraud prevention control weaknesses over the SDVOSB program leave it vulnerable to fraud and abuse. In October 2009, GAO reported on 10 selected firms that misrepresented their status as SDVOSBs, which allowed them to win approximately \$100 million in SDVOSB set-aside and sole-source contracts. Cases like this happen because the SDVOSB program relies on firms to self-certify annually in the federal government's contractor registry that they are owned and controlled by service-disabled veterans, but most agencies do not validate this information. In fact, GAO found that the program lacks key fraud prevention framework elements, which include preventing firms from fraudulently entering the program, detecting and monitoring for continuing compliance, and investigating firms that abuse the program.

Figure 1: GAO's Fraud Prevention Framework



Source: GAO.

For example, the only governmentwide fraud prevention control in place is SBA's bid-protest process, in which interested parties can contest contract awards. In prior work, GAO found that the process lacked effective controls because firms could complete contracts even after SBA found them ineligible, rendering the process ineffective. In July 2011 GAO testified that the 10 firms cited in the 2009 report had received another \$100 million dollars in new federal contract obligations despite their fraudulent history. SBA and VA had taken some actions against firms by July 2011, including suspending 2 of the firms, and requesting that all firms change their status in federal contracting databases to show they were not eligible for SDVOSB contracts. However, as of July 2011, several of the firms continued to self-certify themselves as SDVOSBs.

VA has made progress implementing a verification program for firms seeking SDVOSB contracts from VA. GAO testified in November 2011 that VA's program includes an initial verification process involving document reviews, site visits to contractor offices, and a risk assessment for each applicant firm. In addition, VA has instituted a status protest process and a debarment committee designed to ensure only eligible firms receive contracts and that ineligible firms face consequences for misrepresenting their status. Those improvements may help VA reduce the risk that ineligible firms will gain access to VA SDVOSB contract dollars. Nonetheless, GAO also made 13 recommendations to VA for improving its verification program and further reducing the risk of fraud and abuse. VA concurred with the recommendations and outlined plans to improve the program. To improve governmentwide fraud prevention controls, GAO suggested that Congress consider expanding the VA verification program to all agencies.

Chairman Lankford, Ranking Member Connolly, and Members of the Subcommittee:

Thank you for the opportunity to discuss fraud prevention controls within the Service-Disabled Veteran-Owned Small Business (SDVOSB) program. The SDVOSB program is intended to honor the service rendered by veterans with disabilities incurred or aggravated in the line of duty. To be eligible for a set-aside or sole-source SDVOSB contract, a firm must be majority-owned by one or more service-disabled veterans who manage and control its daily business operations.¹ Firms self-certify annually that they meet these criteria in the Central Contractor Registration (CCR) before bidding on these contracts.² The Small Business Administration (SBA) stated in a recent report that in fiscal year 2010, \$10.8 billion in federal contracts were awarded to self-certified SDVOSBs.³ The Department of Veterans Affairs (VA) SDVOSB contracts accounted for \$3.2 billion or approximately 30 percent of governmentwide SDVOSB contracts during fiscal year 2010.

The SDVOSB procurement program was initiated with the Veterans Benefits Act of 2003.⁴ Executive Order 13360 also requires heads of federal agencies to provide opportunities for these firms to increase their share of federal contracts and subcontracts. The statutorily mandated prime and subcontracting goal for SDVOSB participation governmentwide is not less than 3 percent of all federal contract dollars each fiscal year.⁵ In addition, VA established an agency-specific goal for SDVOSB participation of 7 percent.

¹If the business is publicly owned, at least 51 percent of the stock must be held by one or more service-disabled veterans. In the case of a veteran with a permanent and severe disability, the spouse or permanent caregiver of such veteran may control the business.

²CCR is the primary registrant database for the U.S. federal government. CCR collects, validates, stores, and disseminates data in support of agency acquisition missions, including federal agency contract and assistance awards.

³SBA calculates its SDVOSB total by including all small-business dollars awarded to SDVOSBs, not just those received through set-aside or sole-source contracts.

⁴Pub. L. No. 108-183, § 308, 117 Stat. 2651, 2662 (2003).

⁵Veteran Entrepreneur Act of 1999, Pub. L. No. 106-50, § 502, 113 Stat. 233, 247 (1999) codified at 15 U.S.C. § 644 (g)(1).

Subsequent to the program's initiation, several other laws were enacted that required a separate verification process for VA contracts, provided additional specificity on program requirements, and established guidelines for responding to firms that violate program requirements. Specifically, the Veterans Benefits, Health Care, and Information Technology Act of 2006 required VA to institute controls over its SDVOSB contracts.⁶ The Act required VA to verify firms' eligibility and maintain a database, VetBiz, of the SDVOSBs and Veteran-Owned Small Businesses (VOSB) it verified starting in June 2007. The Act also required that VA only use its set-aside and sole-source award authority for SDVOSB firms listed in the database and to debar for a reasonable period of time, as determined by VA, firms that misrepresent SDVOSB and VOSB status. Veterans Small Business Verification Act and Small Business Jobs Act of 2010 provided further authorities and requirements for agencies when utilizing SDVOSB contracting authorities.^{7, 8}

Today's testimony will (1) summarize the status of governmentwide fraud prevention controls over the SDVOSB program and (2) discuss our recent assessment of fraud prevention control improvements instituted by VA over its verification program. This statement is based on prior GAO products issued in 2011 and 2009.⁹ That work included review of guidance on internal control standards from GAO's Standards for Internal Control in the Federal Government,¹⁰ the fraud prevention framework,¹¹

⁶Pub. L. No. 109-461, § 502, 120 Stat. 3403, 3431 - 3435 (2006).

⁷Veterans Small Business Verification Act, Pub. L. No. 111-275, § 104, 124 Stat. 2864, 2867 - 2868 (2010).

⁸Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 1341, 124 Stat. 2504, 2543 - 2544 (2010).

⁹GAO, *Service-Disabled Veteran-Owned Small Business Program: Additional Improvements to Fraud Prevention Controls Are Needed*, GAO-12-205T (Washington, D.C.: November 30, 2011); GAO, *Service-Disabled Veteran-Owned Small Business Program: Preliminary Information on Actions Taken by Agencies to Address Fraud and Abuse and Remaining Vulnerabilities*, GAO-11-589T (Washington, D.C.: July 28, 2011) and GAO, *Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts*, GAO-10-108 (Washington, D.C.: October 23, 2009).

¹⁰GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

¹¹GAO, *Service-Disabled Veteran-Owned Small Business Program: Fraud Prevention Controls Needed to Improve Program Integrity*, GAO-10-740T (Washington, D.C.: May 24, 2010).

and findings from recent VA Office of Inspector General (IG) and SBA IG reports.¹² Additional information on our scope and methodology is available in the prior issued products.

We conducted the work related to this testimony from January 2012 to February 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Governmentwide SDVOSB Program Lacks Fraud Prevention Controls

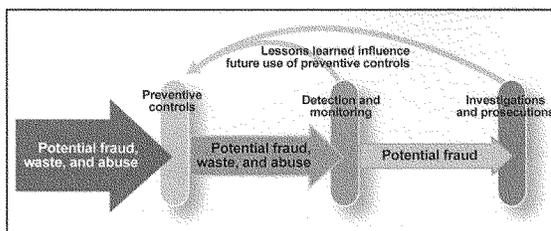
The governmentwide SDVOSB program has limited fraud prevention controls, allowing ineligible firms to receive millions of dollars in SDVOSB contracts. The program relies on firm self-certification, where agencies (with the exception of VA, as discussed below) have instituted limited fraud prevention controls. Our prior work has found that SBA does not verify the eligibility of firms claiming to be SDVOSBs in CCR, nor does it have a process for using the VA database of verified service-disabled veterans.¹³ The main process for detecting fraud involves formal bid protests, whereby interested parties to a contract award can protest a firm's status with SBA if they believe that the firm misrepresented its small-business size or SDVOSB eligibility.

In contrast, an effective fraud prevention framework includes controls at key stages in the contract process (see fig. 1). The most effective and efficient aspect of the framework involves rigorous preventive controls at the beginning of the process to provide assurance that only eligible firms are permitted to bid on SDVOSB contracts. Next, because the status of an SDVOSB firm can change over time, active and continual monitoring of contractors performing SDVOSB contracts is also essential. Finally, these controls are not fully effective unless identified fraud is aggressively prosecuted and/or companies are suspended, debarred, or otherwise held accountable.

¹²VA OIG, Office of Audit and Evaluations, *Department of Veteran Affairs: Audit of Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs*, 10-02436-234 (July 25, 2011).

¹³ GAO-10-108.

Figure 1: GAO's Fraud Prevention Framework



Source: GAO

In October 2009, we exposed these weaknesses in governmentwide fraud prevention controls by reporting on 10 case study firms that misrepresented their eligibility for SDVOSB contracts. The firms fraudulently received about \$100 million in sole-source and set-aside SDVOSB contracts despite being ineligible for the program, because their initial and ongoing eligibility was not verified and monitored by the contracting agencies. They exploited the lack of an effective governmentwide fraud prevention program using a variety of schemes, including setting up front companies to pass SDVOSB contracts on to large, sometimes multinational firms ineligible for the program. Other firms received contracts even though no service-disabled veteran was associated with the firm or, if one was employed, he or she did not manage or control the business.

The limited consequences of firms found to have abused the SDVOSB program were further highlighted when we testified in July 2011 on actions taken against these 10 firms. We reported that SBA and VA had taken some actions against firms, including suspending 2 of the firms and requesting that all firms change their status in CCR to show they were not eligible for SDVOSB contracts. However, in July 2011, several of the firms remained self-certified as SDVOSBs in CCR. Further, even after our 2009 report, the firms received more than \$100 million in additional

obligations on federal contracts through March 2011.¹⁴ About \$16 million in obligations were associated with SDVOSB set-aside contracts. In our 2009 report, we recommended SBA and VA coordinate with the Office of Federal Procurement Policy in order to explore the feasibility of expanding VA's verification process governmentwide. However, agency officials stated that legislative changes would be necessary in order for federal agencies to change the governmentwide SDVOSB program from a self-certification process into using VA's VetBiz verification program. We also suggested that Congress consider expanding the VA verification program to all agencies to help reduce the risk of fraud and abuse, though no legislation to address this issue has become law.¹⁵

VA Has Instituted Fraud Prevention Controls in Its Verification Program

In contrast to the limited fraud prevention controls for the governmentwide SDVOSB program, VA has recently instituted its own fraud prevention controls. The primary focus of VA's recent efforts has been preventive controls, but VA has also made progress in monitoring and investigations. First, VA has enhanced deterrents to ineligible firms becoming verified through its verification process. As of April 2011, VA had established verification guidelines, including a requirement to search the exact names of company principals in the Excluded Parties List System, and developed a risk assessment model to examine applications. VA also updated its data systems to limit manual data entries. Its process of verifying service-disabled veteran status allowed VA to prevent two fictitious, ineligible SDVOSB applications we submitted from being verified. VA's fraud prevention controls appropriately identified that our company owners were not service-disabled veterans (according to their names and Social Security numbers) and rejected the applications. In addition, VA has hired more staff to conduct initial file reviews and site visits. VA has also conducted announced site visits at high-risk firms before they were deemed eligible for the program. According to VA, its enhanced deterrents under new guidelines denied over 1,800 ineligible firms.

¹⁴Dollar amounts relate to federal contract obligations made to the 10 case studies from November 13, 2009, to March 4, 2011.

¹⁵The Small Business Contracting Fraud Prevention Act of 2011, S. 633, 112th Cong. § 4 (2011) did address the matter, but did not become law.

Second, in the area of monitoring and detection, VA has developed some fraud prevention controls that may help identify firms that were previously verified but no longer meet SDVOSB eligibility requirements, such as a reverification initiative designed to review previously verified SDVOSB firms using new fraud prevention control techniques. VA has also developed a process for interested parties to protest a firm's status, and instituted random announced site visits of verified SDVOSB firms.

Finally, in the area of investigations, VA has taken some actions to debar firms violating SDVOSB program requirements. VA may debar an ineligible firm in accordance with the Veterans Benefits, Health Care, and Information Technology Act of 2006, which requires that any business determined to have misrepresented its status as an SDVOSB be debarred from contracting for a reasonable period of time, as determined by VA. VA instituted a debarment committee in September 2010 specifically to debar firms violating SDVOSB regulations. As of October 2011, the committee had debarred one SDVOSB firm and related individuals that had misrepresented their SDVOSB status. Several other debarment actions were currently pending or were being litigated. Additionally, VA officials had sent about 70 referrals to the VA IG for potential fraudulent actions by firms receiving SDVOSB contracts. VA IG was investigating these cases.

Even with these efforts to develop a more robust verification program for SDVOSB firms, weaknesses remain. For example, in July 2011, the VA IG reported that 32 of 42 (76 percent) firms receiving VA SDVOSB and VOSB contracts that the IG reviewed for eligibility were ineligible to participate in the programs or ineligible for the awarded contracts.¹⁶ The VA IG reviewed a statistical sample of contracts awarded during a 12-month period ending May 2010. Some of the specific problems identified by the VA IG included the use of pass-through practices where firms pass SDVOSB work on to ineligible firms, and SDVOSB firms who exceeded allowable subcontracting thresholds. The IG projected that from \$500 million to \$2.6 billion annually was awarded to ineligible firms, and that the VA overstated its percentage of contracts awarded to SDVOSBs by 3 to 17 percent.

¹⁶VA OIG, Office of Audit and Evaluations, *Department of Veteran Affairs: Audit of Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs*, 10-02436-234 (July 25, 2011).

Subsequent to the VA IG report, we reviewed more recent fraud prevention control improvements to VA's verification process, which were discussed above. However, even with VA's improved fraud prevention controls, we made 13 recommendations in November 2011 to further enhance aspects of VA's fraud prevention framework. For example, in the area of preventive controls we recommended that VA provide fraud awareness training to its verification staff and contracting officials, validate applicant information with third-party data, and formalize a process for conducting unannounced site visits for high-risk firms. In the area of monitoring and detection, we recommended, among other issues, that VA develop procedures for periodic, risk-based reviews of firms receiving SDVOSB contracts to ensure continued compliance with program standards. Finally, in the area of investigations and prosecutions, we recommended that VA develop criteria for its debarment committee and program officials to ensure firms that violate program rules are referred to either VA's debarment committee or its IG. We noted in our November 2011 testimony that there was room for improvement in the area of debarments since as of the date of our statement only one firm and related individuals had been debarred by VA out of the 1,800 firms rejected by VA during its verification process and the 70 firms referred to VA IG for potentially fraudulent actions. VA generally concurred with our recommendations and stated they have taken numerous actions to address the identified issues.

Concluding Observations

The SDVOSB program has provided billions of dollars in contracting opportunities to many deserving service-disabled veterans since its inception in 2003. Unfortunately, the limited governmentwide fraud prevention controls have allowed unscrupulous individuals to gain access to those opportunities despite not being eligible for the program. While VA has taken steps to improve its verification program, our November 2011 recommendations address additional improvements that should be made to further reduce its vulnerability. In response to our recommendations, VA has stated it has taken a number of actions which we plan to verify as part of ongoing work. In addition, the approximately 70 percent of contracts not awarded by VA are at a higher risk of being awarded to ineligible firms. We reiterate our suggestion that Congress consider expanding VA's verification process governmentwide to employ more effective fraud prevention controls over the billions of dollars awarded to SDVOSBs outside of VA's fraud prevention controls process.

Chairman Lankford, Ranking Member Connolly, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to answer any questions that you may have at this time.

GAO Contacts

If you or your staff have any questions about this testimony, please contact Richard J. Hillman at (202) 512-6722 or hillmanr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

Mr. LANKFORD. Thank you all for your testimony. I would like to yield to myself for five minutes for some questions and conversation. How about that?

Seventy-six percent was the number I think that was floated of potential fraud basically that is out there of service-disabled veterans that they are not complete. Talk us through the elements of that. I know you mention it in your testimony as well.

Ms. FINN. Yes, sir.

Mr. LANKFORD. If we are dealing with a number of 76 percent, that is a rather high percentage of potential failure in it.

Ms. FINN. Yes, sir, it is, and we were very surprised by the results. I personally was, anyway. Some of my auditors were a little more skeptical going in.

We looked at 42 businesses in clusters across the Country that we had selected randomly. We found 24 of those businesses weren't meeting the subcontracting requirements. Some of those were legitimate veteran-owned businesses, but the veteran business wasn't doing the work.

Mr. LANKFORD. Because the requirement is if you are a service-disabled veteran company, you have to have 51 percent ownership management, be in a CEO or president type position. You have to lead the company; you can't just employ a service-disabled veteran. The service-disabled veteran is the leader of the company, is that correct?

Ms. FINN. Right.

Mr. LANKFORD. Okay.

Ms. FINN. And any particular contract, the veteran-owned business, the business, not necessarily the veteran, has to complete over 50 percent of the work on that contract. In a construction contract, the veteran-owned business percentage requirement is only 15 percent, since those businesses tend to rely a lot on subcontracting, anyway.

Sixteen businesses in our 42 didn't meet the eligibility requirements. Of course, in VA it is pretty unique to find the owner not be a veteran, except for those two you mentioned in the beginning, and I can speak to those. But the veteran-owner didn't meet the ownership or didn't meet the control requirements.

Mr. LANKFORD. Is the majority, then, that you are finding, they don't meet the ownership or control requirements more than they are a veteran but they are not service-disabled or they are not a veteran at all?

Ms. FINN. We only had two in our sample that did not have service-disabled status. VA had correctly identified that those businesses were not service-disabled veterans; however, they didn't take them out of their database because, at that time, there wasn't a firm requirement to take them out. So the businesses were still in the database, still bid for a contract, and were awarded a contract.

Mr. LANKFORD. Has that been corrected now?

Ms. FINN. I believe that has been corrected. I know the requirement is now that they should be removed from the database.

Mr. LANKFORD. Let me shift real quick because the VetBiz is a big part of this, and that database. If everyone government-wide is dependent on VetBiz, is that where we are at this point, that ev-

everyone kind of looks towards that, or where are we in the transition here? Because if I am in a HHS situation and I have a service-disabled veteran that is applying, how can they verify, when VA is the only one that is verifying all this? What is the process?

Mr. Hillman, do you want to address that?

Mr. HILLMAN. Yes. Right now the Veterans Affairs Department is the only department that is able to rely on a verified list of eligible veterans for the program. The rest of the Federal agencies rely on a process that does not verify eligibility of firms and they do not have a process in place currently to use VA's verified database.

Mr. LANKFORD. So this is the self-certify. So if I go to HHS and say I am a service-disabled veteran and I own this company and I want to bid for this contract, they just check I am a service-disabled veteran, but there is no one checking with the VA that they are actually a veteran, that they are service-disabled, and then there is also no certification that they are actually the owner or main part of this contracting, is that correct?

Mr. HILLMAN. Yes. In the contractor registry, the firm itself designates whether or not it qualifies for certain types of set-aside or sole-source contractors. This is a difference to other programs that have set-aside programs. Within SBA's 8(a) program for disadvantaged businesses, as well as the HUBZone program for historically underutilized business areas, SBA controls the eligibility of those programs showing up on the contractor registry. That type of control does not exist on a government-wide basis.

Mr. LANKFORD. So if SBA is verifying for everyone nationwide, all the different agencies, that this is like a female-owned business or a minority-owned business or an economically disadvantaged business ownership, is that correct? And then who else comes back and does that, rather than a self-certification?

Mr. HILLMAN. That is correct.

Mr. LANKFORD. Except for service-disabled. How do we connect the dots between these two, then, so that, if someone is self-certifying, there is some way to, to use a Reagan quote here, to trust and verify, to be able to go back and say thank you for putting that down, let me verify you are actually in the system somewhere? How can we connect that and why is it taking this long to connect the two?

Mr. HILLMAN. In our earlier report we made a recommendation that VA, SBA, and the Office of Federal Procurement Policy get together to look at the feasibility of extending the verification program that VA has instituted on a government-wide basis. In accordance with our recommendations, agency officials did collaborate. One of the important factors that they determined was that they did not have sufficient authority to require verification on a government-wide basis and to eliminate firms that weren't verified from consideration for these contracts without further congressional authority. We made a recommendation to Congress to consider implementation of VA's verification program on a government-wide basis. There has been a bill in the Senate to make that law; it currently rests within the House Small Business Committee for their consideration.

Mr. LANKFORD. And that is part of this conversation today. Let's see what we can do to be able to resolve those issues.

Mr. Chaffetz, I recognize you for five minutes of questioning.

Mr. CHAFFETZ. Thank you, Mr. Chairman. I think we are hitting on something that is troubling to me as well. Another subcommittee within the oversight jurisdiction is also looking into this verification problems and challenges, so I want to continue to explore that.

It would strike me that even an individual company, should they want to go hire somebody, if they were to recommend or put on their employment application that they had served their Country, they had earned certain metals, maybe they were Purple Heart recipient, you would think there would be a way that they could go and verify that through the process, and I am unaware of something that would be crystal clear, simple to use, accurate, and swift in its processing.

If you were going to apply for a job and you were saying that you had achieved certain metals or you had served in the military, maybe you were disabled, maybe you had a Purple Heart, that you could get that verified. Just like if you said I earned a B.A. at a certain university, you could call the university and get verification for that. I think it is inexcusable that we don't have a system in place thus far.

You mentioned some of the companies that they had pursued, very few of them. What is the penalty for those that have actually gone through the process, the adjudication process, been found to be wrong? What is the penalty for misrepresentation?

Mr. O'NEILL. Sir, if we are lucky enough to conduct an investigation and get convictions, the criminal penalties can be years in prison for fraud, so it is depending on the charge that they are indicted on. Now, in terms of suspension and debarment, VA can, under virtue of 38 U.S.C., I think it is 8127, can debar these companies from doing business with VA. Under the FAR Part 9, that debarment could be spread across government. And that is actually in play now with a number of them.

Mr. CHAFFETZ. And that is just not for the companies, but that would be for the individuals as well associated with that, or is that not the case?

Mr. O'NEILL. The individuals are individually debarred, as well as the companies.

Mr. CHAFFETZ. And how many debarments have we had so far? I think we said the number earlier.

Mr. O'NEILL. I don't know. In every instance where we got a complaint and arrest warrant, we have referred that individual and the company for suspension and then, upon conviction, for debarment. We have initiated two recently fact-based debarments, where there was no interest in prosecution, but we believe we made a compelling case for debarment.

Mr. CHAFFETZ. But there are so few debarments that are actually happening, I think, as the Chairman pointed out, the discrepancy. Why is that? Mr. Hillman?

Mr. HILLMAN. VA does have a debarment committee that they established in September 2010, and, to date, there have been three debarment actions involving 11 associated firms or individuals. There are also several proposed debarments that are pending.

That is in stark contrast to the nearly 1800 firms that the VA has rejected from their verification program and some 70 firms that are associated with potential fraudulent activity that have been referred to the VA's IG's office.

Mr. CHAFFETZ. So why the discrepancy in the number? What is slowing them down? Do they meet once a quarter and they only have a half hour, or what is the problem?

Mr. HILLMAN. They do meet on a regular basis. They are not full-time staff, they are part-time staff. The historical information suggests that much more could be done from an enforcement standpoint both by VA and the Small Business Administration to better ensure that there are consequences associated with fraudulent activity.

Mr. CHAFFETZ. You have looked at this a lot closer than most. Why are they so slow and so inept in actually following through on this? Statistically, I don't think inept is a strong enough word. What is slowing them down? When you say they meet regularly, is that every week, every month, every quarter?

Mr. HILLMAN. On a periodic basis, I believe at last monthly.

Mr. CHAFFETZ. Monthly? What is slowing them down? Why aren't we creating this database? We are having the same problem overseas. This continues to be a problematic theme for the Department of Defense. We go through the same process with contractors overseas and we see billions of dollars leave our shores to go to people who didn't provide services that they were supposed to. And now we are having it happen right here. What else needs to be done, other than trying to do the job that they are already set up to do?

Mr. O'NEILL. We have 88 cases open right now on SDVOSB fraud. Our template is to seek prosecution first, criminal prosecution. If that is declined, then to seek civil prosecution. And then, if that is declined, to refer for suspension and debarment. We believe that the penalties of imprisonment are going to deter this behavior very effectively as we get more and more prosecutions, which are increasing and gaining traction within DOJ.

Mr. CHAFFETZ. My time has expired, but, Mr. Chairman, I would hope and encourage them to not only pursue, there should be concurrent pursuit of not only criminal, but also debarment. We should err on the side of making sure that we are giving these contracts to those who truly deserve and should be awarded those, and I find the statistically their follow-through on this is inadequate, at best.

I yield back. Thank you.

Mr. LANKFORD. Thank you, Mr. Chaffetz.

I would like to recognize the Chairman of the full Committee, Mr. Issa, for his time of questioning.

Mr. ISSA. Thank you, Mr. Chairman. I am sorry I missed our first panel. Certainly, Senator Cleland would be a good example of somebody who has paid the price and had a hard time getting here and a hard time staying here. It is not easy for veterans anywhere, including in Congress.

I am concerned, as Mr. Chaffetz was, that your order is wrong. And let me ask a series of questions, since we are one of the committees that could change that order.

First of all, Mr. Hillman, this part-time debarment sort of question and so on, should this Committee look at reorganizing Government and how it does business to professionalize the whole question of contractors across DOD, SBA, you know, you name the ABCs, including veterans? Would that help if in fact we turned it into an efficient, effective, well staffed organization that in fact, like a corporate headquarters, was your go-to for I have a problem, their job is to quickly get the bad guys out?

Mr. HILLMAN. I believe it is definitely a resource issue, and something to consolidate those resources and provide for the expertise to look on a government-wide basis, the credibility of these kinds of actions to ensure that there are real consequences, would be beneficial.

Mr. ISSA. Mr. O'Neill, I appreciate the order that you gave us. Honest testimony is always critical to a starting point of sometimes disagreeing. When a police officer witnesses a crime, he doesn't view conviction as the first step, does he? He views arrest as the first. Isn't suspension and debarment, and particularly suspension, isn't that in fact an essential first step when you have enough to administratively know that someone is a bad actor, whether or not you have the criminal?

I mean, obviously, if you convict somebody of a felony, it ain't no big thing that you managed to debar them. If anything, when you convict somebody of a crime, the question I have for you is when you convict them of a crime, shame on you if you only get the guy that did the crime.

What is your procedure to debar one, ten, hundreds of people who were not convicted, but were conspirators, unindicted co-conspirators in the effort? In other words, the executive secretary, is she or he being debarred because they clearly had knowledge and aided and abetted it, even though they are not convicted?

That would be my question to you. If you are putting debarment, suspension and debarment at the end, then shouldn't it include a broad group of people that wouldn't have been picked up in the first round?

Mr. O'NEILL. I think the reason for the order, sir, is frequently the prosecutors don't want to have to disclose information gained in the investigation, and some of these investigations are conducted under grand jury secrecy. So the movement towards immediate suspension and debarment of the individuals to be indicted presents a problem in that area. In terms of—

Mr. ISSA. But this Committee, just a few years ago, saw a fraud being perpetrated in Florida, where an individual was selling 30 year old, 35 year old 762 rounds to the American people to be put in the hands of, I think, the Afghan government, and thus we were giving them rounds that probably didn't fire. Would you have suggested that you wait until you finished the indictment before you stopped the shipment or the purchase of those?

Mr. O'NEILL. No, sir, of course not.

Mr. ISSA. So how do you stop the bad if not for suspension?

Mr. O'NEILL. Well, as—

Mr. ISSA. Do you have the tools to stop before, in fact, this other part, which may have significant delay? Certainly, Mr. Chaffetz made it pretty clear that 3 versus 1,800 sounds like debarment is

almost an irrelevant part of your tool chest, based on how often you use it.

Mr. O'NEILL. Well, I believe the Department pursues debarment independent of us when we are not conducting the investigation that could lead to an indictment. So the numbers are in that arena, not in our 88 investigations, per se.

Mr. ISSA. Well, back to Mr. Hillman, then. Do we have the order right? Do we have the tools? And how do we explain so few suspensions and debarments?

Mr. HILLMAN. On a government-wide basis—

Mr. ISSA. Well, we are sort of looking at wounded warriors access. You know, this is a little bit narrow in this, but go ahead and answer government-wide.

Mr. HILLMAN. Well, on a government-wide basis for a service-disabled veteran-owned small businesses, the fraud prevention framework to help deter and detect fraud and abuse is woefully inadequate. We looked at prevention controls to help to ensure that only eligible firms for this program are provided with these contracting opportunities, we looked at monitoring and detection controls to help to ensure the continued eligibility of firms to be within this program, and we looked at the enforcement and investigative powers to help to ensure that there were real consequences associated with individuals who claimed to be eligible but were not. In each of these three broad areas of the fraud prevention framework, the government-wide service-disabled veteran-owned contracting program needs serious improvement.

Mr. ISSA. Well, my time has expired, but, Ms. Finn, if you could answer just one question or two questions. Well, I will answer it for you. You do not have subpoena authority.

Ms. FINN. The IG does have subpoena authority. I would have to go to our general counsel, but we have subpoenaed documents in other audits.

Mr. ISSA. Is that an effective tool for you when you are able to get it?

Ms. FINN. Yes, it is an effective tool to obtain documents. The threat of it is also effective, that we can use a subpoena.

Mr. ISSA. Mr. Chairman, could I ask for an additional 30 seconds?

Mr. LANKFORD. Without objection.

Mr. ISSA. Could you elaborate on how effective the tool of threatening, in other words, the fact that you can get a subpoena, how often does that cause voluntary compliance at a sufficient level to your satisfaction?

Ms. FINN. To be honest, sir, I don't have to use that very often in my work. As auditors, we are looking at internal controls and we identified fraud indicators and then we turn them over to Mr. O'Neill for investigations. But the IG has statutory authority to obtain information and, at the end of that, the IG can report, of course, to you, as Congress, that we can't get information. Within the Department, that generally is enough authority. The subpoena comes into question when we are dealing with people outside of the Department of Veterans Affairs.

Mr. ISSA. Is that the findings of all of you, that the power to get one is an effective tool to get compliance, in most cases?

Mr. O'NEILL. We find it an effective tool. Whether I would venture towards getting compliance, it is hard to say. It is very effective to use a subpoena. Of course, we don't have subpoenas for testimony, but for documents and so forth, it is very useful. And, of course, we get search warrants from the court to gain even more information.

Mr. ISSA. Thank you.

Thank you, Mr. Chairman.

Mr. LANKFORD. Recognize Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Mr. Hillman, in your exchange with my colleague from Utah, you cited inadequate resources as one of the problems we face here. Could you elaborate on that? What would it mean if you had more resources, I assume in the form of personnel, in terms of either preventing ineligibility in the first place and/or recovering assets given to ineligible firms in the second place?

Mr. HILLMAN. The SBA bid protest process is one good example where the program itself sees itself as one of its primary responsibilities providing concrete information on the eligibility status of individuals. That is what they see as a material outcome from their efforts. What we are hoping to see is that when entities are determined to be ineligible, that there will be real consequences associated with those actions.

In the SBA bid protest world there have been very limited to no suspensions or debarments associated with the decisions that they have made, and sometimes contractors are continued to be allowed to maintain those contracts through their completion. That does not sound like a system, to me, that affords real consequences when entities are determined to be ineligible.

Mr. CONNOLLY. Wouldn't it be fair to say that an investment in additional resources in this particular area actually might save taxpayers money?

Mr. HILLMAN. Absolutely. If there is a sense that there is an aggressive posture within the program to ferret out the potential fraud, waste, and abuse, you are going to eliminate the interest of a lot of bad actors from entering the program. That is not only going to help to ensure that the honored service-disabled veterans are receiving the benefits that they are entitled to, but it will also help to ensure the overall control structures are operating effectively.

Mr. CONNOLLY. Thank you.

Ms. Finn and Mr. O'Neill, and, Mr. O'Neill, I need you to speak closer to that mic, please. You are a very quiet Irishman. But I thank you.

What percentage of the ineligible firms you have identified could fall in the error rate column versus the fraud, willful fraud column?

Mr. O'NEILL. We only pursue an investigation when fraud is indicated; errors we don't launch an investigation.

Mr. CONNOLLY. Okay, so 100 percent of what is on your plate are already in that fraud column.

Mr. O'NEILL. Yes. Then when we discover that it is an error, then we end the investigation.

Mr. CONNOLLY. Okay. And what percentage of your investigation ends in that kind of conclusion?

Mr. O'NEILL. Well, we have closed 25 cases to date. Twenty were unsubstantiated, three there was no prosecutor interested in pursuing it and then there were administrative remedies in two. So 25, and we have 88 open investigations at this time. So 20 percent, perhaps, if the math is correct?

But to the question earlier most of this fraud that we encounter because of VA's controls now focus on pass-throughs or rent-a-vet schemes, where the work and the money goes to a non-service-disabled veteran, but there is a service-disabled veteran fronted as having ownership and control of the company.

Mr. CONNOLLY. And that is willful fraud.

Mr. O'NEILL. And that is willful fraud.

Mr. CONNOLLY. But I guess I am trying to get at, as the Oversight and Government Reform subcommittee here, what is the extent of our problem. How much of this is error; I thought I qualified, VA thought we qualified, we didn't have our paperwork in on time, you got it wrong, versus, no, I deliberately set out on a scam to qualify for something I most certainly am not qualified for, and you caught me.

Mr. O'NEILL. I believe that Mr. Leney will testify that, if I am not mistaken, 1800 firms have been denied certification and that almost all of them are a result of perceived errors because they have reported the conflict—

Mr. CONNOLLY. But not fraud.

Mr. O'NEILL. Yes, not a fraud.

Mr. CONNOLLY. Right.

Ms. Finn, Mr. O'Neill's plate is already predetermined.

Would the Chairman indulge me one extra minute?

Mr. LANKFORD. Without objection. Go ahead.

Mr. CONNOLLY. I thank the Chair, thank you for his courtesy.

Ms. Finn, you do the presorting. What is the balance we ought to be thinking about in our heads about suspected willful fraud versus everything else at work?

Ms. FINN. We had found 32 of our 42 businesses had issues. Within that 32, another 9 had circumstances that seemed suspicious enough for us to refer those to Mr. O'Neill's organization, and I believe those investigations are still ongoing, I am not certain.

Mr. CONNOLLY. But it sounds like, as the Chairman was pointing out in terms of suspension and debarment, and, frankly, what the statistics you just gave, Mr. O'Neill, in terms of the prosecution, it doesn't sound like a very vigorous effort, which one of two things is true if that is an accurate impression: the case was so weak as to be a judgment call or we are not all that aggressive in making sure that compliance is strictly adhered to, and when we uncover somebody who is deliberately gaming the system illegally, we prosecute them with the full extent of the law.

Mr. O'NEILL. Well, I can assure you that actually considerable effort is devoted to investigating these cases.

Mr. CONNOLLY. I know, but—Mr. Chairman, forgive me—I am interested in the next step, Mr. O'Neill. What happens then? You read off a string of statistics that was not very encouraging in terms of what are the penalties. You said that a number of people,

I assume the Department of Justice, declined to prosecute. That suggests a weak case.

Mr. O'NEILL. I think I only said that about three cases out of a total of approximately 115. So the numbers of declinations hasn't been that high at this point, and, frankly, there is much more interest in Department of Justice in pursuing these investigations now because of three appellate decisions that say that the loss is the full value of the contract, which impacts sentencing and fines and so forth. So we actually are seeing it and I believe you are going to see an increasing number of prosecutions as early as this month.

Mr. CONNOLLY. Mr. Chairman, thank you for your indulgence, and I want to underscore what Mr. Hillman pointed out, though. As we are having a political talk about let's shrink the Federal Government by 5 percent or 10 percent in terms of workforce, strategic investments in certain parts of the Federal Government in terms of personnel can have huge return on those investments for the taxpayer. This is one example.

I thank the Chair.

Mr. LANKFORD. Thank you, Mr. Connolly.

I now recognize Mr. Meehan.

Mr. MEEHAN. Thank you, Mr. Chairman.

And thank you for the work of the panel not only preparing here today, but the very important work you do on this issue, which I think is important to many.

Mr. O'Neill, I am interested in following up a little bit on the practice that we currently see with regard to your investigations and the numbers of declinations. As a former Federal prosecutor, I appreciate the reality that there are many cases out there that oftentimes merit some measure of prosecution, but the reality is limited resources and so often the declination guidelines are quite high, and it is very frustrating for organizations like your own.

Can you explain to me where you see those declination guidelines right now, what the shortcomings are in having prosecutors evaluate these cases and actually find some way to consolidate, perhaps, a group of them and make some kind of inroad in this area?

Mr. O'NEILL. Well, in each case we find that we are educating a prosecutor who is maybe new to this particular type of set-aside fraud, but we are getting a lot of traction because in October of last year DOJ sent guidance to the supervisory AUSAs and the U.S. attorneys themselves about the issue of the full losses, the contract itself, and that helped gain a lot of interest.

If we had a separate group of prosecutors, say, like antitrust, that would be certainly, perhaps, easier in some way, because we wouldn't have to go through the education process that we do when a prosecutor first encounters one of these types of investigations.

Mr. MEEHAN. May I make a suggestion? There may be something that ought to be done. I think, as with anything, communication on this, in the Winston Churchill mode, to make a point and then make it again and make it again, and to pound it in an institution. There is an organization called the Attorney Generals Advisory Committee. It is comprised of about 16 sitting United States attorneys. They meet at least on a monthly basis and they go back and

they consider policy of the Department of Justice and then they take a role in implementing it.

Now, you have 16 of the top United States attorneys sitting at a table, along with the leadership, the Department of Justice. They will generally meet for about two days, maybe even longer, and there is a window of time to request to get on their agenda. I think something that would be helpful, notwithstanding the guidance they send out to the field because, as a recipient of that guidance, we would get tons of materials each day from main justice, and somebody would take it and press it down. Making your case to this group about the importance of looking at these cases, and then the opportunity to do something else. The Department will consolidate cases from around the Country and then try to make a statement by doing a number that are coordinated and effectively done at the same time.

It is not my place to tell DOJ what to do, but I, having been there, believe that you could be effective at making this internally appreciated and then also effective at perhaps advocating for one of those in which you have already done the investigations. You have the materials sitting on the desks of these prosecutors. It is not a big reach to go back and look for the best of those cases.

Can I ask one other question of the panel? Why is the Department of Veterans Affairs doing a fairly decent job of at last meeting their goal, 3 percent, and some of the other critical agencies, HHS and others, sort of so woefully behind? What do they do well that the other agencies don't do to meet their 3 percent requirement?

Ms. FINN. I think the issue is focus. When we were looking at the Department's Implementation of Recovery Act's contracts, the Department had about a billion dollars to spend. They really, really focused on completing those contracts, which was a departure, but that is another hearing, and also making awards to service-disabled veteran-owned businesses. So it was a big focus and I think that is the key difference.

Mr. HILLMAN. I would also add that the focus on the part of the Department has been tremendous in helping to ensure that the goal is being met or exceeded. I would also say, though, that congressional support to help to ensure that the agencies are making progress in this area is essential. The Veterans Affairs Committee required the VA Department to establish goals that were higher than the government-wide goal and to exceed that goal, and with the congressional attention in that area VA has stepped up to the plate, continued aggressive oversight of agencies' actions in this area will also hopefully help the rest of the Federal agencies to increase their focus.

Mr. MEEHAN. Thank you, Mr. Chairman. My time has expired.

Mr. LANKFORD. Thank you.

Mr. Farenthold.

Mr. FARENTHOLD. Thank you very much, Mr. Chairman.

I would like to ask our panel, first, we have talked a lot about the U.S. attorney and the Federal Government investigating and processing. Is there a way we can streamline this to where the private sector can do more or the veterans themselves can do more? It is my understanding that in most cases outside the VA, at least,

violation of these provisions, basically, your only option is a bid challenge.

Is there any way we can take this off of a plate of the Federal Government and effectively enforce these provisions? And I will open that up to anybody who wants to answer it.

Mr. HILLMAN. Well, from a government-wide service-disabled veteran-owned small business program standpoint, you are absolutely right, the only major control is SBA's bid protest process, where eligible individuals can protest a decision that has been made. We found, though, that that process is woefully inadequate and ineffective in having real consequences associated with individuals who are found to be ineligible.

One of the critical areas that I believe could help to ensure that the SDVOSB program has reduced amounts of vulnerability to fraud and abuse would be, in addition to looking at the opportunities in the investigations and prosecution areas, to look more at the preventative controls to help to ensure that ineligible firms do not enter the program in the first place. And the best preventative control that exists today are the processes underway and under development and being implemented within VA to verify the eligibility of firms' participation in this program.

Mr. FARENTHOLD. I am a little bit concerned about the speed at which the VA operates within any of their programs. In South Texas we are really facing a situation where veterans are having problems just getting the basic medical benefits with payment delays to providers of up to a year now, millions of dollars owed to providers. And we hear overall how the VA is trying to streamline this and streamline that, and I know, Mr. Hillman, you have looked at some of this from a past basis and our other witnesses are directly involved.

I ask again the big broad question, What is missing there? The people who work for the VA ought to get up every morning proud that they are serving the people who served us and be just working their tails off to get this taken care of, but all we hear out of the VA is tale of delay after delay in problems getting these programs implemented. Would anybody like to comment on that? I didn't mean to editorialize here, but I just get frustrated sometimes with this.

Mr. HILLMAN. Well, you are absolutely right that the program, Congressman Johnson just testified in the first panel that it is far from perfect. There is a lot that the VA has been doing to help to improve its processes and there are a lot more that needs to be done. One of the major areas that we have seen is in human capital, the extent to which the Department has the resources, both full-time VA employees as well as the expertise through contractor resources, to deliver on the promises that they are making in establishing a verification program.

We also see a need for more emphasis to help to ensure that once firms are verified, that they remain eligible for the program, and that additional steps need to be taken there on the part of VA to help to ensure the reverification of firms that were previously—

Mr. FARENTHOLD. Is it just personnel? Are we not implementing technology effectively or rapidly enough to help with some of these tasks?

Mr. HILLMAN. Technology is a big area as well. We currently, within GAO, have an engagement underway to look into the technological capabilities of the VA. They have improved a lot of the manual entry activities in the past, but more needs to be done.

Mr. FARENTHOLD. Does anybody else wish to comment?

Ms. FINN. The VA has used some technology to obtain documentation from veterans as part of the verification process. Unfortunately, what we found as we visited these businesses is it is very easy to make your documentation appear that the veteran owns the business. That is not a problem. But you have to be in the business there to really figure out that the veteran's name is on the paperwork and his name is on the door, but he hasn't been in that office since the business started.

Mr. FARENTHOLD. Shame on businesses that do that. Thank you very much.

I yield back.

Mr. LANKFORD. Thank you.

I recognize Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman. I would be delighted to yield time to you, Mr. Chairman, for further questions.

Mr. LANKFORD. Thank you. Let me just do some follow-up and some closing questions for us as well. And thank you, Mr. Walberg, for yielding in that.

This is one of those things that is an idea that is a great idea, how do we come alongside companies run by service-disabled veterans. I think it is a great thing for our Nation to do and I am proud that we are doing it. It is the implementation where we are having the struggle.

If we have a company that puts a service-disabled veteran on the list, provides documents and says this is where they are in leadership, this is where their name should be on the door, but you actually get to the company and find out that is not true. That is intentional, willful fraud that is putting a person's name out there and then trying to deceive to be able to get a contract.

If you have a person that is not a veteran that is stealing the valor and going through some other agency and they're self-certifying, but it is not being checked and verified, once the word gets out you can get these contracts and the self-certification is not checked, it just starts ramping up with the bad actors in the process. So we have to figure out how to go from idea to implementation.

This doesn't seem to be as much of a manpower issue as it is a connect the dots issue, if you will allow me to make that illustration on it, in trying to figure out how do we connect the dots. So my calling on this would be for our CIO of the Federal Government, for OMB to start working on some coordination to how do we start coordinating these different agencies in technology and to find out how we can take the information that VA uniquely has and get that certification out.

But the challenge comes to VA to say how do we certify people without making it such a high standard that the good folks can't get in, or they wouldn't bother to say I would love to apply for all those, but the red tape is so long I am not going to mess with it,

it is not worth it. So then it is only the bad actors that jump in, that have the processes to be able to jump in and get it.

I know that is a unique balance that you all are going to have to be able to work through the process on so that we do have legitimate service-disabled veteran-owned companies to be able to get involved in this, but we do keep the bad actors out. As we are already finding out, there are folks that are getting through the cracks at this point.

Debarment and suspension I think is a good first step. I think that is something that we should engage as fast as possible. That begins to exclude people quickly because that gets out to all agencies. While an investigation may take quite a while to happen, they are still continuing to pick up contracts in other agencies to get the word out.

So we have to have some way to be able to get that message out to all agencies. That has been suspension and debarment through our system. So we have to figure out a way to be able to flip this system. I know as they are investigating they don't want to leak out all the investigations that are going on before they are done, but there has to be some intermediate step so that we can get the information out and start slowing the movement of all these individuals to it.

So this is going to take some coordination that we are going to count on OMB, we are going to count on other individuals from GAO and others that will come together and say let's start taking some of these recommendations that have been made, and the good work that you all are doing at VA, and thank you for your service for all of you in this process and to figure out how to be able to move it from here.

One quick statement, though. And this is just for anyone to be able to make a comment on. There have been several steps that have been made and you had mentioned earlier, Ms. Finn, about VA is taking steps to improve the verification process on that. I look forward to reading through some of those steps and seeing where that ends.

What is your perception of how we start coordinating multi-agency on this, taking the certifications happening with VA and the steps that you are doing to improve that, and then to be able to move it? Because as we mentioned with suspension and debarment, it is not a high standard. You don't have to prove criminal intent to even get to a suspension and debarment; you can do that quickly and start getting the word out and work on the criminal side of it.

But it is not just the certification, but it is all of this, getting the suspension and debarments out there, getting the investigations, getting the certifications. What is the best way that you see to start coordinating these things?

Ms. FINN. I think the best first step is to do whatever needs to be done, whether it is legislation or coordination through OMB, to be able to share VA's VIP database and information on verified businesses with the rest of the Federal Government. Right now, as we have all said, the rest of the Federal Government is trusting on the business to self-certify their status, and that doesn't work.

Mr. LANKFORD. Right. We need to verify with our trust.

Ms. FINN. Yes.

Mr. LANKFORD. Other comments there?

Mr. HILLMAN. It is clear that the government-wide program lacks preventative controls, lacks detection controls, lacks enforcement and investigative controls. These three combine to make the program a real candidate for bad actors. The VA, SBA, and OFPP have gotten together to look at the possibility of expanding the VetBiz program on a government-wide basis. They say they need legislative authority to do so. Moving the VetBiz program on a government-wide basis is likely the best solution available today to ensure that eligible firms are included in the program.

Mr. LANKFORD. Thank you for that. We will continue to progress with that. And, again, thank you for the work that you are doing and not only for this hearing, but the work you are doing all the time, when the cameras are off as well. So we very much appreciate your dedication to service for our Nation.

With that, I would like to take a short break as we reset for our third panel.

[Recess.]

Mr. LANKFORD. We will now welcome our third panel. Gentlemen, are you ready? Terrific.

Mr. Weidman is Executive Director of the Vietnam Veterans Association representing VET-Force, a coalition representing service-disabled veterans.

Mr. Andre Gudger is Director of the Office of Small Business Programs in the Office of the Undersecretary of Defense for Acquisition, Technology and Logistics

Mr. Thomas Leney is the Executive Director of Small and Veteran Owned Business Programs at the Department of Veterans Affairs.

Mr. William Puopolo is the President of Verissimo Global Incorporated, a service-disabled veteran-owned small business.

Pursuant to Committee rules, all witnesses will be sworn in before they testify. If you would please rise and raise your right hands. Thank you, gentlemen.

Do you solemnly swear or affirm the testimony you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Mr. LANKFORD. Thank you. Let the record reflect that all witnesses answered in the affirmative.

You may be seated.

In order to allow time for discussion, please limit your testimony to five minutes. Of course, your entire written statement will be made part of the record.

Mr. Weidman, we would be honored to be able to receive your testimony at this time.

STATEMENT OF RICK WEIDMAN

Mr. WEIDMAN. Thank you, Mr. Chairman, and thank you for your leadership in holding this hearing. Senator Cleland put it right on the money, that the nexus, the central watershed event of the readjustment process for veterans, particularly combat veterans, is helping people get to the point where they can obtain and sustain meaningful work at a living wage. For many, and the

greater the disability the more likely it is that it is the only opportunity, is to become self-employed or start a micro business, for a variety of reasons. So the need for small business is apparent.

It is also true that there is a direct inverse relationship between percentage of disability and unemployment, if in fact people are participating in the labor market at all. And beyond 60 percent the majority of veterans are out of the labor force. That is not because they choose by choice to live on \$10,000 a year; it is because they can't find work and they become a whole new thing of discouraged workers.

We believe strongly at Vietnam Veterans of American, and have for a long time, in small business and small business development, and that led, in 1999, to work with former member of Congress and Chair of the Small Business Committee in this distinguished body, Jim Talent of Missouri, to work with him on developing the bill that became 10650, and it was virtually all the military service organizations and veteran service organizations and private business owners that came together and to push that.

Almost everything that has happened since that time, including two Executive Orders and several additional laws, have all been directed to try and properly implement that original law, and that is the problem. What we need is consistent political will at every level.

Roughly 2006, several of us in VET-Force and VVA went to talk to then-Deputy Secretary Gordon Mansfield, and we explained to him that we had tried over and over and over again to reach the vision directors. The entire medical system of VA is 85 percent plus of all of their procurement, and there are 21 individuals and all the hospitals are controlled by those 21 individuals, effectively. And we asked that it be put in their performance evaluation.

We were stuck at 1.8 percent contracts going to service-disabled veterans at that point at VA. It got put into the evaluations and I can assure you that some of them were not necessarily pleased, but Gordon is a great American and has stuck to his guns. We went, in six months, from 1.8 percent to well over 4 percent, and it is my understanding that DOD is considering and, in fact, has already partially implemented the same strategy, and I would suggest that that needs to be done in every agency and department across the Government.

There is renewed interest in the OMB and in cabinet meetings, apparently. One of the last things that Mr. Daley did before he stepped down as Cabinet Secretary was to go around the room in a cabinet meeting and ask the head of each agency who sits on the Cabinet where are you at in regard to reaching the minimum of 3 percent for service-disabled veteran-owned businesses.

That leads us to the concern that we have. We need an accountability/quality control mechanism to make sure that people are who they say they are. But I will say that that sword has cut both ways and it has cut many legitimate businesses, some of whom have literally been put of business for reasons that we consider specious and arbitrary.

For someone, as an example, from Nebraska who is a service-disabled Marine officer who is medically discharged, who has been successfully running their business for 12 years, for them to find

that she doesn't have the managerial experience to run this business, this is nuts. These are people who have never even worked in the private sector, and certainly never tried to run a business.

So the friendly fire, when you know you have friendly fire raining in, yes, you need to do something about the frauds that are encroaching, but when you know that your folks are getting wiped out by that friendly artillery, so-called friendly artillery, stop firing for effect and readjust to make sure you have the right coordinators. And that is the stage we are at now. We don't see any adjustment, no matter how much we try and deal with the leadership of VA at every level.

That process needs retooling, it needs better quality assurance, it needs clear rules that are published so veterans know what the rules are. They have changed dramatically over the course of the past year and a half. And what we need is assistance in getting to that point.

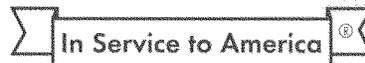
It should be VA's responsibility, probably in the Veterans Benefits Administration under the Deputy Undersecretary for Economic Opportunity, to have a unit that assists veterans in bringing their business up to speed to be able to do business with the Federal Government.

Lastly, I have noted in my written statement some additional tools that we would find extremely useful, and I look forward to answering questions about that.

And once again I want to thank you for this hearing.

[Prepared statement of Mr. Weidman follows:]

**Testimony of
Vietnam Veterans of America**



Presented by

**Rick Weidman
Executive Director for Policy & Government Affairs**

Before the

**House Committee on Oversight
& Government Reform**

REGARDING

**Service Disabled Veteran Owned Small Business
& Federal Procurement**

February 7, 2012

**Vietnam Veterans of America House Committee on Oversight
& Government Reform
February 7, 2012**

Mr. Chairman, thank you for the opportunity to present views here today. I appear on behalf of Vietnam Veterans of America (VVA), where I am on the National staff. I also appear as a representative of the Veterans Entrepreneurship Task Force (VET-Force.org), which is an alliance of a number of veterans' service organizations and military service organizations, as well as individual veteran owned or service disabled veteran owned businesses.

The VET-Force came together in early 1999 to work in cooperation with and in support of then Member of Congress Jim Talent of Missouri, the late Bob Stump of Arizona, Former Member of Congress (MC) Lane Evans, and Senators Bond and Kerry on the bill that became Public Law 106-50 in August of that year.

Everything that has happened in the world of veteran small business (particularly in regard to Federal procurement) since August 17, 1999 has essentially been to try and get the requirements of PL 106-50 properly implemented, with some degree of effective accountability on the part of those who have ignored or in some cases just plain refused to adhere to the law. Since that time VET-Force has been involved with a number of additional statutes, two Executive Orders, and seemingly countless entreaties to both appointed and career officials in the Executive Branch during the last three successive Administrations.

The efforts to focus attention on the 3% minimum of all Federal contracts that are directed to service disabled owned businesses, and the 3% of all subcontracts that is supposed to go to service disabled owned businesses range from assisting in oversight hearings, to working with Members of the House of Representatives and the Senate to devise a legislative "fix" that will be "the key" to securing full and proper implementation of the original law (both the "black letter law" and the House Committee Report, which then became the conference report when the Senate acceded to it), to meeting with officials of virtually every Department and agency in the Federal government at some point over the past decade plus.

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VET-Force was even the driving force behind Executive Order 13-360, which laid out a structure, and accountability mechanisms, that would work, if it were adhered to by each Federal agency and department. What has been lacking for most of these dozen years has been sufficient attention by The White House, and the political will to hold people accountable for achieving *AT LEAST* the minimum called for in the statutes.

Sometimes it has seemed to some of us “old guys” who served in Vietnam that we will be likely to run out of time before we get this law fully implemented for those who will come after us. Nevertheless, we have persevered month in and month out to push for wider implementation, more transparency, and more accountability from those decision-makers who can make positive changes, if only they have the political will and/or other incentives to do so. It is the least we can do to ensure that these 21st century veterans have opportunities not afforded to our generation, but which can be afforded to this generation without adding to the either the deficit or the taxpayers’ burden.

With the assistance and leadership of this committee, it can be made clear to all Federal entities what their responsibilities are toward veteran entrepreneurs, and what repercussions will ensue if they do not choose their course of action wisely. The attention span (which in the case of some Federal entities has been akin to a five year old with ADD) can be brought into sharp focus by you and your distinguished colleagues, Mr. Chairman.

About 85% of procurement at the VA is done by the Veterans Health Administration (VHA). In 2006 we were “stuck” at roughly 1.8% of VA contracts going to Service Disabled Veteran Owned Small Businesses (SDVOSBs). We went to the Honorable Gordon Mansfield, then the Deputy Secretary of the U.S. Department of Veterans Affairs (VA) and the Chief Operating Officer (COO) of the VA. We asked him to put achieving the 3% prime contracts minimum, and the 3% subcontract minimum to SDVOSB as a major element in the evaluation criteria for each of the 21 VISN Network Directors.

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We explained to Mr. Mansfield that we had had met consistently with the VISN Directors as a group and individually for more than five years, and progress was just not occurring in most of the VA Medical Centers around the nation. (All of the 152 VA Medical Centers, and all other VA medical services delivery points, fall under the operational control of one of these twenty one Directors.)

Most of these individuals were not particularly pleased by this requirement, especially as they would not receive a cash bonus if they failed to meet the 3% minimum in their procurement activities. I can report to you that the percentage of procurement from SDVOSBs went from the above mentioned 1.8% to more than 4% in about six months. Because this is still an element in those evaluations and such criteria has been added to the standards and elements of evaluating other senior personnel at VA under Secretary of Veterans Affairs Eric Shinseki, and VA continues to far exceed the minimums for SDVOSBs and for the added minimum for veteran owned small business (VOSB). The VA is to be commended for this effort and achieving the results they have so far.

Although the VA has not done nearly as well as they have publically proclaimed, they have done well, and in some ways have charted a reasonable course for other agencies.

It is our understanding that the Department of Defense (DOD), which has more than 60% of the procurement business done by the Federal government, is moving to ensure that the same by installing a similar requirement in the standards & elements for all decision-makers' evaluations at DOD per se, and for all of the services. We are hopeful that Secretary Napolitano will follow suit by installing this requirement both with the Coast Guard, falls under the Department of Homeland Security (DHS), and with the rest of DHS in all of their myriad activities and responsibilities.

The effort to fill Federal vacancies with veterans' preference eligible individuals in the past two years is commendable, but we must do more to assist the private sector. Bluntly, if veterans get into small business we tend

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to hire other veterans and disabled veterans, and/or their spouse. So ensuring that every Federal entity does at least the MINIMUM procurement (the 3% and 3% should be treated as a “floor” and not a “ceiling”).

Quality Assurance for the SDVOSB Program

As we move toward full implementation of the law, it is important that program integrity is preserved, and that the “phonies” get identified, and severely dealt with where appropriate. VET-Force led the charge in asking for assistance to screen out “rent –a-Vet” operations and other variations of essentially scam artists. I believe we are still strongly in favor of a quality assurance mechanism that works.

Unfortunately, what we currently have at VA is a very sad and dismal excuse for a quality control mechanism. The so-called (and re-named) Center for Verification & Evaluation (CVE) is arbitrary, capricious, appears to practice vendettas against the most vocal veteran business leaders, and is generally poorly run thus far. They do not report any statistics that would indicate quality measures, but then use the excuse of “we don’t listen to anecdotes” and isolated instances.

When they have turned down legitimate business after legitimate business for specious reasons, these are no longer isolated cases. The fact that there is no formal appeal and/or redress mechanism repositis far too much power in a single person who is the initial arbiter, then the appeal judge, and then the final word. This “process” is so bad as to make the mess at the Compensation & Pension service, and that huge backlog of cases, seem good by comparison.

As this is not the primary reason for this hearing, this is all I will note about this matter at the moment. However, we do respectfully request that you and your esteemed colleagues look into this issue of bureaucracy run amok in the coming months. Both all of us at VVA, and at VET-Force, stand ready to assist you in any way we can.

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There are some actions that we do believe would make it easier for both SDVOSBs to get contracts, and for contract officers and other decision makers to “reach” SDVOSBs in the crush of trying to satisfy many “customers” that clamor for their attention in this process. We have noted some modest proposals that would materially help to achieve more complete implementation of the law. These proposals are distillations of many discussions with contract officers, program decision makers, veterans, and representatives of virtually all who have a stake in this process.

I. Authorization to Make Direct Awards to SDVOSBs

Contracting officers don’t have the authority to issue direct awards to a SDVOSB of their choosing, under the Simplified Acquisition Threshold as is allowed under the Small Business Act for the 8a program. At present, contracting officers must always refer to the Rule of Two as introduced under PL 108-183 and contained in Part 19 FAR, and the Code of Federal Regulations (CFR) 13 CFR, Part 125. The Rule of Two states if a contracting officer knows of two or more SDVOBs that can do the work, then the requirement must be competed. But the law also states that if the contracting officer only knows of one SDVOB that can meet the requirement, a sole source award CAN BE Made. Yet without the authority to make direct awards to SDVOSBs, contracting officers are reluctant to even use the Sole Source authority permitted under the law.

Meeting with and talking with Federal contracting officers, we have found that they are often under pressure to get certain requirements awarded quickly, and although there is a SDVOB that can do the job, they routinely go to 8(a) firms. Under the SBA’s 8a program, contracting officers are allowed to make direct awards even if there are other 8a firms available to do the work. In these cases, the Government does not have to take time to consider restricted competition. Thus, the SDVOB suffers and the government agency loses an opportunity to add to its 3% Goal under the law.

II. All Agencies Should Be Compelled to Comply with Executive Order 13-360

First let's go over the Presidential Executive Order, #13-360 that was issued to direct agencies to more effectively implement the 'mandatory' legal requirement to procure 'not less than' 3% of their goods and services from Service-Disabled Veteran Owned Businesses and to do so by reserving more procurements exclusively for SDVOBs.

If agencies would actually adhere to the Executive Order, as stated, they would be much more likely to achieve the minimum 3%. Here's why.

The Order calls for each agency to develop a 'written' Strategic Plan that will provide details and guidance as to how they will proceed to increase contracting opportunities for SDVOBs and make the plans publicly available. The Order was issued in 2004, but when some agencies made their plans public in May 2006, over half of the plans were incomplete and some were poorly developed.

Agencies are not only supposed to make their plans publicly available, but they are also required to report annually to the Administrator of the SBA on how well they did or did not do each year. But only a few agencies have even attempted to submit an annual report partly because the SBA has not followed through on their part and provided proper guidance of where, when, and how to submit the reports.

Each agency should now have designated a Senior-Level Official to be responsible for developing and implementing the agency's strategy. But most agencies never designated anyone, some designated someone but they were not a Senior-Level Official, and then some had one but after they left the agency a new one was never appointed.

Significant elements of the strategy and the agency's achievements were to be incorporated in the performance plans of the Designated Senior-Level Official, the Chief Acquisition Officer, and the agency's OSDDBU Director (Office of Small and Disadvantaged Business Utilization). But to date, some officials in some agencies seem to be still thinking about how to

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avoid that directive. The VA under the former Dept. Secretary, Gordon Mansfield, issued an internal memo to all department heads to follow the Executive Order. And oh by the way, the VA is one of the few agencies that have exceeded the 3% goal for more than one year.

The “Senior Designated Official” (SDO) needs to be an official that has “line authority.” Ideally, this SDO should be the Deputy Secretary or Deputy Director or whomever is the Chief Operating Officer for the entity. People may not listen to the head of the OSDBU, but they will certainly respond to the person who is in charge of their annual job evaluation.

Each agency’s Strategic Plan should include specific guidance on the following:

- a. How they will reserve agency contracts exclusively for SDVOBs;
- b. How they will encourage SDVOBs to compete for agency contracts;
- c. How they will encourage the agency’s large prime contractors make subcontract awards to SDVOBs and how they will monitor and evaluate their efforts to do;
- d. How they will train their agency personnel about the laws and policies related to the Veterans Federal Procurement Program; and
- e. How they will disseminate information that will educate SDVOBs to the agency’s contracting process.

Most agencies have simply left these tasks up to their Offices of Small and Disadvantaged Business Utilization. But based on the agency’s budget, some OSDBU offices have more staff and resources than others. Some send out representatives to small business conferences to distribute information, but many simply rely on their websites and hopes that veterans will contact the small business office.

Training of agency personnel does not appear to be consistent, but many agencies rely on the Defense Acquisition University’s (DAU) online course to provide training on the veterans’ federal procurement program. However, the DAU training merely restates the legislation and does not

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really clarify how to apply the laws. Nor does it address the specific agency policies or directives that also have an influence on how the laws are applied.

And seemingly, very few agencies are doing anything to encourage their large Prime contractors to award more subcontracts to SDVOBs. When you talk to contracting officers or acquisitions personnel, they all say that they are challenged by the enormous task of monitoring the subcontracting plans of the agency's large primes while also having to meet the demands of new requirements. So very few penalties, if any, are being imposed on the large Prime contractors for failing to comply with their subcontracting plans.

III. Stop the Misuse of Contract Bundling

It has been noted in a number of research reports that 'when bundling occurs, small business loses.' It is expected that the number of bundled contracts will increase over the next few years. The effects of bundling are obvious. If an agency has 5 requirements – each could be done separately by a small business. But if those same 5 requirements are bundled together as one – it will probably take a much larger company to perform all 5 together. Thus one large company gains, and 5 small companies lose.

Over the past 15 years, the number of contracting personnel has declined, while the number of contract actions has increased. The federal budget also continues to increase and now we are confronted with the additional burden of contracting out trillions of dollars to repair an economy torn apart by the unscrupulous practices of Wall Street Bankers and Investment Brokers. So it's easy to see why bundling is continuing to be such a widely use practice.

But while we try to repair our economy we should also rebuild its integrity. If small business is the engine that fuels our economy then we must strengthen it rather than to continue to weaken it. If contract bundling is allowed to continue – unregulated – even the Department of Defense with its huge budget, will not be able to even achieve the 23% minimum small business goals.

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Contract Bundling must not be allowed to continue in this unregulated manner.

Additional Recommendations to Consider

In addition to strengthening the SDVOSB program by enforcing Executive Order 13-360, discontinuing the misuse of Contract Bundling, adding authorization for direct awards non-competitively, here are some additional recommendations to consider:

1. Small Business Subcontracting Plans submitted by Large Primes should be monitored more closely. Liquidated damages or the elimination of future contracts should be imposed for those Large Primes that fail to use the small businesses that were included in their subcontracting plans at the time of contract award unless they have a valid reason. Contracting officers should be held accountable for their lack of participating in this process.
2. Provide a Price Evaluation Preference of 10% for SDVOBs in acquisitions conducted using full and open competition.
3. Direct the SBA Procurement Center Representatives (PCRs) and Commercial Marketing Representatives (CMRs) to allocate more time assisting SDVOBs and oversight of agencies failing to achieve the 3%. And have SBA increase the number of PCRs.
4. Have the Office of Federal Procurement Policy issue a statement to clarify that the 23% Government-wide small business goal is only a 'Minimum' and that agencies are allowed to surpass the 23%. And increase the Government-wide small business goal to 28%.
5. Close the loopholes in the GSA schedule (FAR Part 8) wherein large businesses are allowed to take away business intended for small businesses.

Thank you, Mr. Chairman, to you and your distinguished colleagues for your leadership and commitment to veterans by holding this hearing. I would be pleased to answer any questions.

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**VIETNAM VETERANS OF AMERICA
Funding Statement
February 7, 2012**

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans' membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

The Veterans Entrepreneurship Task Force (VET-Force) does not accept grants from any Federal entity. VET-Force does often hold monthly meetings and conference calls at agencies to allow for that agency to explain their structure and possible opportunities for contracting with veteran owned businesses.

For Further Information, Contact:
Executive Director of Policy and Government Affairs
Vietnam Veterans of America
(301) 585-4000, extension 127

Mr. LANKFORD. Thank you.
Mr. Gudger.

STATEMENT OF ANDRE GUDGER

Mr. GUDGER. Chairman Lankford, thank you for allowing me the opportunity to speak today and introduce Department of Defense service-disabled veteran subcontracting that we have.

My role at the Department of Defense is the Director of Office of Small Business Programs and to advise the Secretary of Defense on all matters small business. That includes policy, oversight, and regulation.

When I think about the Department of Defense posture on contracting with service-disabled veterans, it is a very encouraging one. In 2003, when we first started this program, and look at where we are now, we started with about \$300 million in contracts for service-disabled veteran-owned businesses, and last year we ended almost \$6 billion. Since I took office, we increased our fiscal year 2010 number over into fiscal year 2011 about \$600 million in one year. So when I look at that, although it is very encouraging, the trend, we haven't relaxed our efforts.

Secretary Panetta, when he joined the Department as the Secretary of Defense, he issued a memo as one of his first courses of action and, to show his commitment to the Department. He did that while he was on vacation. He took it that serious. And other members of the Department of Defense also issued similar memos encouraging the acquisition workforce to continue to look for opportunities for small business and reinforce the Department's commitment for service-disabled veteran-owned contracting. So that was very encouraging.

But it didn't start with Secretary Panetta; it did start with Secretary Gates. So it is one good example of going from great to great and it is a pleasure of mine to talk about a lot of the initiatives that we started in fiscal year 2011 and built upon from in prior years.

When I think about the Department of Defense, most people say, well, the Department of Defense hasn't met its 3 percent goal, but we have had some major success stories. In fiscal year 2011, although the number hasn't quite settled, we had 7 of our 24 agencies meet the 3 percent and we had, out of our major commands under those services and agencies, we have had almost half, about 22 out of the 47, meet the 3 percent goal.

So there is a strong commitment. And when I look at the trend it is constantly going up. It is the only socioeconomic category where we have never seen a decline. So that shows a commitment to the Department.

And I think further on, looking at our partnerships and looking at our collaboration that we have with industry, we have reinforced and we have taken the extra step, quantum leap in the right direction in working with groups like VET-Force and National Veteran Small Business Coalition and gaining some of the best practices and ideas from industry, not just within, and, as a result of that, those groups have relayed messages to their folks behind them to help them strengthen their capabilities because we know that vets are very talented and we know that talented group of people have

a unique ability to continue to create capabilities to align with the Department's buying and its future urgent needs. So those are very encouraging trends for us.

But one of the things that we have done that I think is probably the most beneficial thing we have done in a very long time was to accelerate payments to all small businesses, which we call accelerated payments, which is where service-disabled veteran-owned businesses were a huge beneficiary. So we pay businesses one-third faster than they would normally get paid, and we know, as a result now, that they have put that back into creating jobs, creating additional capability, allow them to respond to request for proposals quicker and faster and put more resources towards that. So these things are very encouraging trends.

So although we have no data to say that the numbers will definitely go up, it is a good trend and is a good behavior, and we are sharing this throughout my monthly meetings with all of the directors and members of the acquisition community in Department of Defense, but we are sharing best practices with each other and how to do more with veteran business and service-disabled businesses. So it is very encouraging to me.

I would like to wrap up by pointing out a few success stories based on talking to VET-Force and talking to National Veterans Small Business Coalition, attending the National Veterans Conference that the VA put on, attending the conference in Reno for the National Veterans Coalition. These things are very beneficial to me and allow me to go back and meet with the directors of DLA and the acquisition executives

For example, DLA, as a result, in fiscal year 2011, they looked for their national stock numbers, which were about 3,500, of things that they buy, products, and a set-aside for service-disabled and veteran-owned businesses, and in fiscal year 2012 they are going to 1,400 more. These are quantum leaps in the right direction.

Our Defense Security Cooperation Agency had a 26 percent service-disabled veteran-owned business contracting, a goal that they met, and also the Department of Army awarded over \$3 billion, which allowed them to meet the 3 percent.

So there is positive. And they are sharing that with each other, with the other 21.

So, in conclusion, I would like to thank you and the panel for allowing me to testify today. We know that the veterans hold a special place in all of our hearts and it is true for me, too, and I would like to welcome any questions you may have.

[Prepared statement of Mr. Gudger follows:]

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TESTIMONY OF

ANDRE J. GUDGER

DIRECTOR

DEPARTMENT OF DEFENSE

OFFICE OF SMALL BUSINESS PROGRAMS

BEFORE THE UNITED STATES HOUSE

**SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT REFORM**

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

FEBRUARY 7, 2012

**HOLD UNTIL RELEASED BY
THE COMMITTEE ON
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GOVERNMENT REFORM**

Introduction

Chairman Lankford, Ranking member Connolly and other members of the panel, thank you for the opportunity to speak with you today to discuss the Department of Defense (DoD) service-disabled veteran-owned small business (SDVOSB) contracting program. My name is Andre Gudger and I am the Director of the Office of Small Business Programs of the Department of Defense (DoD OSBP). I report to the Under Secretary of Defense for Acquisition, Technology and Logistics, the principal staff element of the Office of the Secretary of Defense for all matters relating to DoD acquisition and small business. Today I will discuss our initiatives in providing maximum practicable opportunities in our contracting programs for our SDVOSB's and highlight a few success stories.

Role of the DoD Small Business Office

The role of the Office of Small Business Programs is to advise the Secretary of Defense on all matters related to small business. This includes policy, oversight, and statutory and regulatory requirements. The Small Business Act provides for government-wide goals and that each Federal agency shall have an annual goal for small business prime contracting. The Act also provides for government-wide and agency goals for Historically Underutilized Business Zone (HUBZone) small businesses and for businesses owned by socially and economically disadvantaged individuals, service-disabled veteran-owned, and women-owned small businesses. In addition, we have assigned subcontracting goals for these same categories. Each of these goals is assigned by or negotiated with the U.S. Small Business Administration (SBA).

Our role includes ensuring small businesses are considered at every step of the Department's acquisition process. OSBP works hard to advocate for small business inclusion within the defense acquisition process and to create awareness of the important role small

businesses play in our Nation's economy, the strength of our industrial base, and protecting our troops. On August 24, 2011, in support of the President's small business initiative, Secretary of Defense, Leon Panetta, in one of his first actions as Secretary, issued a memorandum to the acquisition workforce on the importance of DoD achieving its small business goals. Other senior Department of Defense officials sent similar letters highlighting DoD's commitment to supporting small businesses; the volume of small business communication from such senior officials was unprecedented.

DoD Contracting with SDVOSB

The Veterans Benefit Act of 2003 established the procurement program for small businesses owned and controlled by service-disabled veterans. The law was implemented in the Federal Acquisition Regulation on May 5, 2004.

Over the past nine fiscal years, FY2003 through FY2011, DoD has increased its prime contract awards to SDVOSBs from \$0.3 billion to \$5.9 billion and its SDVOSB award percentages from 0.2 to 2.0. While these trends are encouraging, we will not relax our efforts until we achieve the Government-wide goal of 3 percent. Our yearly increase in prime contracting dollars was most evident in FY2011, when SDVOSB prime contracting increased by \$0.6 billion over FY2010. Additionally, while we did not reach the 3 percent goal as a Department in 2011, six of 24 components have done so. These include the Business Transformation Agency, Defense Media Activity, Defense Security Cooperation Agency, Department of the Army, TRICARE Management Activity, and Washington Headquarters Services. Twenty-one of 47 major commands have met or exceeded the 3 percent goal.

The Department is committed to supporting the SDVOSB portion of our industrial base and believes that SDVOSB participation in defense acquisitions can deliver better value to the taxpayer and warfighter. We believe that our veterans have unique skills that allow them to develop capabilities that meet the Department's requirements and urgent needs.

Outreach

OSBP has engaged in an unprecedented outreach effort to SDVOSBs around the country. DoD small business professionals in the DoD components and my staff have attended and continue to attend many SDVOSB conferences, generating awareness of our support and providing information on available DoD contracting opportunities for SDVOSBs. Since I became the Director of OSBP, I have attended several conferences in support of veteran owned businesses including the National Veterans Conference and Small Business Expo in New Orleans, the Vet Institute for Procurement in Potomac, Maryland, and the MacDill SDVOSB/VOSB Small Business Conference in Tampa. I will continue this level of engagement this fiscal year and will encourage the small business workforce to do the same. This year I plan to attend the Veterans in Business Conference in Fairfax, Virginia, and the National Veterans Conference in Reno, Nevada. We will also continue our dialogue with industry groups such as the Task Force for Veteran's Entrepreneurship and the National Veteran Small Business Coalition to ensure we understand the issues that are most important to our veteran owned businesses.

Accelerated Payments

Outreach is only one part of several OSBP initiatives. In FY 2011, DoD made a change to the Defense Federal Acquisition Regulation Supplement that allowed us to implement

accelerated payments to small businesses. With this change, DoD is able to pay small businesses, including SDVOSBs, one-third faster than they would otherwise get paid. We believe this will enhance their ability to hire new workers, expand their capabilities, and look for ways to participate in new contracting opportunities.

Studies

Our office has commissioned several studies to identify ways to help small businesses, including new entrants, do business with the Department. One of the first such studies I initiated as the OSBP Director was an investigation of barriers to entry for SDVOSBs. This study will outline progress towards meeting SDVOSB prime contracting goals for DoD. It will also identify any barriers SDVOSBs face in winning contract awards and recommend ways to reduce these barriers. We have also initiated a study to identify best practices in market research so that we can identify the most capable businesses and create more competition within the DoD procurement process. We believe these initiatives will lead to an increase in contracting with DoD for SDVOSBs.

Accountability

Another important OSBP initiative is to make prime contractors more accountable by focusing on their inclusion of small businesses in subcontracting. We have done this in two important ways. First, DoD currently uses proposed small business subcontracting utilization as an evaluation factor in selecting prime contractors. Thus, if all things are equal between offerors, small business performance could be a deciding factor in who gets the award. Secondly, small business utilization is looked at in past performance. Prime contractors that meet their small

business subcontracting obligations get higher performance evaluations; past performance affects future competitions.

OSBP is also determining how best to assess the Departments' and agencies' achievements in subcontracting. We realize that our electronic subcontracting reporting system must be made more accurate and we are working hard to eliminate the identified issues.

Also beginning in FY2012, DoD will include small business contracting goals in the performance evaluations of all senior executive staff members who oversee the acquisition workforce. Senior DoD leaders who focus on small business development will be rewarded in that part of their performance review. This reinforces and strengthens the Departments commitment to small businesses from the top, down to each of our buying activities. All of these initiatives benefit our SDVOSBs.

Market Research

DoD is leading the way within the Federal Government on new market research techniques. DoD's Small Business Maximum Practicable Opportunity Analysis shows potential small business opportunities for specific supplies and services, and identifies specific contracts that could potentially be satisfied by small businesses. Thus, if one DoD component had a small business performance of 10% in a certain North American Industry Classification System code, that component could easily compare its performance to the performance of other DoD components and find specific areas for improvement on small business participation. This initiative ties with a memorandum issued by the Director of OSBP jointly with the Director, Defense Procurement and Acquisition Policy, encouraging contracting officers to utilize market research to identify opportunities for small businesses. More effective market research by our

acquisition workforce will create more opportunities for our SDVOSBs and will further support the alignment of their capabilities with the Department's needs.

DoD small business professionals are working to ensure that small businesses are considered at every step of the acquisition process instead of just at the end. As part of the peer review initiative, our office participates in all planned acquisitions above \$1 billion with the objective of ensuring that small business opportunities have been considered. Military Department and Defense agency small business directors similarly review all planned acquisitions above \$500 million. In addition, Military Department and Defense agency small business directors have been authorized to review all planned strategic sourcing actions for small business opportunities. We believe that when small business is considered at the beginning of the acquisition process and our small business workforce is more engaged, our SDVOSB participation in defense acquisitions will continue to increase.

Collaboration on Veteran's Issues

OSBP is also involved in broader veterans' issues through interagency collaboration. DoD, through OSBP, is currently represented on the SBA-led Inter-Agency Task Force on Veterans Small Business Development and is co-leading the Entrepreneurship Sub-Working Group on the Interagency Task Force on Veterans Employment. Both of these task forces are looking at ways to transition our highly skilled and well-trained veterans. This work has become urgent with the return of troops from Iraq and Afghanistan. Through these two initiatives, OSBP is able to connect the dots between its efforts to support our veterans and the efforts of other Federal agencies.

Success Stories

I would like to highlight a few success stories that illustrate the work DoD components are doing to improve SDVOSB performance.

- Defense Logistics Agency (DLA) conducted a review of National Stock Numbers (NSNs) to identify NSNs that might be appropriate for SDVOSB set-asides.
 - DLA Aviation—targeted over 2,000 NSNs for FY2011.
 - DLA Land & Maritime—targeted 1,500 NSNs for FY2011; another 1,400 are targeted in FY2012.
- Defense Security Cooperation Agency estimates that over 26 percent of their contract awards went to SDVOSBs (although the 2011 figures are not yet final).
- Department of the Army awarded more than \$3.16 billion to SDVOSBs in 2011 and will undoubtedly exceed the 3 percent federal-wide goal.

Conclusion

I would like to thank this panel for inviting me to testify today. Our veterans hold a special place in all of our hearts, and DoD is committed to ensuring contracting opportunities for SDVOSBs and veteran owned companies. I believe that through OSBP's initiatives we are moving in the right direction and will strive to continue increasing our prime contracting awards to SDVOSBs even when we meet and exceed our 3 percent goal. I look forward to answering any questions you may have.

Mr. LANKFORD. Thank you, Mr. Gudger.
Mr. Leney.

STATEMENT OF THOMAS LENEY

Mr. LENEY. Chairman Lankford, thank you for inviting me to testify on the implementation of the VA's Veteran Owned Small Business Program. The goal of the VA's Small and Veteran Owned Business Program is to help small businesses, in particular veteran-owned and service-disabled veteran-owned small businesses, to add value to the important mission of the VA in support of all veterans.

As a veteran who came directly out of the small business community, I am particularly sensitive to the challenges faced by veteran-owned small businesses, and at the direction of the Secretary have focused my attention over the past eight months on improving opportunities for small businesses to add value to the VA, while improving the integrity of our preference policies.

The VA has demonstrated its commitment to veterans by far exceeding the government-wide goal of 3 percent procurement to service-disabled veteran-owned small businesses. To promote strong support to veteran businesses, Secretary Shinseki established additional procurement goals within the VA of 12 percent for veteran businesses. In fiscal year 2011, with a contracting base of about \$17 billion, \$3.5 billion went to veteran businesses. Overall, in 2011, VA provided more than 28 percent of the total Federal procurement to service-disabled veteran-owned small businesses.

The VA succeeded largely due to the Secretary's strong commitment to promoting veteran businesses. Performance on small business goals is reviewed personally by the Secretary and the Deputy Secretary as an integral part of the Department's monthly performance review.

In addition to strong leadership, VA has instituted a number of programs that contribute to our success. We have increased direct access of veteran small businesses to the Department's procurement decision makers. That program began in 2011 with the National Veterans Small Business Conference hosted by the VA in New Orleans. This was the largest veterans business event in the Country, with more than 4,300 participants. The 2011 conference was groundbreaking in that the VA alone brought more than 250 program and acquisition managers to meet with small businesses.

The VA is building on the success of this direct connection model piloted in New Orleans by expanding that small business conference to be held this year in Detroit in June. We will be bringing more decision makers from the VA, as well as encouraging other departments and agencies to bring procurement decision makers in order to expand veteran business opportunities and to help our sister agencies meet their SDVOSB goals.

In addition to the National Veterans Small Business Conference, VA will sponsor focused opportunity showcases throughout the Country in order to enhance access for vendors who have difficulty participating in the large events.

To improve veteran business capacity, we have established a mentor protege program to provide developmental assistance to

veteran businesses. The program began in 2010 with 25 firms. We added 26 in 2011 and will be adding another 50 this year.

We have joined with other agencies to address the challenge that small businesses have of finding and understanding all of the programs that are out there in the Federal Government to support them, so we have joined with other agencies on the Business USA platform that was established by the Administration to consolidate information and services from across the Government into a single integrated network for American business owners and entrepreneurs.

Subcontracting opportunities provide a valuable option for many veteran small businesses. The VA has established a subcontracting compliance review program that conducts audits and assesses prime contractors for compliance with their subcontracting commitments.

An important part of the small business mission is to verify the eligibility of veteran-owned small businesses to participate in the VA's VetsFirst program that provides procurement preferences to those businesses. The verification program ensures that these preferences go only to legitimate small businesses. Over the past six months, CVE has made major strides to address the issues raised by the Office of Inspector General and the General Accounting Office, who spoke before we did, as well as to make the process easier to navigate. We moved aggressively against the relatively small number of firms who would misrepresent their status in order to obtain benefit from our program for which they are not eligible.

In summary, we have made major strides in improving access by veteran businesses to opportunities to add value to the work of the VA. Our journey is not complete, but progress is clear and significant. Much has been done, but there is much left to do, and we are committed to getting it done.

As a result of the efforts of program and acquisition managers, and with the strong support of senior leadership, we far exceeded our procurement goals and will continue to do so. At the same time, we will ensure that only those who are eligible under Public Law 109-461 get the benefits of participating in these preference programs.

Mr. Chairman, I am pleased to answer questions you may have.
[Prepared statement of Mr. Leney follows:]

**STATEMENT OF THOMAS J. LENEY
EXECUTIVE DIRECTOR
SMALL AND VETERANS BUSINESS PROGRAMS
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT REFORM
FEBRUARY 7, 2012**

Chairman Lankford, Ranking Member Connolly, and members of the Subcommittee, thank you for inviting me to testify on implementation of the Department of Veterans Affairs (VA)'s Veteran-owned small business (VOSB) program. The goal of VA's Office of Small and Disadvantaged Business Utilization (OSDBU) is to help Veteran-owned and service-disabled Veteran-owned small businesses to be able to contribute most effectively to the important mission of VA.

VA has demonstrated its commitment to Veterans, far exceeding the Government-wide goal of 3 percent of procurements to service-disabled Veteran-owned small businesses (SDVOSB). To promote strong support of Veteran businesses, Secretary Shinseki established additional procurement goals within VA of 10 percent for SDVOSBs and 12 percent for VOSBs. In Fiscal Year 2011, VA's contracting base was \$17 billion with \$3.5 billion in contracts awarded to VOSBs. VA appreciates the efforts of Congress to enable VA to achieve these results by establishing the Veterans First Program under Public Law (P.L.) 109-461 that enables VA to provide preference to SDVOSBs and VOSBs, and VA has used this program aggressively to lead the Federal government in contracting with these businesses.

This is real money in the hands of Veterans and their small businesses, and it establishes VA as a leader in this area. VA has succeeded largely due to the Secretary's strong commitment to promoting Veterans' businesses. The support of VA's mission by the department's leadership ensures accountability throughout VA to meet the goals for VOSB and SDVOSB participation. Performance on small business goals is reviewed personally by the Secretary and Deputy Secretary, and is an integral part of the Department's Monthly Performance Review.

In addition to strong leadership, VA has instituted a number of programs that contribute to our success in exceeding the Veteran business goals. One of the major challenges faced by VOSBs and SDVOSBs is to obtain access to the department's procurement decision makers. VA has undertaken to increase those opportunities through our Direct Connect Program. This program is designed to connect small businesses, particularly SDVOSBs and VOSBs, directly with the procurement decision makers that have requirements that can be filled by their goods or services. Direct Connect will not only increase access, but it also will increase the return on investment by VA and from small businesses through these engagements. It will reduce the number of unproductive small business engagements for small businesses and VA procurement decision makers and will increase procurement decision-makers' awareness of the capability of small businesses that add value to VA's mission. Direct Connect consists of events that are scheduled, focused, structured and facilitated. This program began in 2011 with the National Veterans Small Business Conference hosted by the VA in New Orleans. This was the largest Veterans' business event in the country, with more than 4,300 participants. The 2011 conference was ground-breaking in that it offered unprecedented opportunities for Veteran business owners to connect directly with procurement decision makers. VA alone brought more than 250 program and acquisition managers to meet with small businesses. The event also offered far greater opportunities for small businesses to receive training that built their capacity to add value to Federal agencies. In addition, the number of training sessions designed to increase the capability of small businesses increased fivefold from previous years.

VA is building on the successful model of direct connection piloted in New Orleans. In 2012, VA will expand the National Veterans Small Business Conference, to be held in Detroit in June, by bringing more decision makers from VA as well as by encouraging other departments and agencies to bring procurement decision makers in order to give Veteran businesses broader opportunities and to help our sister agencies to meet their SDVOSB goals. A large gathering of this kind also provides a valuable opportunity for small businesses to conduct business-to-business networking with large prime contractors, a critical component of any small businesses development strategy.

VA will apply the successful National Veterans Small Business Conference access model to two other major vendor access events – one for each of our major procurement centers at VA (the National Acquisition Center and the Technical Acquisition Center). At these events, VA will connect decision makers directly to small businesses. Each of these events will feature senior leaders from VA.

Almost half of the overall procurement at VA comes from the Veterans Health Administration (VHA), the largest of three main operating units within VA. OSDBU will sponsor focused opportunity showcases in each of the VHA regions that connect vendors to decision makers. VA will use these events to train small business liaisons in each of our medical centers and they in turn will host an opportunity showcase at their facility. VA expects that by distributing events around the country, we will enhance access to vendors who have difficulty participating in the large events. This approach also enables VA to maximize cost-effective access. VA expects to conduct more than 50 regional and functional showcases in 2012, as well as a local showcase at each of our 152 medical centers. This structured, scheduled approach greatly increases the access of small businesses and accountability of VA acquisition and program staff for quality engagement without excessive diversion from their other duties. These activities will expand access to decision makers by more than 240 percent.

To further expand contact between VA senior leadership and small businesses, OSDBU is reviewing the travel of all VA senior leaders to include small business roundtable events facilitated by OSDBU into their schedules. This approach is expected to increase the number of contacts by senior leaders to more than 200 percent.

Last year VA also hosted a VA Open House at the National Veterans Small Business Conference as part of our efforts to help Veteran entrepreneurs and Veterans in general. In 2012 we will expand the opportunities for Veteran small businesses. This engagement will allow Veterans to learn about the support programs that VA offers, as well as including assistance programs at other agencies and support offered by Veterans Service Organizations. VA is expecting thousands of local Veterans to attend.

Finally, VA will build on the success of the recent VA hiring fair conducted here in Washington, DC, since we believe that “Veterans hire Veterans.” On January 18, 2012,

VA hosted a hiring fair that attracted more than 4,100 Veterans, which provided them the opportunity to meet with 26 firms and 10 government agencies. This enabled them to be considered for more than 5,500 job openings. Hiring managers were on site to interview applicants for positions and more than 500 Veterans received private sector job offers from this single day event. We will be adding a hiring fair to the 2012 National Veterans Small Business Conference to enable Veteran business owners attending the conference, as well as Federal agencies, to conduct interviews and offer positions.

Another way VA is assisting VOSBs is through our Mentor-Protégé Program. The purpose of VA's Mentor Protégé Program is to provide developmental assistance to SDVOSBs and VOSBs that will enhance their capabilities to perform as prime contractors and subcontractors on VA procurements. The program began in 2010 with 25 firms and 26 additional Mentor-Protégé agreements were added in 2011.

Veterans have reported that they sometimes find it difficult to identify and to track information, programs and services that are relevant to their business efforts. VA has joined with other agencies to address this need by contributing program information useful to Veteran businesses to BusinessUSA, a platform that consolidates information and services from across the government into a single, integrated network for American business owners and entrepreneurs. The goal of this effort is to make it easier for businesses to search – and to find – the full range of government information, programs, and services the businesses need to compete. At BusinessUSA, Veterans businesses will be able to obtain – on demand – a wide range of relevant and timely Federal government data, services, and programs, and facilitate businesses finding their way through the seeming maze of programs and bureaucracies.

Subcontracting opportunities provide valuable opportunities for Veteran small businesses. VA has established the Subcontracting Compliance Review Program, a program that conducts subcontracting compliance reviews to assess prime contractors for compliance with subcontracting commitments. The program involves audits of prime contractors that include site visits and comprehensive document reviews of selected firms. This will help ensure SDVOSB and VOSB subcontractors receive the

subcontracting opportunities required by the prime contractor. This program includes audits of the implementation of subcontracting plans to determine what work is actually being performed by subcontractors, with penalties for failure to adhere to the goals set in the award.

An important part of the OSDBU mission is performed by The Center for Veterans Enterprise (CVE). CVE is responsible for verifying the eligibility of VOSBs and service disabled Veteran-owned small businesses (SDVOSBs) to participate in the VA's Vet First program that provides procurement preference to VOSBs and SDVOSBs. The verification program ensures that these preferences go to legitimate Veteran-owned and controlled small businesses as described in P.L. 109-461. VA has actively implemented statutory provisions to ensure the P.L. 109-461 procurement eligibility goes only to legitimate SDVOSBs and VOSBs. VA is verifying such firms and ensuring that only those firms whose business models meet the criteria laid out in P.L. 109-461 gain the benefits of the preferences it provides. We have also moved aggressively against the relatively small number of firms who would misrepresent their status in order to obtain benefit from a program for which they are not eligible.

VA has made great strides to improve the VA VOSB Verification Program and our plans are to continue improving it so that legitimate SDVOSBs and VOSBs have full access to VA procurement opportunities. At a hearing on November 30, 2011, GAO reported that VA has made many improvements in the process for fraud prevention. For example, fictitious test companies that they created were all detected by the VA VOSB Verification Program.

VA is serious about debaring companies who misrepresent their status as a VOSB or SDVOSB, and has formed the 8127 Debarment Committee, named after the portion of the U.S. Code that implements the small business portions of P.L. 109-461. VA has developed and formalized specific processes and criteria related to the 8127 Debarment Committee and that information can be found on the committee's Web site. As of December 2011, 11 separate contractors and related individuals were debarred, and an additional eight are listed as proposed debarments. However, most ineligible firms are not committing fraud. The vast majority of firms self-report issues that preclude their eligibility for verification. Those firms that provide false information or

omit material information are referred to VA's Office of the Inspector General for review and action.

Conclusion

In summary, we have made major strides in improving access by veteran businesses to opportunities to add value to the work of the Department of Veterans Affairs. Our journey is not complete, but progress is clear and significant. Much has been done, but there is much left to do, and we are committed to getting it done. As a result of the efforts of program and acquisition managers, and with the strong support of senior leadership, we have far exceeded our goals and will continue to do so. At the same time, we are ensuring only those eligible under P.L. 109-461 are participating in these programs. Mr. Chairman and members of the Subcommittee, this concludes my statement. I am pleased to answer any questions you may have.

Mr. LANKFORD. Thank you.
Mr. Puopolo.

STATEMENT OF WILLIAM PUOPOLO

Mr. PUOPOLO. Sir, I want to thank the Committee for taking the time to address the service-disabled veteran-owned business programs. We, as a community, are encouraged that we are having this discussion to improve opportunities for service-disabled veterans in Federal contracting.

The service-disabled vet community is made up of men and women from all races, religions, and creeds. We view ourselves as we did in uniform: one is judged by rank but, more importantly, character. Our GWOT veterans are returning home with a sense of empowerment brought on by the many successful missions they have accomplished in some of the harshest environments in the world.

We want to deliver the message that service-disabled veteran-owned small businesses are capable, ethical, faster, and cheaper; that we want to hire our fellow brothers and sisters in arms who have sacrificed so much from Vietnam to the global war on terrorism. We have banded together to say this program was not designed for 20 SDVOSBs to succeed and thousands to fail.

The approximate .45 to 1 percent of our population that has taken on the burden of the global war on terrorism over the last decade are by no means victims. We still see many returning service-disabled veterans maintaining the entrepreneurial spirit and starting up companies. They want to identify themselves as soldiers and vetrepreneurs.

The Service-Disabled Veteran-Owned Business program is facing immense hurdles. Our disabled veterans have returned home with a drive to improve the economic and moral situation of the Country they love and defend. Many disabled veterans must overcome their disabilities first, and then overcome the challenges of entrepreneurship. They have the fortitude to enter an unfamiliar business world, learn quickly, and embrace the vision that they will be successful.

I served at Abu Ghraib Prison, and in April of 2005 there was a coordinated attack launched on the base. I thought that would be the hardest thing I ever did in my life. I had no idea that becoming a vetrepreneur would be an even tougher fight.

Unfortunately, I believe that the current SDVOSB program designed to help disabled veterans is hurting them due to hurdles, lack of accountability, and unnecessary bureaucracy within the Federal Government contracting system. There has been a disconnect between the program's intentions and execution. Our service-disabled vets have heard thousands of reasons why they can't do business with the Government or corporate America, and now simply want to hear one way they can.

A few of the major hurdles we are facing are contract bundling, no level playing field between SDVOSBs and 8(a)s, double counting of contract awards, credit for SDVOSB awards that were actually granted through 8(a) or HUBZone vehicles, and a CVE certification process that has set the bar too high or too low and is not certifying legitimate SDVOSBs.

The SDVOSB program is complex, and no one action will overcome the hurdles and issues we face. The SDVOSB community is prepared not only to identify the problems, but provide solutions. The two overarching measures that we need to take are close legislative loopholes that allow the SDVOSB program to not be on a level playing field with other small businesses and, more importantly, we must gain the will of the Federal departments and agencies in word and deed to take down the hurdles, work with SDVOSBs, and to find innovative and concrete solutions and make their SDVOSB programs inclusive, not exclusive.

Today I have addressed only a fraction of the hurdles that we face in the SDVOSB community, but I have met so many great people in this movement that I feel honored just to stand next to them. The SDVOSB community will work to ensure that those service-disabled veterans who have the will to continue to contribute to our national defense and infrastructure will have ample assistance and opportunity. We hope the Federal departments and agencies and large prime contractors will do the same.

Mr. Chairman, thank you for your time, and I can answer any questions.

[Prepared statement of Mr. Puopolo follows:]

Testimony for: Committee on Oversight and Government Reform, Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform – SDVOSB Inclusion in Government Contracting

07 FEB 2012

Presented By: William J. Puopolo, MAJ USANG, SDVOSB Owner and Advocate

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I want to thank the committee for taking the time to address the Service Disabled Veteran Owned Small Business (SDVOSB) program; we as a community are encouraged that we are having the discussion to improve opportunities for Service Disabled Veterans in federal contracting. I want to thank all veterans for their service and sacrifice and especially our Vietnam Veterans, who have toiled for veteran benefits. Each and every day Global War On Terrorism veterans (GWOT) can acknowledge that the efforts of our Vietnam Veterans have provided us with the proper tools to conduct full spectrum operations across the globe and have improved health care and benefits over the last several decades.

The SDV community is made up of men and women from all races, religions and creeds. We view ourselves as we did in uniform; one is judged by rank, but more importantly character. A service member or veteran is evaluated on their dedication, service, commitment and honesty, not their background.

Our GWOT Veterans are returning home with a sense of empowerment, brought on by the many successful missions they have accomplished in some of the harshest environments in the world. They are fully prepared and eager to become a part of business and civic functions. We want to deliver the message that SDVOSBs are capable, ethical, faster and cheaper; that we want to hire our fellow brothers and sisters in arms who have sacrificed so much from Vietnam to the Global War on Terrorism. We have banded together to say this program was not designed for 20 SDVOSBs to succeed and thousands fail.

Our GWOT Veterans are facing many similar concerns of past veterans. They are also facing many different challenges. Advances in medicine have allowed some of the most severely wounded warriors to lead productive lives and continue to contribute in the workplace. Posttraumatic stress has been brought into the public arena and has produced both positive and negative perceptions and attitudes. The tactics of our enemy using IEDs, combated by our protective equipment, has led to less fatal injuries and an increase in Traumatic Brain Injury; the Army alone has treated over 126,000 known cases since the beginning of the war. Our returning heroes are now facing one of the worst recessions we have seen and a volatile world

economy that is breeding uncertainty and anxiety for those who served. The unemployment rate for veterans age 18 to 24 is 31 percent and projections estimate that the rate for the National Guard and Reserve members could reach 50 percent in the next two years.

The approximate .45 to 1 percent of our population that has taken on the burden of the Global War on Terrorism over the last decade are by no means victims. Most GWOT veterans have expressed that they were and continue to be prepared to face our enemies, endure hardship and face fear in combat zones. The two events that become overwhelming to even the most hardened service member are leaving their family behind and losing a fellow comrade in combat, peacetime or to suicide.

I believe that any numbers presented must be scrutinized to seek the truth and identify discrepancies. There are currently 18,346 SDVOSB profiles in the SBA small business database. In 2007 the SBA reported that there were over 400,000 businesses owned by Service Disabled Veterans, a number I believe has decreased due to lack of opportunities, a harsh economy and an unfriendly small business climate. Yet we still see many returning Service Disabled Veterans maintaining the entrepreneurial spirit and starting up companies. They want to identify themselves as Soldier and Vetrepeneur.

The Service Disabled Veteran Owned Small Business (SDVOSB) program is facing immense hurdles. Our disabled veterans have returned home with a drive to improve the economic and moral situation of the country they love and defend. They also have a dynamic commitment to network with and hire other comrades in arms. Many disabled veterans must overcome their disability first and then overcome the challenges of entrepreneurship. They have the fortitude to enter an unfamiliar business world, learn quickly and embrace the vision that they will be successful.

I served with the best and brightest America has to offer in our Armed Forces. On April 2nd, 2005, while deployed at Abu Ghraib Prison, our joint team was engaged in a two hour battle with highly trained Al Qaeda and Syrian operatives. Every Soldier, Sailor, Airman and Marine served with honor and contributed to a crushing defeat of our enemies. At the end of the day there were fifty less bad guys in the world.

Although Al Qaeda gave us a blow, we beat them decisively. Gen. Peter Pace called the coordinated attack on Abu Ghraib "The largest battle since the end of major combat operations in Iraq." Other sources called it the "Largest attack on a US Base since the end of the Vietnam War."

At that time I thought that the Battle for Abu Ghraib would be the hardest thing I ever did in my life. I had no idea that becoming a “*Vetrepeneur*” would be an even tougher fight.

Unfortunately, I believe that the current SDVOSB program, designed to help disabled veterans, is *hurting them* due to hurdles, lack of accountability, and unnecessary *bureaucracy* within the Federal Government contracting system.

There has been a disconnect between the program’s intentions and execution. Our SDVs have heard thousands of reasons why they can’t do business with the government or corporate America and simply want to hear one way they can. A few of the major hurdles we are facing are:

- Contract bundling reduces access - GSA, Enterprise Contracts, GWACs, IDIQs and BPAs
- No level playing field between SDVOSBs, 8A and HUBzone companies
- No enforcement of Large Business Sub-Contracting Plans
- Double counting of contract awards – credit for SDVOB awards that were actually granted through 8A or HUBzone vehicles
- Reliance on Incumbent Contractors reduces access
- False Reporting of SDVOSB numbers – large pass through used to achieve goals
- Government Bureaucracies (such as the SBA) that are ill equipped to help SDVOBs
- Past Performance difficult to achieve without opportunities for work
- Broken Mentor Protégé programs do not develop SDVOBs or provide meaningful work
- Bonding issues
- CVE certification process that has set the bar too high or too low and is not certifying legitimate SDVOSBs

The SDVOSB program is complex and no one action will overcome the hurdles and issues we face. Many people I now talk to, outside the community, respond with disbelief when I discuss the lack of opportunities and the barriers in place. There is an art and science that has come to drive the SDVOSB program that make it elusive and exclusive. The SDVOSB community is prepared not only to identify the problems, but provide solutions.

The two over arching measures that need to be taken are:

- Legislative loopholes have to be closed and the SDVOSB program needs to be on a level playing field with other small businesses; oversight and accountability must be a cornerstone of the process.

- We must gain the will of Federal Departments and Agencies, in word and deed, to take down the hurdles, work with SDVOSBs to find innovative and concrete solutions and make their SDVOSB program inclusive not exclusive.

Today I have addressed a fraction of the hurdles that face the SDVOSB community. I am always available to discuss issues in detail or advocate for our SDVOSBs. I have met so many great people in the movement that I feel honored just to stand shoulder to shoulder with them and be counted among the SDVOSB ranks.

The SDVOSB community has convinced many that the hard work and ethics of our SDVOSBs will build the country as a whole and improve our government, economic and moral institutions. We have a great opportunity to tap into the motivation, skills and knowledge that our veterans can give back to our country. This opportunity may perish if we don't make an effort to exploit it. I am optimistic that 2012 will be the tipping point for the SDVOSB program and we will meet and exceed our goals in the near future. The SDVOSB community will work to ensure that those service disabled veterans who have the will to continue to contribute to our national defense and infrastructure will have ample assistance and opportunity. We hope federal departments, agencies and large prime contractors will do the same.

Mr. LANKFORD. Thank you. I yield to myself as much time as I desire, apparently.

Let's talk for a moment about some of this and let's try to clear up all that we can. Gentlemen, thank you for being here and thanks for your service to the Nation and what you are doing. And being here, I know that it is an intimidating thing to come and prepare a statement and be able to do this. Let's just have a conversation about this, shall we?

Let's see what we can do to be able to solve, because I want to identify as much as we can what is stopping this, what is in the way. I appreciate some of the success stories, I really do. But let's find the things that are in the way and let's try to figure out how do we start resolving this. Otherwise, ten years from now, someone else is going to do a hearing and we will still be talking about this same issue.

Mr. Puopolo, you mentioned there were some hurdles there. In your statement, thousands of reasons why we can't do business. You just want to know a few ways that we can on it. And you identified some of those hurdles. If I got your top two there, you listed several: closing the legislative loopholes, which that is being pursued right now and we will continue to work on that, looking at the Senate legislation that is coming over and other options that are here; and the second one, the will of the agencies to do it.

I found that very interesting. Can you illuminate that more for me?

Mr. PUPOLO. Yes, sir. I think the message we got from the last hearing in December from the VA was that we are fighting for the crumbs off the table and that is where we are going to be because it seems like there is an unwillingness to really embrace the VetsFirst law and implement that.

Mr. LANKFORD. Are the service-disabled veterans doing lesser work, and so they are, down the table, saying, well, if we have to use them, we will? Or are you saying they are both great companies, these are two people, we have a higher platform because we have that 3 percent on it? Which one would you say it is? Are you doing lesser work or doing equal or better work?

Mr. PUPOLO. Well, sir, I think the disconnect is we have thousands of service-disabled veterans marketing to the VA and going to the VA and saying we are here. Unfortunately, the message you hear back from the VA is that we can't find these capable service-disabled vets. And myself and others in the community have approached these agencies and said, well, why don't you come to us and we will work with you? And that kind of falls on deaf ears. I don't know if it is because of bureaucracy or just lack of will that they don't want to work with us. I wish I could get a candid answer of why, when we come to them and say we will help you meet your goals or we will help you find capable SDVOSBs, that they are unwilling to work with us.

Mr. LANKFORD. Okay. That is interesting.

Mr. Leney, I have a question. Thank you, as well, for connecting the small business side and for doing the training and the coordination and the reach-out on it. I find a couple things very interesting in this. One is the goals that we were talking about before.

In the previous testimony, it sounds like you disagree on some of the testimony that was given earlier, and let me give you a highlight on that. You talk about the progress of small—we have had progress in these areas and the small numbers of firms that don't qualify. They are giving numbers as high as 76 percent.

You are saying, no, there is a smaller number that don't qualify; the majority do. Can you give me a feeling of where you land on that? Because it sounds like you are saying, no, I think you disagree with the IG's report on that.

Mr. LENEY. It is not so much that I disagree, but I think we have to distinguish eligibility for a particular government program, in this case the Veterans First program, and the commitment of fraud. I have personally reviewed hundreds of applications for verification.

In 2011, we denied 60 percent of all applicants, and in reviewing those denials over the last eight months, it is my judgment that the vast majority of the firms that we are unable to declare eligible are not committing fraud; they are not willfully misrepresenting their status.

Nobody goes to the police station and tells the cop, hi, I am here and I want to show you the documentation that shows you I am committing a felony. Ninety-eight percent of the people that we identify to be ineligible self-report. To me, that is a very powerful statement. And I think one of the disservices that we have done to the thousands of veteran business owners that are out there operating with integrity is to imply that lack of eligibility for a VA program equates to fraud.

When we find someone we think is willfully misrepresenting or has consciously misrepresented, we refer them to the IG, as you heard from the previous panel. If we think they are conducting themselves in a way that is worthy of debarment, we have referred them to the debarment committee.

I will tell you, in respect to the previous panel, we have focused more on identifying those where we believe there is fraud, pushing them over to the IG for further investigation, because my organization is not in the business of criminal investigation.

Mr. LANKFORD. Right.

Mr. LENEY. But I think it is—yes, we deny a lot of firms, but they are not fraudulent; they just have a business model that does not fit the requirements of Veterans First.

Mr. LANKFORD. Then I guess I will ask the question how do we resolve that, then? Because either the word is not getting out to them, they are applying and going through a process without the clear stipulations, because it is fairly clear to me you have to have 51 percent, you have to be in the executive office here, you have to lead that company; you have to have 51 percent ownership; you have to have the majority of how you are putting out your subs. That is pretty clear. You have to be a service-disabled veteran.

So the standards seem to be pretty clear. Why are we getting so many people that are applying for something that the standards seem to be not clear? Or is it the hurdles of going through the process that you don't have the right paperwork? Which is it?

Mr. LENEY. I think there is a degree of ignorance regarding what the standards mean and translating the standards of the regula-

tion to their individual company. You have heard anecdotal evidence where a person says I have been running this business for 12 years, but they don't meet the requirements of the regulation to demonstrate that they have 100 percent control of the business. And that is the kind of thing we encounter.

The good news is we have spent some time and energy over the last few months publishing what we call a verification assistance brief, identifying those things that have precluded firms from becoming verified, trying to explain them in plain language to help firms that are going through the process or getting ready to go through the process to understand does my business model fit. So what we have seen is a reduction. In 2011, as I said, we denied 61 percent of the firms that we evaluated. So far, this year, we are at about 48 percent denials or more than half now we are verifying.

Mr. LANKFORD. All right, you are talking about a simple two-step process? It sounds like you are putting the information out, but are you suggesting something is a two-stage process from VA that, when they are going through certification, if they express an interest, instead of getting this big, fat packet saying, fill out all of this, they get a simple sheet that says here are the standard criteria, check off if you apply to all of this, if all of these apply to you, a simple page, then we will send you the big, fat packet? Is that what you are recommending there?

Mr. LENEY. Well, we don't send them a big, fat packet, we ask them to send us a big, fat packet.

Mr. LANKFORD. Right. But they have a big set of instructions saying if you are going to qualify, here is all the stuff; you have to prove you are a manager, you have to prove you are qualified, you have to prove your ownership, send us your SEC reports, send us everything. There is an enormous amount of information that has to be sent back.

Mr. LENEY. What we have determined is because of, as we evaluated failures to be verified, we have tried to go out with these simple little briefs, and I think currently our verification assistance brief probably covers 95 percent of the reasons for denial. I think we have to be clear. Very seldom do we have a situation where the person is not a vet. All of those people have gone away, at least from our program.

Mr. LANKFORD. Now, that is VA only, that is not necessarily saying other agencies?

Mr. LENEY. I can only speak to VA, sir.

Mr. LANKFORD. Right.

Mr. LENEY. I am only speaking to the VA, the VetsFirst program, our responsibilities. There was that issue before; now people have gotten the message you are not going to be verified, you are going to be investigated if you come in and say you are a vet when you are not.

Secondly, ownership. A very small number of firms are denied because of ownership. Most people can add up to 51 percent.

The major issue comes as an issue of control, and the requirements of the regulation are for 100 percent control by the veteran-owner or the veteran-owners. And that is a high standard.

Mr. LANKFORD. So you are saying currently the standard is 51 percent ownership, but 100 percent control.

Mr. LENEY. Owner. One hundred percent control.

Mr. LANKFORD. So you have to have somebody that is 49 percent fairly compliant with your company with you. They don't care if you control everything, but they actually own 49 percent.

Mr. LENEY. That means somebody who is 49 percent doesn't care how you control the company. That means if someone has an equity stake in your company, they have given you their money with no influence over what you do with it. That is a very high standard. And I don't know very many people in this room that would invest a million dollars in a company and have no control over, but that is the standard of the regulation.

Mr. LANKFORD. Okay. How are we trying to verify that? How are we verifying currently? What documents are we using to show that you have 51 percent ownership and 100 percent control? How are we making them prove that?

Mr. LENEY. One of the tremendous improvements that has occurred in the verification program was as a result of what the Congress did in the passage of Public Law 111-275, which gave the Secretary the authority to call in the documents that were necessary to determine if a firm was actually owned and controlled, and that has made a huge difference.

Mr. LANKFORD. That has become the hurdle, as well, as we discussed before, the big, fat packet of information coming back in. Now it is such an enormous amount of information that you have to be able to bring to bear on it. I am trying to weed through this on this.

Are you saying that is a benefit or that is a detriment? Because all that documentation now makes it prove that then you are also disqualified because you can't prove 100 percent control of a company you only own 51 percent of.

Mr. LENEY. Well, to the 7,900 firms that are currently verified, it is a huge benefit. To the contracting officials who are expected to ensure that, when they are setting business aside for veteran-owned firms, that those firms are in fact owned and controlled by veterans, it is a huge benefit.

You heard the GAO, you heard the IG. I am pleased to report that the kind of issues that they laid out in their reports we have dealt with, and I am very comfortable that they will not find firms that are ineligible for the Veterans First program, not if, but when they come back, because we have made great strides in ensuring that that doesn't happen.

The price of that is diligence. We have gone from 147 site visits in 2010 to over 1,000 in 2011. Is that a hurdle? It certainly is a hurdle for those firms that we determine are not in fact eligible. And sometimes that is what it takes, is a site visit.

Mr. LANKFORD. Give me a quick statement; I know we have to move on. But just give me a ballpark. To fill out the forms to go through all that, to gather the data to be able to send it back in for certification, how many man-hours do you think it takes to complete that, the process? Take it for a small business. A medium to large business, where everything is in a filing cabinet, it is easy to pull. For a small business.

Mr. LENEY. Actually, the difference, Mr. Chairman, is a function of the complexity of the business. For a two-person business it is

relatively straightforward and, as a result, those businesses get verified pretty quickly. For more complex businesses, where an owner is an owner of more than one business, he is living in one State, he is doing operations in another State, that becomes increasingly complex. But it is substantial; you don't do it in 20 minutes, absolutely.

Mr. LANKFORD. So give me a ballpark, how much time?

Mr. LENEY. Well, when I sat down and did it myself, it took me about 9 hours.

Mr. LANKFORD. I would assume veterans get a tremendous amount of mail in their box related to just about everything. Is there anything going to a recent veteran, as they are leaving out from Iraq or Afghanistan, wherever it may be, as they are stepping away, are they getting mail saying if you want to start a business, we will help you do that? Here are the standards that you need to do.

We are doing preferences in every single agency. If you have an interest in any of these items and would like to start your own business, call us, and we will go through the process. Who is sending that piece of mail to them? Mr. Puopolo?

Mr. PUOPOLO. Sir, I guess during the demobilization process, the guys coming back, they get briefings and they hear this, but I think the main marketing tool they are getting is from either the VA in their benefits package or sometimes an SBA rep will reach out during a mobilization process.

The unfortunate part, and this is why I say this program is hurting people right now, is because they are being told that the Government has a 3 percent goal and they are not meeting that. So in the mind of the veteran is if I can work hard and really start a capable company, I have more than ample opportunity to build a business, hire veterans, become financially stable.

The problem is the Federal Government doesn't care to meet that goal, and that is why we are having the problem, so that is why it is hurting people. And to start a small business it takes a lot of time and financing, and you are away from your family and it is a sacrifice that is supposedly going to pay off later, but because of the system there is really no payoff the way we have it set up now.

So my fear, and I am sure other people at the table would disagree with me, is unless we are going to fix it, then stop it for our younger vets coming back, because some of them are in bad places looking to improve their life, and if we throw them into a program that is broken and bureaucratic and just going to get them broke and depressed, then we shouldn't be doing that.

Mr. LANKFORD. No, let's fix it.

Anyone else want to make a comment about that? Mr. Weidman?

Mr. WEIDMAN. The SBA is supposed to be part, and is part, of the Transition Assistance Program, or TAP, but there isn't anything from VA because, frankly, there is no place where it is veteran friendly. CVE, now known as the Center for Verification and Evaluation, three years ago was the Center for Veterans Enterprise under Secretary Principe. It was known as a place where you went for help.

Nobody goes to CVE now for help. And with all due respect, the directions that are on the website and with the application, I print-

ed them all out, it was 40-some-odd pages. It was not clear even to me, and I participated in the process for the last 15 years. So there isn't what we would call in the military a simple, straightforward, by the numbers direction. If you put that in, you wouldn't have the high failure rate.

If I am a teacher, and I have taught in my life when I first came back from Vietnam, and 60 percent of my kids fail, am I a bad teacher or are they bad kids? I would suggest that I am a lousy teacher. And it is not that I need to make the test easier; I need to make the directions more clear. I need to help them find the next rung on the ladder in order to climb up that ladder, and that doesn't exist right now.

Mr. LANKFORD. Any other comments on that?

Mr. LENEY. I would like to mention, as part of the Transition Assistance Program currently there is very little emphasis on entrepreneurship. However, Mr. Gudger and I sit on the Interagency Task Force on Veteran Employment that was directed by the President back in September and we have proposed the addition of a two-day program as part of the Transition Assistance Program that will introduce all departing service members to veteran entrepreneurship, and we will be piloting that program in June in Detroit with recent veterans who are reaching out to participate.

Mr. LANKFORD. Mr. Gudger?

Mr. GUDGER. Yes, I would like to build on Mr. Leney's comment. I personally sit on the SBA-led Interagency Task Force, as well as the DOD-VA Joint Task Force for Veteran employment; I co-lead the entrepreneurship track of what we are going to introduce. In addition to that, I also am on the Business USA Task Force. And I mention all that to talk about the Department's commitment to connecting the dots. We have been very aggressive. I met with VET-Force, Rick, Bob, Joe, Scott, and got information from them about the things that they would recommend that we should do, and we are implementing a lot of those things as part of our recommendation.

So I think that, again, we are taking a quantum leap in the right direction. Time will show that. But when we look at what do the veterans get when they return, it is more important now than ever, with the young men and women coming back from Afghanistan and Iraq, to put even more emphasis on it, and we have taken our efforts that we did in fiscal year 2011 and now we are even making them even greater, and it is so visible that the front office of the Department is looking at this biweekly, saying what are we doing and what are we doing to make it easier for veterans not only to transition back into good jobs because they are very talented, but to transition into being successful entrepreneurs.

Mr. LANKFORD. I am sure you all know very well the fastest growing segment of the job market is going to be brand new start-up businesses.

Mr. GUDGER. Correct.

Mr. LANKFORD. Brand new start-up businesses, they hire new people, they expend capital, they take off much more than a large business does. So both economically and also just doing the right thing for our veterans, it is a great thing to be able to encourage veterans coming back to say start a company. You saved us as a

Nation, you saved freedom for what is happening; come home and save our economy. As you start a new business and you hire a couple of your brothers there, you are reestablishing a stable economy back in the United States as well as you do that.

Now, we should do everything that we can to clear the path in front of them, rather than to add hurdles into the middle of it, and obviously we have been talking about already what do we do with agencies that slow-walk this process. So we have to find where we are missing here. I see a couple elements on it, but as each agency looks up and says what are we going to do, but I think one of the elements is we need to sit in front of veterans, as they are coming home, start a company; you have great skills.

I mentioned earlier in my opening statement that companies in Oklahoma love hiring veterans because they don't know when to quit. They don't know how to work a 40-hour week. That is not an issue for them. In fact, if you come to Oklahoma, I will show you companies that do energy drilling that they want to hire former tank drivers to run their drill rigs because they know how to run things blind. They know how to look at the scope and be able to operate it, and they have the patience to be able to do it well.

And they will go hire as many former tank drivers as they can find to be able to do their drilling equipment because they are good at it. Well, those are skills that are transferrable both in that job market, but also in every single aspect of what they have done.

So if we can do anything as a Nation, as well, to be able to tell returning vets start a company and we will help you, and it actually, as Mr. Puopolo mentioned before, they actually get to do it, rather than just start a company and it becomes a false hope, if they get to start a company and know here are all the places of engagement and they can do it both in the public sector and the private sector, I think it is a great asset to be able to come back.

Mr. Gudger.

Mr. GUDGER. I agree with you. As a matter of fact, myself and Tom and Farouk, who is behind me, we believe that encouraging the young men and women to become entrepreneurs start prior to them coming back, it starts when they almost first go in, we are looking at things that we can do to get them information in the hand earlier to make that assessment and have them aspire to be more so.

One of the studies I commissioned when I first became the Director in this job was a study on service-disabled veteran-owned business barrier reduction, to figure out how we can reduce the barriers. I came from industry. I am the first director in DOD to come from industry, so I was very familiar with a lot of the barriers. I reached out in my second week to all of our directors, small business directors and specialists, many of them are here before me today to show their support and their commitment to veterans as well. I took all of that feedback, said here is what we need to do to start reducing the red tape and barriers, and we moved out on that pretty quick.

By June of last year I signed a joint memo for the first time, myself and the head of the Defense Procurement and Acquisition Policy, to encourage market research. Market research, we believe, is the cornerstone of creating competition. Competition opens the

doors for service-disabled veteran-owned businesses to compete on future opportunities.

Then, in addition to that, we had a peer review process where all of the directors, out of my office we do a billion or more, and then the rest of the directors do the services and component agencies at 500 million or more. They sit on every single peer review before any plan acquisition to look for opportunities for small business, whether we require set-asides and subcontracting agreements or we look at pieces that can be broken out for them as prime contractors. And that is an aggressive move we are doing as a Department and we are fully committed to that.

Mr. LANKFORD. Great. You realize if you can do this well you will be a good example for a lot of other agencies. So we hope for your success on that one, so continue pressing forward. Yes, sir.

Mr. WEIDMAN. Mr. Chairman, we need a mechanism that works for verification of SDVOSBs, but we also need a verification and evaluation process of large primes. Most of the large primes do not do the things that are contained in their boilerplate. They do not list a Vets 100 report; they do not make any effort to go out and hire any of the protected groups, principally disabled veterans and wartime veterans. If they do, it is quite separate and apart from that requirement in the law of all Federal contractors; and they do not do the subcontracting aggressively that they say they are going to do. The situation now is it is a let's not and say we did of here is our subcontracting plan, but nobody comes back and checks it.

Mr. LANKFORD. Whose responsibility is that to check that?

Mr. WEIDMAN. The agency.

Mr. LANKFORD. So it is left to the contracting officer; it is somebody else after that. Correct or not correct on that?

Mr. WEIDMAN. I don't know.

Mr. LENEY. I can speak for the VA. The VA established, in late 2011, a subcontracting compliance review program where the chief acquisition officer is taking on the responsibility to look at prime contractors who have subcontracting plans, and we have begun doing audits, site visits of those prime contracts to determine whether or not they are in fact delivering on their promises, because, yes, historically that has been a challenge.

And for contracting officers it has been a particular challenge to unravel that at a time when what they are focused on is completing the contract, it is a standard, getting the medical center built on time, on budget. So we have, at the VA, just initiated a program that just started this year, where we are going out and assisting them by auditing these prime contractors.

Mr. GUDGER. Yes, I would like to speak. So in the Department of Defense, this is a good example, Chairman Lankford, of reducing barriers. We decided not to solve this problem with people, but with technology. In our past performance or our source selection criteria, we are no longer, on many of our acquisitions, putting out a goal in subcontracting; it has become a requirement as a part of our response.

We track that through our performance database, and large companies who do not meet what they say they are going to deliver to us, as we are tracking it going forward, if all things remain equal

in a future competition, we do take that in consideration, have they met their small business goals.

Mr. LANKFORD. So in the previous contracts, if they meet the small business goals; if they didn't, then they are marked down for the next contract.

Mr. GUDGER. Correct. That is a way of accountability and adding more visibility into, one, do we get what we are buying and, two, are the companies doing the right things for our economy and spending taxpayer dollars correctly. So I think those are steps we have taken in the Department in fiscal year 2011, and we are going to continue those in fiscal year 2012.

Mr. LANKFORD. Okay. Thank you.

Mr. PUOPOLO, do you want to make a final statement?

Mr. PUOPOLO. Yes, sir. Thank you. To that point, we hear a lot of this talk and hopefully it will become a reality, but we still see that a lot of the contracts are coming out bundled, a lot of them are not going to small business. And it is a small business problem.

Mr. LANKFORD. You are saying the contractor is giving it to one company that handles a lot of the other subs, rather than going through a company that would be a service-disabled veteran that would take it at that point?

Mr. PUOPOLO. Yes, sir. And the Air Force has NETCENTS contracts that are billions of dollars that lock everybody out, and this is the message that the veterans get when they do talk to the SBA or they do talk to the VA, is the Government buys everything, which is pretty much true, they buy everything from pencils to airplanes. What they don't tell you is how they buy it. And when you look at how the Government buys it, it buys it through bundled contracts, national acquisition contracts.

I sat down with a VA contracting officer that told me he was forced to buy off a national acquisition contract and he bought trash bags that cost more and didn't fit his trash cans. So that just was apparent to me that this system is not working.

So from the veteran community, we would like to see that broken down more small businesses—

Mr. LANKFORD. So are you getting instructions that all of that, okay, if you are not getting the prime contract, how to get the sub? And is there any follow-up on that?

Mr. PUOPOLO. Yes, sir, but we face the same hurdles. We approach large businesses and they go to these conventions and they say, oh, we want to increase spending with veterans, we want to do more. When you approach them, you go through their small business people, it is a gatekeeper; you don't hear back from them, they tell you to follow up, you send emails and calls and calls and calls upon calls, and you never hear back.

Mr. LANKFORD. Right. But that means some agency is not following up on them. We are back to that.

Mr. Gudger?

Mr. GUDGER. Yes. In the example of NETCENTS, not only do we have a large business component, it is a multiple work contract for multiple winners, one portion of it is a small business set-aside multiple work contract and the other is large. In addition to the large business side, they have a requirement in their portion of it of over 30 percent, roughly, small business subcontracting they

must do, and it will be a highly weighted factor for that particular opportunity.

So we are doing things in the Department. In 2011, together, our prime and subcontracting dollars was the highest it has ever been in small business on both sides. It didn't increase, it was the highest number in our history. So I think we are making a quantum leap in the right direction.

Mr. LANKFORD. Well, gentlemen, thank you.

Mr. Weidman, did you have another comment?

Mr. WEIDMAN. Yes, a last point, if I may. We have talked a lot about enforcement of the law today and about the sanctions in one way or another, either on individuals or on the agency. But one of the most effective things at DOD prior, and, incidentally, Andre has been a breath of fresh air over there since he got there.

But there were folks in the previous administration, Dr. James Findley in particular, who was terrific on SDVOSB, and under his guidance they started an awards program. Unfortunately, 2008 was the last year that was done, and it focused attention within DOD on the positive aspects and recognizing both the Federal workers who had gone above and beyond, companies, private and large contractors that had gone above and beyond, and outstanding small service-disabled veteran businesses who had materially contributed to innovation and products that will better serve our men and women in the field. That is something that can be done in virtually every agency.

Last is a concern, and I was glad to see Chairman Johnson here this morning, but we have been talking with the Veterans Affairs Committee and with Chairman Graves' people, and one of the things that we need to look at very hard is standardization of definitions between what SBA defines as control, what SBA defines as a small business, and what VA does.

Frankly, it is on this control issue where we have had all the problems and there has been discussion, and I think Chairman Graves thinks that the control issue ought to be moved back to SBA because it is settled law, including case law, over at SBA and it is not anywhere near settled over at the VA yet. So it is an area where a good deal of cooperation between the three jurisdictions and in-house can really lead to a productive solution.

Mr. LANKFORD. Terrific. I am only slightly past my five minutes of questioning time, but I do appreciate very much the conversation on it. This allows us to have a dialogue to be able to work through and try to get this stuff in the record.

As you know well, we will have staff that will go through this and start trying to determine, okay, which direction can we go with this and which agency do we do the follow-up questions on. So getting these things in the record and getting this kind of colloquy is very helpful to us in the days to come as we do the follow-up on it.

I appreciate, again, your service and your work, and for staying here even a little bit longer to be able to go through this.

With that, this hearing is adjourned.

[Whereupon, at 12:26 p.m., the subcommittee was adjourned.]