

VERIFICATION ALIGNMENT AND SERVICE-DISABLED
 BUSINESS ADJUSTMENT ACT

NOVEMBER 12, 2019.—Committed to the Committee of the Whole House on the
 State of the Union and ordered to be printed

Ms. VELÁZQUEZ, from the Committee on Small Business,
 submitted the following

R E P O R T

[To accompany H.R. 1615]

The Committee on Small Business, to whom was referred the bill (H.R. 1615) to transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Purpose and Bill Summary	6
II. Background and Need for Legislation	7
III. Hearings	8
IV. Committee Consideration	8
V. Committee Votes	8
VI. Section-by-Section Analysis for H.R. 1615	11
VII. Congressional Budget Office Cost Estimate	13
VIII. Unfunded Mandates	13
IX. New Budget Authority, Entitlement Authority, and Tax Expenditures	13
X. Oversight Findings	13
XI. Statement of Constitutional Authority	14
XII. Congressional Accountability Act	14
XIII. Federal Advisory Committee Act Statement	14
XIV. Statement of No Earmarks	14
XV. Statement of Duplication of Federal Programs	14
XVI. Disclosure of Directed Rule Makings	14
XVII. Performance Goals and Objectives	14
XVIII. Changes in Existing Law, Made by the Bill, As Reported	14

The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

SEC. 2. TRANSFER DATE.

For purposes of this Act, the term “transfer date” means the date that is 2 years after the date of enactment of this Act, except that such date may be extended an unlimited number of times by a period of not more than 6 months if the Administrator of the Small Business Administration and the Secretary of Veterans Affairs jointly issue a notice to Congress and the Law Revision Counsel of the House of Representatives containing—

- (1) a certification that such extension is necessary;
- (2) the rationale for and the length of such extension; and
- (3) a plan to comply with the requirements of this Act within the timeframe of the extension.

SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-OWNED AND SERVICE-DISABLED VETERAN-OWNED BUSINESS DATABASE.

(a) **AMENDMENT OF VETERAN-OWNED AND SERVICE-DISABLED VETERAN-OWNED BUSINESS DATABASE.**—Effective on the transfer date, section 8127 of title 38, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “the Secretary” and inserting “the Administrator”; and

(B) by striking “subsection (f)” and inserting “section 36 of the Small Business Act”;

(2) in subsection (f)—

(A) by striking “the Secretary” each place such term appears, other than in the last place such term appears under paragraph (2)(A), and inserting “the Administrator”;

(B) in paragraph (1), by striking “small business concerns owned and controlled by veterans with service-connected disabilities” each place such term appears and inserting “small business concerns owned and controlled by service-disabled veterans”;

(C) in paragraph (2)—

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

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

“(B) For purposes of this subsection—

“(i) the Secretary of Veterans Affairs shall—

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

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

“(ii) the Administrator shall verify—

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

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

“(C) The Administrator may not certify a concern under subsection (b) or section 36A if the Secretary of Veterans Affairs cannot provide the verification described under subparagraph (B)(i)(I).”;

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

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

(F) in paragraph (4), as so redesignated, by striking “The Secretary” and inserting “The Administrator”; and

(G) in paragraph (6), as so redesignated—

(i) in subparagraph (A)—

(I) by striking “verify the status of the concern as a small business concern or the ownership or control of the concern” and inserting “certify the status of the concern as a small business concern owned and controlled by veterans (under section 36A) or a small

- business concern owned and controlled by service-disabled veterans (under section 36(g)); and
- (II) by striking “verification” and inserting “certification”;
- (ii) in subparagraph (B)—
- (I) in clause (i), by striking “small business concern owned and controlled by veterans with service-connected disabilities” and inserting “small business concern owned and controlled by service-disabled veterans”; and
- (II) in clause (ii)—
- (aa) by amending subclause (I) to read as follows:
- “(I) the Secretary of Veterans Affairs or the Administrator; or”; and
- (bb) in subclause (II), by striking “the contracting officer of the Department” and inserting “the applicable contracting officer”; and
- (iii) by striking subparagraph (C);
- (3) by redesignating subsection (k) (relating to definitions) as subsection (l);
- (4) by inserting after subsection (j) (relating to annual reports) the following:
- “(k) ANNUAL TRANSFER FOR CERTIFICATION COSTS.—For each fiscal year, the Secretary of Veterans Affairs shall reimburse the Administrator in an amount necessary to cover any cost incurred by the Administrator for certifying small business concerns owned and controlled by veterans that do not qualify as small business concerns owned and controlled by service-disabled veterans for the Secretary for purposes of this section and section 8128 of this title. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget.”; and
- (5) in subsection (l) (relating to definitions), as so redesignated, by adding at the end the following:
- “(4) The term ‘Administrator’ means the Administrator of the Small Business Administration.”.
- (b) TRANSFER OF REQUIREMENTS RELATING TO DATABASE TO THE SMALL BUSINESS ACT.—Effective on the transfer date, subsection (f) of section 8127 of title 38, United States Code (as amended by subsection (a)), is transferred to section 36 of the Small Business Act (15 U.S.C. 657f), inserted so as to appear after subsection (e).
- (c) CONFORMING AMENDMENTS.—The following amendments shall take effect on the transfer date:
- (1) SMALL BUSINESS ACT.—Section 3(q)(2)(C)(i)(III) of the Small Business Act (15 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking “section 8127(f) of title 38, United States Code” and inserting “section 36”.
- (2) TITLE 38.—Section 8128 of title 38, United States Code, is amended by striking “section 8127(f) of this title” and inserting “section 36 of the Small Business Act”.

SEC. 4. ADDITIONAL REQUIREMENTS FOR DATABASE.

- (a) ADMINISTRATION ACCESS TO DATABASE BEFORE THE TRANSFER DATE.—During the period between the date of the enactment of this Act and the transfer date, the Secretary of Veterans Affairs shall provide the Administrator of the Small Business Administration with access to the contents of the database described under section 8127(f) of title 38, United States Code.
- (b) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act may be construed—
- (1) as prohibiting the Administrator of the Small Business Administration from combining the contents of the database described under section 8127(f) of title 38, United States Code, with other databases maintained by the Administration; or
- (2) as requiring the Administrator to use any system or technology related to the database described under section 8127(f) of title 38, United States Code, on or after the transfer date to comply with the requirement to maintain a database under subsection (f) of section 36 of the Small Business Act (as transferred pursuant to section 3(b) of this Act).
- (c) RECOGNITION OF THE ISSUANCE OF JOINT REGULATIONS.—The date specified under section 1832(e) of the National Defense Authorization Act for Fiscal Year 2017 (15 U.S.C. 632 note) shall be deemed to be October 1, 2018.

SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

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

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

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

(3) by inserting before subsection (c), as so redesignated, the following:

“(a) CONTRACTING OFFICER DEFINED.—For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 2101 of title 41, United States Code.

“(b) CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—With respect to a procurement program or preference established under this Act that applies to prime contractors, the Administrator shall—

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

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

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

(5) by adding at the end the following:

“(g) CERTIFICATION REQUIREMENT.—Notwithstanding subsection (c), a contracting officer may only award a sole source contract to a small business concern owned and controlled by service-disabled veterans or a contract on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if such a concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans.

“(h) ENFORCEMENT; PENALTIES.—

“(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

“(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (b)); and

“(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (b).

“(2) EXAMINATIONS.—

“(A) EXAMINATION OF APPLICANTS.—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (b), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (b).

“(B) EXAMINATION OF CERTIFIED CONCERNS.—The procedures established under paragraph (1) shall provide for the examination of risk-based samples of small business concerns certified under subsection (b), or of any small business concern that the Administrator believes poses a particular risk or with respect to which the Administrator receives specific and credible information alleging that the small business concern no longer meets eligibility requirements to be certified as a small business concern owned and controlled by service-disabled veterans.

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

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

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

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

“(i) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out subsection

(b) or to be able to certify the status of the concern as a small business concern owned and controlled by veterans under section 36A.”.

(b) **PENALTIES FOR MISREPRESENTATION.**—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by striking “, a” and inserting “, a ‘small business concern owned and controlled by service-disabled veterans’, a ‘small business concern owned and controlled by veterans’, a”;

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

(2) in subsection (e), by striking “, a” and inserting “, a ‘small business concern owned and controlled by service-disabled veterans’, a ‘small business concern owned and controlled by veterans’, a”.

SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

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

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

“(a) **IN GENERAL.**—With respect to the program established under section 8127 of title 38, United States Code, the Administrator shall—

“(1) certify the status of the concern as a ‘small business concern owned and controlled by veterans’; and

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

“(b) **ENFORCEMENT; PENALTIES.**—

“(1) **VERIFICATION OF ELIGIBILITY.**—In carrying out this section, the Administrator shall establish procedures relating to—

“(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (a)); and

“(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (a).

“(2) **EXAMINATION OF APPLICANTS.**—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (a), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (a).

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

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

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

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

SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, any small business concern that self-certified as a small business concern owned and controlled by service-disabled veterans shall—

(1) if the concern files a certification application with the Administrator of the Small Business Administration before the end of the 1-year period beginning on the transfer date, maintain such self-certification until the Administrator makes a determination with respect to such certification; and

(2) if the concern does not file such a certification application before the end of the 1-year period beginning on the transfer date, lose, at the end of such 1-year period, any self-certification of the concern as a small business concern owned and controlled by service-disabled veterans.

(b) **NON-APPLICABILITY TO DEPARTMENT OF VETERANS AFFAIRS.**—Subsection (a) shall not apply to participation in contracts (including subcontracts) with the Department of Veterans Affairs.

(c) **NOTICE.**—The Administrator shall notify any small business concern that self-certified as a small business concern owned and controlled by service-disabled veterans about the requirements of this Act, including the transfer date and any exten-

sion of such transfer date made pursuant to section 2, and make such notice publicly available, on—

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

SEC. 8. TRANSFER OF THE CENTER FOR VERIFICATION AND EVALUATION OF THE DEPARTMENT OF VETERANS AFFAIRS TO THE SMALL BUSINESS ADMINISTRATION.

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

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

- (1) on the date of enactment of this Act, be functions of both the Center for Verification and Evaluation and the Small Business Administration, except that the Small Business Administration shall not have any authority to carry out any verification functions of the Center for Verification and Evaluation; and
- (2) on the transfer date, be functions of the Small Business Administration.

(c) **TRANSFER OF ASSETS.**—So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred under this section shall be available to the Small Business Administration at such time or times as the President directs for use in connection with the functions transferred.

(d) **REFERENCES.**—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a function of the Center for Verification and Evaluation that is transferred under this section is deemed, after the transfer date, to refer to the Small Business Administration.

SEC. 9. REPORT.

Not later than the end of the 1-year period beginning on the date of the enactment of this Act, and every 6 months thereafter until the transfer date, the Administrator of the Small Business Administration and Secretary of Veterans Affairs shall jointly issue a report to the Committees on Appropriations, Small Business, and Veterans' Affairs of the House of Representatives and the Committees on Appropriations, Small Business and Entrepreneurship, and Veterans' Affairs of the Senate on the planning for the transfer of functions and property required under this Act and the amendments made by this Act on the transfer date. Such report shall include—

- (1) whether and how the verification database and operations of the Center for Verification and Evaluation of the Department of Veterans Affairs will be incorporated into the existing certification database of the Small Business Administration;
- (2) projections for the numbers and timing, in terms of fiscal year, of—
 - (A) already verified concerns that will come up for recertification; and
 - (B) self-certified concerns that are expected to apply for certification;
- (3) an explanation of how outreach to veteran service organizations, the service-disabled veteran-owned and veteran-owned small business community, and other stakeholders will be conducted; and
- (4) other pertinent information determined by the Administrator and the Secretary.

I. PURPOSE AND BILL SUMMARY

The purpose of H.R. 1615, the “Verification Alignment and Service-disabled Business Adjustment Act” or the “VA–SBA Act,” is to transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration. Pursuant to the bill, the transfer date is two years after enactment of this legislation. Among other things, the bill transfers to the SBA the responsibility of keeping a database of all certified veteran-owned and service-disabled veteran-owned small businesses; allows the VA to provide the necessary funds to cover SBA’s costs in certifying veteran-owned small businesses and; transfers assets of the VA’s Center for Verification and Evaluation to the SBA. The bill also clarifies that the VA remains responsible for verifying the individual business

owner's status as a veteran or service-disabled veteran, while the SBA is responsible for determining the business concern's status as a small business concern.

II. BACKGROUND AND NEED FOR LEGISLATION

H.R. 1615 was introduced by Representative Trent Kelly (R-MS), and Representative Jason Crow (D-CO) on March 7, 2019. The bill eliminates the certification process offered by the U.S. Department of Veterans Affairs (VA) and transfers to the Small Business Administration (SBA) the responsibility of certifying all veteran-owned and service-disabled veteran-owned small businesses interested in participating in the VA's small business contracting program. Furthermore, it requires formal certification of service-disabled veteran-owned small businesses in SBA's government-wide contracting program.

Congress has designated service-disabled veteran-owned small businesses (SDVOSBs) as a key group that can benefit from contract assistance. To underscore this commitment, the Veterans Entrepreneurship and Small Business Development Act of 1999 established an annual goal of not less than 3 percent on all federal prime contract and subcontract awards for service-disabled veteran-owned small businesses (SDVOSBs).¹ In order to achieve this goal, the Veterans Benefits Act of 2003,² amended the Small Business Act to create incentives for providing greater contract opportunities to SDVOSBs. Under the program that SBA oversees, SDVOSBs are eligible for set aside and sole-source contracts.

In addition to the SBA program, which applies to all agencies, Congress authorized the Department of Veterans Affairs

(VA) to administer its own procurement program known as the "Vets First Program" through the Veterans Benefits, Health Care, and Information Technology Act of 2006 (VA Act).³ The VA Act gave the VA the authority to set aside contracts and make source sole awards to SDVOSBs and Veteran-Owned Small Businesses (VOSBs) as a whole. Moreover, while the SBA program only sets a contracting preference, the VA Act gives SDVOSBs and VOSBs a priority over other small business preferences.

Although the two programs share the same goal, each has different requirements for certification. Under the VA Program, SDVOSBs and VOSBs need to go through a rigorous certification process offered by the VA administrator before being eligible to contracting opportunities within the agency. By contrast, SBA's program, which applies government-wide, allows program participants to self-certify eligibility; resulting in much confusion across the service-disabled veteran-owned small business procurement community.

H.R. 1615 addresses this issue by harmonizing the two conflicting SDVOSB contracting programs at the VA and SBA, which in turn eliminates duplicity or redundancy between the two agencies. It does this by abolishing the VA certification process and transferring the responsibility of certifying SDVOSBs and VOSBs to the SBA. Moreover, SDVOSBs would no longer be able to self-

¹Pub. L. No. 106-50, § 502, 113 Stat 233, 247 (1999).

²Pub. L. No. 108-183, § 308, 117 Stat 2651, 2662 (2003).

³Pub. L. No. 109-461, 3 Pub. L. No. 109-461, 502, 120 Stat 3403, 502, 120 Stat 3403.

certify for the SBA program. H.R. 1615 would require those firms to obtain formal certification as well. Thus, the bill prevents against fraud and abuse by deploying a full front-end certification program governmentwide.

III. HEARINGS

In the 116th Congress, the Committee held a hearing that explored the matters covered by H.R. 1615. On July 10, 2019 the Committee on Small Business held a hearing titled “Continuing to Serve: From Military to Entrepreneur.”⁴ The witnesses for the hearing were: Mr. Davy Leghorn, Assistant Director, The American Legion, Washington, DC; Mr. Scott M. Davidson CPT. USA, Retired, Managing Partner and CEO, The GCO Consulting Group, McLean, VA; Ms. Torrance Hart, Founder, Teak and Twine, LLC, Springfield, VA and; Ms. Laurie Sayles, President and CEO, Civility Management Solutions, Greenbelt, MD.

In this hearing, three of the witnesses testified about the confusion that the existence of two SDVOSB certification programs created among contracting officers and small businesses. In particular, Mr. Leghorn testified that this confusion was further aggravated by the fact that many federal agencies now asked for VA’s certification, forcing small businesses to seek it, when in reality it was not required under SBA’s government-wide contracting program. Similarly, Mr. Davidson and Ms. Sayles both agreed that it is SBA, not the VA, the agency with the expertise and necessary resources to provide such certification. Thus, all three witnesses advocated for the consolidation of the certifications programs under SBA and demonstrated their support for H.R. 1615.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on July 17, 2019, and ordered H.R. 1615 favorably reported, as amended, to the House of Representatives. During the markup, one amendment was offered and adopted. Disposition of the amendment is addressed below.

Amendment Number One, filed by Mr. Kelly of Mississippi, clarifies various sections of H.R. 1615 to ensure the intent of the bill is clearly interpreted by the public and the implementing agency. The amendment also strikes Section 4 of the original bill of H.R. 1615 relative to sole-source thresholds, which was dependent on the passage of a separate bill creating uniformity between contracting sole-source thresholds.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted by voice vote to favorably report H.R. 1615, as amended to the House at 12:12 P.M.

⁴ *Continuing to Serve: From Military to Entrepreneur, Hearing Before the H. Comm. On Small Bus., 116th Cong. (2019).*

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 07-17-19 H.R. 1615
BILL NUMBER: Amendment
ROLL CALL:
VOTE: (AYE) (NO)

QUORUM: 13
AMENDMENT NUMBER: 1v1

12:12
as amended
via vote

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman			
Ms. Finkenauer			
Mr. Golden			
Mr. Kim			
Mr. Crow			
Ms. Davids			
Ms. Chu			
Mr. Veasey			
Mr. Evans			
Mr. Schneider			
Mr. Espaillat			
Mr. Delgado			
Ms. Houlihan			
Ms. Craig			
MR. Chabot Ranking Member			
Ms. Radewagen			
Mr. Kelly			
Mr. Balderson			
Mr. Hern			
Mr. Hagedorn			
Mr. Stauber			
Mr. Burchett			
Mr. Spano			
Mr. Joyce			
TOTALS			

reported to
house

On this vote there were _____ ayes and _____ nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 07-17-19

BILL NUMBER: H.R. 1615

ROLL CALL:

VOTE: (AYE) (NO)

QUORUM: 13

AMENDMENT NUMBER:

12:12

* as amended *
voice vote

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman			
Ms. Finkenauer			
Mr. Golden			
Mr. Kim			
Mr. Crow			
Ms. Davids			
Ms. Chu			
Mr. Veasey			
Mr. Evans			
Mr. Schneider			
Mr. Espaillat			
Mr. Delgado			
Ms. Houlahan			
Ms. Craig			
MR. Chabot Ranking Member			
Ms. Radewagen			
Mr. Kelly			
Mr. Balderson			
Mr. Hern			
Mr. Hagedorn			
Mr. Stauber			
Mr. Burchett			
Mr. Spano			
Mr. Joyce			
TOTALS			

On this vote there were _____ ayes and _____ nos.

VI. SECTION-BY-SECTION OF H.R. 1615

Section 1. Short title

This section designates the short title as the “Verification Alignment and Service-disabled Business Adjustment Act” or the “VA–SBA Act.” This section also contains a table of contents for this bill.

Section 2. Transfer date

This section defines “transfer date” as the date that is 2 years after the date of enactment of this Act. However, it allows the SBA and VA to jointly extend this transfer date by 6-month increments. The SBA and VA may request an extension an unlimited number of times but must notify Congress of each extension.

Section 3. Amendment to and transfer of veteran-owned and service-disabled veteran-owned business database

This section transfers the responsibility of maintaining a database of fully certified SDVOSBs and VOSBs from the VA to the SBA by striking “the Secretary” referring to the Secretary of the VA with the “Administrator” referring to the Administrator of the SBA; where such term appears in Title 38, Section 8127(e), eligibility of small business concerns, and (f), database of owned businesses.

It also clarifies that the VA is responsible for verifying the individual business owner’s status as a veteran or service-disabled veteran, and the SBA is responsible for determining the business concern’s status as a small business concern. Furthermore, it prohibits the SBA from including a business concern in the database if either the individual’s veteran or service-disability status cannot be verified by the VA, or the business concern’s ownership and control eligibility requirements cannot be verified by the SBA.

This section authorizes the VA to transfer to the SBA funds necessary to cover the SBA’s costs in certifying VOSBs for the VA’s VOSB procurement program and the amount will be determined jointly by both agencies. The section allows this reimbursement to come from the VA’s multiple-award schedule contracts and allows the Office of Management and Budget to be the arbiter of any disagreements of reimbursable funds.

Finally, it transfers the responsibility relating to the requirements and maintenance of the list, or database, of fully certified service-disabled veteran-owned and veteran-owned small businesses from title 38 Sec. 8127(f) in the VA Act to the Small Business Act in title 15.

Section 4. Additional requirement for database

This section authorizes the SBA to access internal information at the VA relating to the list of certified SDVOSBs and VOSBs currently maintained by the VA during the transition period between the date of enactment of this bill to the official transfer date prescribed in Section 2. This section also states that the bill does not preclude the SBA from combining the contents of the database once inherited, with other lists maintained by the Administrator. Finally, it clarifies that what is being transferred is the contents of the database, not the system or information technology used at the VA.

Section 5. Procurement program for small business concerns owned and controlled by service-disabled veterans

This section amends Section 36 of the Small Business Act (15 U.S.C. 657(f)) pertaining to the SBA's SDVOSB program. It first defines terms pertinent to this section and requires SBA to actively certify all small business concerns owned and controlled by service-disabled veterans, also requiring periodic recertification by the SBA of SDVOSBs.

This section further requires the SBA to establish procedures verifying the eligibility of SDVOSBs in several ways: 1) by allowing the SBA to perform examinations of the small business concern and to determine the veracity of the information provided by the SDVOSB applicant as part of its certification request; 2) by allowing the SBA to perform examinations of certified SDVOSBs using a risk-based assessment; 3) and by allowing the SBA to examine allegations or challenges made to an SDVOSB's status. This section also imposes penalties that can be assessed against an SDVOSB that has been found to have misrepresented its status to the federal government. It also requires federal agencies to provide relevant information to the SBA that may be needed to certify SDVOSBs or penalize for misrepresentation.

Section 6. Certification for small business concerns owned and controlled by veterans

This section authorizes the SBA to certify small business concerns owned and controlled by veterans, as currently established under section 8127 of title 38, for use by the VA. Additionally, it requires the SBA to establish procedures verifying the eligibility of VOSBs in several ways: by allowing the SBA to perform examinations of the small business concern and to determine the veracity of the information provided by the VOSB applicant as part of its certification request and by allowing the SBA to examine allegations or challenges made to an VOSB's status. This section also imposes penalties that can be assessed against an VOSB that has been found to have misrepresented its status to the federal government.

Section 7. Status of self-certified small business concerns owned and controlled by service-disabled veterans

This section allows a self-certified SDVOSB in the SBA's program to maintain its self-certification if the concern files a new application with the SBA for front-end certification within one year of the transfer date of certification duties from the VA to the SBA, as established in this bill. The concern may maintain its self-certified status until the SBA has made a determination with respect to its new certification application. If the concern fails to file a new certification application before the 1-year period, the concern forfeits its status as an SDVOSB. This section does not apply to SDVOSB contract holders with the VA who have already received verification of their status through the VA. The SBA is also required to notify self-certified SDVOSBs of the requirements of this bill, including the transfer date.

Section 8. Transfer of the Center for Verification and Evaluation of the Department of Veterans Affairs to the Small Business Administration

This section abolishes the VA's Center for Verification and Evaluation (CVE) effective on the transfer date established by this bill and requires the SBA to take on the certification functions of the CVE on the established transfer date. This section also establishes the transfer of assets of the VA's CVE program from the VA to the SBA.

Section 9. Report

The VA and the SBA are required to jointly issue a report to the Committees on Appropriations, Small Business, and Veterans Affairs of the House of Representatives and Senate, describing the progress made on the transfer of the CVE's certification function to the SBA and also requires an explanation of the joint agencies outreach efforts to the VOSB and SDVOSB community. This report shall be issued no later than 1 year after the date of enactment of this bill and every 6 months thereafter until the transfer date described in section 8 of this Act.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At the time H.R. 1615 was reported to the House, the Congressional Budget Office had not provided a cost-estimate.

VIII. UNFUNDED MANDATES

H.R. 1615 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act, Public Law No. 104-4, and would impose no costs on state, local, or tribal governments.

IX. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to § 402 of the Congressional Budget Act of 1974, the Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 1615 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

X. OVERSIGHT FINDINGS

In accordance with clause 2(b)(1) of rule X of the Rules of the House, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 1615 are incorporated into the descriptive portions of this report.

XI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Art. I, § 8, cl. 1 of the Constitution of the United States.

XII. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 1615 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of § 102(b)(3) of Public Law No. 104–1.

XIII. FEDERAL ADVISORY COMMITTEE ACT STATEMENT

H.R. 1615 does not establish or authorize the establishment of any new advisory committees as that term is defined in the Federal Advisory Committee Act, 5 U.S.C. App.2.

XIV. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 1615 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in subsections (d), (e), or (f) of clause 9 of rule XXI of the Rules of the House.

XV. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3 of rule XIII of the Rules of the House, no provision of H.R. 1615 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the United States Government Accountability Office pursuant to § 21 of Pub. L. No. 111–139, or a program related to a program identified in the most recent catalog of federal domestic assistance.

XVI. DISCLOSURE OF DIRECTED RULEMAKINGS

Pursuant to clause 3 of rule XIII of the Rules of the House, H.R. 1615 does not direct any rulemaking.

XVII. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XII of the Rules of the House, the Committee establishes the following performance-related goals and objectives for this legislation:

H.R. 1615 eliminates redundancy and confusion by making only one entity, the SBA, responsible for providing formal certification and granting VOSB and SDVOSB status across two small business contracting programs.

XVIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause (E) of rule XIII of the Rules of the House, changes in existing law made by the bill, as reported, as shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

* * * * *

SUBCHAPTER II—PROCUREMENT AND SUPPLY

* * * * *

§ 8127. Small business concerns owned and controlled by veterans: contracting goals and preferences

(a) **CONTRACTING GOALS.**—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—

(A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and

(B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).

(2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.

(3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

(4) The Secretary shall establish a review mechanism to ensure that, in the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

(b) **USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans or a small business concern owned and controlled by veterans with service-connected disabilities for an amount less than the simplified acquisition threshold (as defined in section 134 of title 41), a contracting officer of the Department may use procedures other than competitive procedures.

(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans or a small business concern owned and controlled by veterans with service-connected disabilities using procedures other than competitive procedures if—

(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 134 of title 41) but will not exceed \$5,000,000; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

(d) **USE OF RESTRICTED COMPETITION.**—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans or small business concerns owned and controlled by veterans with service-connected disabilities if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans or small business concerns owned and controlled by veterans with service-connected disabilities will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

(e) **ELIGIBILITY OF SMALL BUSINESS CONCERNS.**—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by **the Secretary** *the Administrator* under **subsection (f)** *section 36 of the Small Business Act*.

[(f) DATABASE OF VETERAN-OWNED BUSINESSES.—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans, small business concerns owned and controlled by veterans with service-connected disabilities, and the veteran owners of such business concerns.

[(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran. Application for inclusion in the database shall con-

stitute permission under section 552a of title 5 (commonly referred to as the Privacy Act) for the Secretary to access such personal information maintained by the Secretary as may be necessary to verify the information contained in the application.

[(B) If the Secretary receives an application for inclusion in the database from an individual whose status as a veteran cannot be verified because the Secretary does not maintain information with respect to the veteran status of the individual, the Secretary may not include the small business concern owned and controlled by the individual in the database maintained by the Secretary until the Secretary receives such information as may be necessary to verify that the individual is a veteran.

[(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

[(4) No small business concern may be listed in the database until the Secretary has verified, using regulations issued by the Administrator of the Small Business Administration with respect to the status of the concern as a small business concern and the ownership and control of such concern, that—

[(A) the small business concern is owned and controlled by veterans; and

[(B) in the case of a small business concern for which the person who owns and controls the concern indicates that the person is a veteran with a service-connected disability, that the person is a veteran with a service-connected disability.

[(5) The Secretary shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database.

[(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

[(7) The Secretary may not issue regulations related to the status of a concern as a small business concern and the ownership and control of such small business concern.

[(8)(A) If a small business concern is not included in the database because the Secretary does not verify the status of the concern as a small business concern or the ownership or control of the concern, the concern may appeal the denial of verification to the Office of Hearings and Appeals of the Small Business Administration (as established under section 5(i) of the Small Business Act). The decision of the Office of Hearings and Appeals shall be considered a final agency action.

[(B)(i) If an interested party challenges the inclusion in the database of a small business concern owned and controlled by veterans or a small business concern owned and controlled by veterans with service-connected disabilities based on the status of the concern as a small business concern or the ownership or control of the concern, the challenge shall be heard by the Office of Hearings and Appeals of the Small Business Administration as described in subparagraph (A). The decision of the Office of Hearings and Appeals shall be considered final agency action.

[(ii) In this subparagraph, the term “interested party” means—

[(I) the Secretary; or

[(II) in the case of a small business concern that is awarded a contract, the contracting officer of the Department or another small business concern that submitted an offer for the contract that was awarded to the small business concern that is the subject of a challenge made under clause (i).

[(C) For each fiscal year, the Secretary shall reimburse the Administrator of the Small Business Administration in an amount necessary to cover any cost incurred by the Office of Hearings and Appeals of the Small Business Administration for actions taken by the Office under this paragraph. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget.]

(g) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—(1) Any business concern that is determined by the Secretary to have willfully and intentionally misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a period of not less than five years.

(2) In the case of a debarment under paragraph (1), the Secretary shall commence debarment action against the business concern by not later than 30 days after determining that the concern willfully and intentionally misrepresented the status of the concern as described in paragraph (1) and shall complete debarment actions against such concern by not later than 90 days after such determination.

(3) The debarment of a business concern under paragraph (1) includes the debarment of all principals in the business concern for a period of not less than five years.

(h) PRIORITY FOR CONTRACTING PREFERENCES.—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority:

(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by paragraph (1).

(3) Contracts awarded pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

(B) section 31 of such Act (15 U.S.C. 657a).

(4) Contracts awarded pursuant to any other small business contracting preference.

(i) APPLICABILITY OF REQUIREMENTS TO CONTRACTS.—(1) If after December 31, 2008, the Secretary enters into a contract, memorandum of understanding, agreement, or other arrangement with any governmental entity to acquire goods or services, the Secretary shall include in such contract, memorandum, agreement, or other arrangement a requirement that the entity will comply, to the max-

imum extent feasible, with the provisions of this section in acquiring such goods or services.

(2) Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided under the Small Business Act (15 U.S.C. 631 et seq.).

(j) ANNUAL REPORTS.—Not later than December 31 each year, the Secretary shall submit to Congress a report on small business contracting during the fiscal year ending in such year. Each report shall include, for the fiscal year covered by such report, the following:

(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(3) The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(4) The percentage of the total amount of all contracts awarded by each such Administration during that fiscal year that were awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(k) ANNUAL TRANSFER FOR CERTIFICATION COSTS.—*For each fiscal year, the Secretary of Veterans Affairs shall reimburse the Administrator in an amount necessary to cover any cost incurred by the Administrator for certifying small business concerns owned and controlled by veterans that do not qualify as small business concerns owned and controlled by service-disabled veterans for the Secretary for purposes of this section and section 8128 of this title. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget.*

[(k)] (l) DEFINITIONS.—In this section:

(1) The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term “small business concern owned and controlled by veterans” has the meaning given that term under section 3(q)(3) of the Small Business Act (15 U.S.C. 632(q)(3)).

(3) The term “small business concern owned and controlled by veterans with service-connected disabilities” has the meaning given the term “small business concern owned and controlled by service-disabled veterans” under section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)).

(4) *The term “Administrator” means the Administrator of the Small Business Administration.*

§ 8128. Small business concerns owned and controlled by veterans: contracting priority

(a) **CONTRACTING PRIORITY.**—In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference.

(b) **DEFINITION.**—For purposes of this section, the term “small business concern owned and controlled by veterans” means a small business concern that is included in the small business database maintained by the Secretary under [section 8127(f) of this title] *section 36 of the Small Business Act.*

* * * * *

SMALL BUSINESS ACT

* * * * *

SEC. 3. DEFINITIONS.

(a) **SMALL BUSINESS CONCERNS.**—

(1) **IN GENERAL.**—For the purposes of this Act, a small-business concern, including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.

(2) **ESTABLISHMENT OF SIZE STANDARDS.**—

(A) **IN GENERAL.**—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

(B) **ADDITIONAL CRITERIA.**—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.

(C) **REQUIREMENTS.**—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

(i) is proposed after an opportunity for public notice and comment;

(ii) provides for determining—

(I) the size of a manufacturing concern as measured by the manufacturing concern’s average employment based upon employment during each of the manufacturing concern’s pay periods for the preceding 12 months;

(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 5 years;

(III) the size of other business concerns on the basis of data over a period of not less than 3 years; or

(IV) other appropriate factors; and

(iii) is approved by the Administrator.

(3) VARIATION BY INDUSTRY AND CONSIDERATION OF OTHER FACTORS.—When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.

(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

(C) QUALIFIED AREAS.—In this paragraph, the term “qualified area” means—

(i) Iraq,

(ii) Afghanistan, and

(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.

(5) ALTERNATIVE SIZE STANDARD.—

(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

(i) the maximum tangible net worth of the applicant is not more than \$15,000,000; and

(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than \$5,000,000.

(6) PROPOSED RULEMAKING.—In conducting rulemaking to revise, modify or establish size standards pursuant to this section, the Administrator shall consider, and address, and make publicly available as part of the notice of proposed rulemaking and notice of final rule each of the following:

(A) a detailed description of the industry for which the new size standard is proposed;

(B) an analysis of the competitive environment for that industry;

(C) the approach the Administrator used to develop the proposed standard including the source of all data used to develop the proposed rule making; and

(D) the anticipated effect of the proposed rulemaking on the industry, including the number of concerns not currently considered small that would be considered small under the proposed rule making and the number of concerns currently considered small that would be deemed other than small under the proposed rulemaking.

(7) COMMON SIZE STANDARDS.—In carrying out this subsection, the Administrator may establish or approve a single size standard for a grouping of 4-digit North American Industry Classification System codes only if the Administrator makes publicly available, not later than the date on which such size standard is established or approved, a justification demonstrating that such size standard is appropriate for each individual industry classification included in the grouping.

(8) NUMBER OF SIZE STANDARDS.—The Administrator shall not limit the number of size standards established pursuant to paragraph (2), and shall assign the appropriate size standard to each North American Industry Classification System Code.

(9) PETITIONS FOR RECONSIDERATION OF SIZE STANDARDS.—

(A) IN GENERAL.—A person may file a petition for reconsideration with the Office of Hearings and Appeals (as established under section 5(i)) of a size standard revised, modified, or established by the Administrator pursuant to this subsection.

(B) TIME LIMIT.—A person filing a petition for reconsideration described in subparagraph (A) shall file such petition not later than 30 days after the publication in the Federal Register of the notice of final rule to revise, modify, or establish size standards described in paragraph (6).

(C) PROCESS FOR AGENCY REVIEW.—The Office of Hearings and Appeals shall use the same process it uses to de-

side challenges to the size of a small business concern to decide a petition for review pursuant to this paragraph.

(D) JUDICIAL REVIEW.—The publication of a final rule in the Federal Register described in subparagraph (B) shall be considered final agency action for purposes of seeking judicial review. Filing a petition for reconsideration under subparagraph (A) shall not be a condition precedent to judicial review of any such size standard.

(E) RULES OR GUIDANCE.—The Office of Hearings and Appeals shall begin accepting petitions for reconsideration described in subparagraph (A) after the date on which the Administration issues a rule or other guidance implementing this paragraph. Notwithstanding the provisions of subparagraph (B), petitions for reconsideration of size standards revised, modified, or established in a Federal Register final rule published between November 25, 2015, and the effective date of such rule or other guidance shall be considered timely if filed within 30 days of such effective date.

(b) For purposes of this Act, any reference to an agency or department of the United States, and the term “Federal agency,” shall have the meaning given the term “agency” by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office.

(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

(2) For purposes of this Act, the term “qualified employee trust” means, with respect to a small business concern, a trust—

(A) which forms part of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

(i) which is maintained by such concern, and

(ii) which provides that each participant is entitled to direct the plan trustee as to the manner of how to vote the qualified employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1986), which are allocated to the account of such participant with respect to a corporate matter which (by law or charter) must be decided by a vote conducted in accordance with section 409(e) of the Internal Revenue Code of 1986; and

(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administrator of which enters into an agreement with the Administrator which is binding on the trust and no such small business concern and which provides that—

(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities of such concern.

(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the

property of such concern shall be available as security for repayment of such loan, and

(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a nonforfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

(3) Under regulations which may be prescribed by the Administrator, a trust may be treated as a qualified employee trust with respect to a small business concern if—

(A) the trust is maintained by an employee organization which represents at least 51 percent of the employee of such concern, and

(B) such concern maintains a plan—

(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954).

(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

(iv) which meets such other requirements (similar to requirements applicable to employee ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).

(d) For purposes of section 7 of this Act, the term "qualified Indian tribe" means an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act, which owns and controls 100 per centum of a small business concern.

(e) For purposes of section 7 of this Act, the term "public or private organization for the handicapped" means one—

(1) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(2) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(3) which, in the production of commodities and in the provision of services during any fiscal year in which it received financial assistance under this subsection, employs handicapped

individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services.

(f) For purposes of section 7 of this Act, the term “handicapped individual” means an individual—

(1) who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable; or

(2) who is a service-disabled veteran.

(g) For purposes of section 7 of this Act, the term “energy measures” includes—

(1) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination equipment;

(2) photovoltaic cells and related equipment;

(3) a product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures list of the Secretary of Energy or which the Administrator determines to be consistent with the intent of this subsection;

(4) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy;

(5) equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste;

(6) hydroelectric power equipment;

(7) wind energy conversion equipment; and

(8) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in paragraph (1) through (7).

(h) The term “credit elsewhere” means—

(1) for the purposes of this Act (except as used in section 7(b)), the availability of credit on reasonable terms and conditions to the individual loan applicant from non-Federal, non-State, or non-local government sources, considering factors associated with conventional lending practices, including—

(A) the business industry in which the loan applicant operates;

(B) whether the loan applicant is an enterprise that has been in operation for a period of not more than 2 years;

(C) the adequacy of the collateral available to secure the requested loan;

(D) the loan term necessary to reasonably assure the ability of the loan applicant to repay the debt from the actual or projected cash flow of the business; and

(E) any other factor relating to the particular credit application, as documented in detail by the lender, that can-

- not be overcome except through obtaining a Federal loan guarantee under prudent lending standards; and
- (2) for the purposes of section 7(b), the availability of credit on reasonable terms and conditions from non-Federal sources taking into consideration the prevailing rates and terms in the community in or near where the applicant business concern transacts business, or the applicant homeowner resides, for similar purposes and periods of time.
- (i) For purposes of section 7 of this Act, the term “homeowners” includes owners and lessees of residential property and also includes personal property.
- (j) For the purposes of this Act, the term “small agricultural cooperative” means an association (corporate or otherwise) acting pursuant to the provisions of the Agricultural Marketing Act (12 U.S.C. 1141j), whose size does not exceed the size standard established by the Administration for other similar agricultural small business concerns. In determining such size, the Administration shall regard the association as a business concern and shall not include the income or employees of any member shareholder of such cooperative.
- (k)(1) For the purposes of this Act, the term “disaster” means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, commercial fishery failures or fishery resource disasters (as determined by the Secretary of Commerce under section 308(b) of the Interjurisdictional Fisheries Act of 1986), ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations.
- (2) For purposes of section 7(b)(2), the term “disaster” includes—
- (A) drought;
 - (B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns; and
 - (C) ice storms and blizzards.
- (l) For purposes of this Act—
- (1) the term “computer crime” means—
 - (A) any crime committed against a small business concern by means of the use of a computer; and
 - (B) any crime involving the illegal use of, or tampering with, a computer owned or utilized by a small business concern.
- (m) DEFINITIONS RELATING TO CONTRACTING.—In this Act:
- (1) PRIME CONTRACT.—The term “prime contract” has the meaning given such term in section 8701(4) of title 41, United States Code.
 - (2) PRIME CONTRACTOR.—The term “prime contractor” has the meaning given such term in section 8701(5) of title 41, United States Code.
 - (3) SIMPLIFIED ACQUISITION THRESHOLD.—The term “simplified acquisition threshold” has the meaning given such term in section 134 of title 41, United States Code.
 - (4) MICRO-PURCHASE THRESHOLD.—The term “micro-purchase threshold” has the meaning given such term in section 1902 of title 41, United States Code.

(5) TOTAL PURCHASES AND CONTRACTS FOR PROPERTY AND SERVICES.—The term “total purchases and contracts for property and services” shall mean total number and total dollar amount of contracts and orders for property and services.

(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) the management and daily business operations of the business are controlled by one or more women.

(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act:

(1) BUNDLED CONTRACT.—The term “bundled contract” means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements.

(2) BUNDLING OF CONTRACT REQUIREMENTS.—The term “bundling of contract requirements” means consolidating 2 or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

(A) the diversity, size, or specialized nature of the elements of the performance specified;

(B) the aggregate dollar value of the anticipated award;

(C) the geographical dispersion of the contract performance sites; or

(D) any combination of the factors described in subparagraphs (A), (B), and (C).

(3) SEPARATE SMALLER CONTRACT.—The term “separate smaller contract”, with respect to a bundling of contract requirements, means a contract that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

(p) DEFINITIONS RELATING TO HUBZONES.—In this Act:

(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term “historically underutilized business zone” means any area located within 1 or more—

(A) qualified census tracts;

(B) qualified nonmetropolitan counties;

(C) lands within the external boundaries of an Indian reservation;

(D) redesignated areas;

(E) base closure areas; or

(F) qualified disaster areas.

(2) HUBZONE.—The term “HUBZone” means a historically underutilized business zone.

(3) HUBZONE SMALL BUSINESS CONCERN.—The term “HUBZone small business concern” means—

(A) a small business concern that is at least 51 percent owned and controlled by United States citizens;

(B) a small business concern that is—

(i) an Alaska Native Corporation owned and controlled by Natives (as determined pursuant to section

29(e)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(1)); or

(ii) a direct or indirect subsidiary corporation, joint venture, or partnership of an Alaska Native Corporation qualifying pursuant to section 29(e)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(1)), if that subsidiary, joint venture, or partnership is owned and controlled by Natives (as determined pursuant to section 29(e)(2)) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(2));

(C) a small business concern—

(i) that is wholly owned by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments; or

(ii) that is owned in part by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments, if all other owners are either United States citizens or small business concerns;

(D) a small business concern—

(i) that is wholly owned by one or more Native Hawaiian Organizations (as defined in section 8(a)(15)), or by a corporation that is wholly owned by one or more Native Hawaiian Organizations; or

(ii) that is owned in part by one or more Native Hawaiian Organizations, or by a corporation that is wholly owned by one or more Native Hawaiian Organizations, if all other owners are either United States citizens or small business concerns;

(E) a small business concern that is—

(i) wholly owned by a community development corporation that has received financial assistance under part 1 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9805 et seq.); or

(ii) owned in part by one or more community development corporations, if all other owners are either United States citizens or small business concerns; or

(F) a small business concern that is—

(i) a small agricultural cooperative organized or incorporated in the United States;

(ii) wholly owned by 1 or more small agricultural cooperatives organized or incorporated in the United States; or

(iii) owned in part by 1 or more small agricultural cooperatives organized or incorporated in the United States, if all owners are small business concerns or United States citizens.

(4) QUALIFIED AREAS.—

(A) QUALIFIED CENSUS TRACT.—

(i) IN GENERAL.—The term “qualified census tract” has the meaning given that term in section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986.

(ii) EXCEPTION.—For any metropolitan statistical area in the Commonwealth of Puerto Rico, the term “qualified census tract” has the meaning given that

term in section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986 as applied without regard to subclause (II) of such section, except that this clause shall only apply—

(I) 10 years after the date that the Administrator implements this clause, or

(II) the date on which the Financial Oversight and Management Board for the Commonwealth of Puerto Rico created by the Puerto Rico Oversight, Management, and Economic Stability Act ceases to exist,

whichever event occurs first.

(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term “qualified nonmetropolitan county” means any county—

(i) that was not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986) at the time of the most recent census taken for purposes of selecting qualified census tracts under section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986; and

(ii) in which—

(I) the median household income is less than 80 percent of the nonmetropolitan State median household income, based on the most recent data available from the Bureau of the Census of the Department of Commerce;

(II) the unemployment rate is not less than 140 percent of the average unemployment rate for the United States or for the State in which such county is located, whichever is less, based on the most recent data available from the Secretary of Labor; or

(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.

(C) REDESIGNATED AREA.—The term “redesignated area” means any census tract that ceases to be qualified under subparagraph (A) and any nonmetropolitan county that ceases to be qualified under subparagraph (B), except that a census tract or a nonmetropolitan county may be a “redesignated area” only until the later of—

(i) the date on which the Census Bureau publicly releases the first results from the 2010 decennial census; or

(ii) 3 years after the date on which the census tract or nonmetropolitan county ceased to be so qualified.

(D) BASE CLOSURE AREA.—

(i) IN GENERAL.—Subject to clause (ii), the term “base closure area” means—

(I) lands within the external boundaries of a military installation that were closed through a privatization process under the authority of—

(aa) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101–510; 10 U.S.C. 2687 note);

(bb) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note);

(cc) section 2687 of title 10, United States Code; or

(dd) any other provision of law authorizing or directing the Secretary of Defense or the Secretary of a military department to dispose of real property at the military installation for purposes relating to base closures of redevelopment, while retaining the authority to enter into a leaseback of all or a portion of the property for military use;

(II) the census tract or nonmetropolitan county in which the lands described in subclause (I) are wholly contained;

(III) a census tract or nonmetropolitan county the boundaries of which intersect the area described in subclause (I); and

(IV) a census tract or nonmetropolitan county the boundaries of which are contiguous to the area described in subclause (II) or subclause (III).

(ii) LIMITATION.—A base closure area shall be treated as a HUBZone—

(I) with respect to a census tract or nonmetropolitan county described in clause (i), for a period of not less than 8 years, beginning on the date the military installation undergoes final closure and ending on the date the Administrator makes a final determination as to whether or not to implement the applicable designation described in subparagraph (A) or (B) in accordance with the results of the decennial census conducted after the area was initially designated as a base closure area; and

(II) if such area was treated as a HUBZone at any time after 2010, until such time as the Administrator makes a final determination as to whether or not to implement the applicable designation described in subparagraph (A) or (B), after the 2020 decennial census.

(iii) DEFINITIONS.—In this subparagraph:

(I) CENSUS TRACT.—The term “census tract” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census that is not located in a non-

metropolitan county and does not otherwise qualify as a qualified census tract.

(II) NONMETROPOLITAN COUNTY.—The term “nonmetropolitan county” means a county that was not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986) at the time of the most recent census taken for purposes of selecting qualified census tracts and does not otherwise qualify as a qualified nonmetropolitan county.

(E) QUALIFIED DISASTER AREA.—

(i) IN GENERAL.—Subject to clause (ii), the term “qualified disaster area” means any census tract or nonmetropolitan county located in an area for which the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or located in an area in which a catastrophic incident has occurred if such census tract or nonmetropolitan county ceased to be qualified under subparagraph (A) or (B), as applicable, during the period beginning 5 years before the date on which the President declared the major disaster or the catastrophic incident occurred and ending 2 years after such date, except that such census tract or nonmetropolitan county may be a “qualified disaster area” only—

(I) in the case of a major disaster declared by the President, during the 5-year period beginning on the date on which the President declared the major disaster for the area in which the census tract or nonmetropolitan county, as applicable, is located; and

(II) in the case of a catastrophic incident, during the 10-year period beginning on the date on which the catastrophic incident occurred in the area in which the census tract or nonmetropolitan county, as applicable, is located.

(ii) LIMITATION.—A qualified disaster area described in clause (i) shall be treated as a HUBZone for a period of not less than 8 years, beginning on the date the Administrator makes a final determination as to whether or not to implement the designations described in subparagraphs (A) and (B) in accordance with the results of the decennial census conducted after the area was initially designated as a qualified disaster area.

(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—A HUBZone small business concern is “qualified”, if—

(i) the small business concern has certified in writing to the Administrator (or the Administrator otherwise determines, based on information submitted to the Administrator by the small business concern, or based on certification procedures, which shall be established by the Administration by regulation) that—

- (I) it is a HUBZone small business concern—
- (aa) pursuant to subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (3), and that its principal office is located in a HUBZone and not fewer than 35 percent of its employees reside in a HUBZone;
 - (bb) pursuant to subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (3), that its principal office is located within a base closure area and that not fewer than 35 percent of its employees reside in such base closure area or in another HUBZone; or
 - (cc) pursuant to paragraph (3)(C), and not fewer than 35 percent of its employees engaged in performing a contract awarded to the small business concern on the basis of a preference provided under section 31(b) reside within any Indian reservation governed by one or more of the tribal government owners, or reside within any HUBZone adjoining any such Indian reservation;

(II) the small business concern will attempt to maintain the applicable employment percentage under subclause (I) during the performance of any contract awarded to the small business concern on the basis of a preference provided under section 31(b); and

(III) with respect to any subcontract entered into by the small business concern pursuant to a contract awarded to the small business concern under section 31, the small business concern will ensure that the requirements of section 46 are satisfied; and

(ii) no certification made or information provided by the small business concern under clause (i) has been, in accordance with the procedures established under section 31(c)(1)—

(I) successfully challenged by an interested party; or

(II) otherwise determined by the Administrator to be materially false.

(B) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified HUBZone small business concerns, which list shall, to the extent practicable—

(i) once the Administrator has made the certification required by subparagraph (A)(i) regarding a qualified HUBZone small business concern and has determined that subparagraph (A)(ii) does not apply to that concern, include the name, address, and type of business with respect to each such small business concern;

(ii) be updated by the Administrator not less than annually; and

(iii) be provided upon request to any Federal agency or other entity.

(6) NATIVE AMERICAN SMALL BUSINESS CONCERNS.—

(A) ALASKA NATIVE CORPORATION.—The term “Alaska Native Corporation” has the same meaning as the term “Native Corporation” in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(B) ALASKA NATIVE VILLAGE.—The term “Alaska Native Village” has the same meaning as the term “Native village” in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(C) INDIAN RESERVATION.—The term “Indian reservation”—

(i) has the same meaning as the term “Indian country” in section 1151 of title 18, United States Code, except that such term does not include—

(I) any lands that are located within a State in which a tribe did not exercise governmental jurisdiction on the date of the enactment of this paragraph, unless that tribe is recognized after that date of the enactment by either an Act of Congress or pursuant to regulations of the Secretary of the Interior for the administrative recognition that an Indian group exists as an Indian tribe (part 83 of title 25, Code of Federal Regulations); and

(II) lands taken into trust or acquired by an Indian tribe after the date of the enactment of this paragraph if such lands are not located within the external boundaries of an Indian reservation or former reservation or are not contiguous to the lands held in trust or restricted status on that date of the enactment; and

(ii) in the State of Oklahoma, means lands that—

(I) are within the jurisdictional areas of an Oklahoma Indian tribe (as determined by the Secretary of the Interior); and

(II) are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations (as in effect on the date of the enactment of this paragraph).

(7) AGRICULTURAL COMMODITY.—The term “agricultural commodity” has the same meaning as in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(q) DEFINITIONS RELATING TO VETERANS.—In this Act, the following definitions apply:

(1) SERVICE-DISABLED VETERAN.—The term “service-disabled veteran” means a veteran with a disability that is service-connected (as defined in section 101(16) of title 38, United States Code).

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The term “small business concern owned and controlled by service-disabled veterans” means any of the following:

(A) A small business concern—

(i) not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) of which is owned by one or more service-disabled veterans; and

(ii) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(B) A small business concern—

(i) not less than 51 percent of which is owned by one or more service-disabled veterans with a disability that is rated by the Secretary of Veterans Affairs as a permanent and total disability who are unable to manage the daily business operations of such concern; or

(ii) in the case of a publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) of which is owned by one or more such veterans.

(C)(i) During the time period described in clause (ii), a small business concern that was a small business concern described in subparagraph (A) or (B) immediately prior to the death of a service-disabled veteran who was the owner of the concern, the death of whom causes the concern to be less than 51 percent owned by one or more service-disabled veterans, if—

(I) the surviving spouse of the deceased veteran acquires such veteran's ownership interest in such concern;

(II) such veteran had a service-connected disability (as defined in section 101(16) of title 38, United States Code) rated as 100 percent disabling under the laws administered by the Secretary of Veterans Affairs or such veteran died as a result of a service-connected disability; and

(III) immediately prior to the death of such veteran, and during the period described in clause (ii), the small business concern is included in the database described in section 8127(f) of title 38, United States Code.

(ii) The time period described in this clause is the time period beginning on the date of the veteran's death and ending on the earlier of—

(I) the date on which the surviving spouse remarries;

(II) the date on which the surviving spouse relinquishes an ownership interest in the small business concern; or

(III) the date that is 10 years after the date of the death of the veteran.

(3) **SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY VETERANS.**—The term “small business concern owned and controlled by veterans” means a small business concern—

(A) not less than 51 percent of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(B) the management and daily business operations of which are controlled by one or more veterans.

(4) **VETERAN.**—The term “veteran” has the meaning given the term in section 101(2) of title 38, United States Code.

(5) **RELIEF FROM TIME LIMITATIONS.**—

(A) **IN GENERAL.**—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program that is available to small business concerns shall be extended for a small business concern that—

(i) is owned and controlled by—

(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States Code, on or after September 11, 2001; or

(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active military, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision of law referred to in subclause (I) on or after September 11, 2001; and

(ii) was subject to the time limitation during such period of active duty.

(B) **DURATION.**—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.

(C) **EXCEPTION FOR PROGRAMS SUBJECT TO FEDERAL CREDIT REFORM ACT OF 1990.**—The provisions of subparagraphs (A) and (B) shall not apply to any programs subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(6) **ESOP.**—The term “ESOP” has the meaning given the term “employee stock ownership plan” in section 4975(e)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 4975(e)(7)).

(7) **SURVIVING SPOUSE.**—The term “surviving spouse” has the meaning given such term in section 101(3) of title 38, United States Code.

(r) **DEFINITIONS RELATING TO SMALL BUSINESS LENDING COMPANIES.**—As used in section 23 of this Act:

(1) **SMALL BUSINESS LENDING COMPANY.**—The term “small business lending company” means a business concern that is authorized by the Administrator to make loans pursuant to section 7(a) and whose lending activities are not subject to regulation by any Federal or State regulatory agency.

(2) NON-FEDERALLY REGULATED LENDER.—The term “non-Federally regulated lender” means a business concern if—

(A) such concern is authorized by the Administrator to make loans under section 7;

(B) such concern is subject to regulation by a State; and

(C) the lending activities of such concern are not regulated by any Federal banking authority.

(s) MAJOR DISASTER.—In this Act, the term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(t) SMALL BUSINESS DEVELOPMENT CENTER.—In this Act, the term “small business development center” means a small business development center described in section 21.

(u) REGION OF THE ADMINISTRATION.—In this Act, the term “region of the Administration” means the geographic area served by a regional office of the Administration established under section 4(a).

(v) MULTIPLE AWARD CONTRACT.—In this Act, the term “multiple award contract” means—

(1) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(2) any other indefinite delivery, indefinite quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation.

(w) PRESUMPTION.—

(1) IN GENERAL.—In every contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant which is set aside, reserved, or otherwise classified as intended for award to small business concerns, there shall be a presumption of loss to the United States based on the total amount expended on the contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant whenever it is established that a business concern other than a small business concern willfully sought and received the award by misrepresentation.

(2) DEEMED CERTIFICATIONS.—The following actions shall be deemed affirmative, willful, and intentional certifications of small business size and status:

(A) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement reserved, set aside, or otherwise classified as intended for award to small business concerns.

(B) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement which in any way encourages a Federal agency to classify the bid or proposal, if awarded, as an award to a small business concern.

(C) Registration on any Federal electronic database for the purpose of being considered for award of a Federal grant, contract, subcontract, cooperative agreement, or cooperative research agreement, as a small business concern.

(3) CERTIFICATION BY SIGNATURE OF RESPONSIBLE OFFICIAL.—

(A) IN GENERAL.—Each solicitation, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the small business size and status of a business concern seeking the Federal contract, subcontract, or grant.

(B) CONTENT OF CERTIFICATIONS.—A certification that a business concern qualifies as a small business concern of the exact size and status claimed by the business concern for purposes of bidding on a Federal contract or subcontract, or applying for a Federal grant, shall contain the signature of an authorized official on the same page on which the certification is contained.

(4) REGULATIONS.—The Administrator shall promulgate regulations to provide adequate protections to individuals and business concerns from liability under this subsection in cases of unintentional errors, technical malfunctions, and other similar situations.

(x) ANNUAL CERTIFICATION.—

(1) IN GENERAL.—Each business certified as a small business concern under this Act shall annually certify its small business size and, if appropriate, its small business status, by means of a confirming entry on the Online Representations and Certifications Application database of the Administration, or any successor thereto.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Inspector General and the Chief Counsel for Advocacy of the Administration, shall promulgate regulations to ensure that—

(A) no business concern continues to be certified as a small business concern on the Online Representations and Certifications Application database of the Administration, or any successor thereto, without fulfilling the requirements for annual certification under this subsection; and

(B) the requirements of this subsection are implemented in a manner presenting the least possible regulatory burden on small business concerns.

(y) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Attorney General, shall issue a Government-wide policy on prosecution of small business size and status fraud, which shall direct Federal agencies to appropriately publicize the policy.

(z) AQUACULTURE BUSINESS DISASTER ASSISTANCE.—Subject to section 18(a) and notwithstanding section 18(b)(1), the Administrator may provide disaster assistance under section 7(b)(2) to aquaculture enterprises that are small businesses.

(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term “venture capital operating company” means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).

(bb) HEDGE FUND.—In this Act, the term “hedge fund” has the meaning given that term in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

(cc) PRIVATE EQUITY FIRM.—In this Act, the term “private equity firm” has the meaning given the term “private equity fund” in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

(dd) DEFINITIONS PERTAINING TO SUBCONTRACTING.—In this Act:

(1) SUBCONTRACT.—The term “subcontract” means a legally binding agreement between a contractor that is already under contract to another party to perform work, and a third party, hereinafter referred to as the subcontractor, for the subcontractor to perform a part, or all, of the work that the contractor has undertaken.

(2) FIRST TIER SUBCONTRACTOR.—The term “first tier subcontractor” means a subcontractor who has a subcontract directly with the prime contractor.

(3) AT ANY TIER.—The term “at any tier” means any subcontractor other than a subcontractor who is a first tier subcontractor.

(ee) PUERTO RICO BUSINESS.—In this Act, the term “Puerto Rico business” means a small business concern that has its principal office located in the Commonwealth of Puerto Rico.

* * * * *

SEC. 16. (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Administration, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Whoever, being connected in any capacity with the Administration, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it, or (2) with intent to defraud the Administration or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Administration, makes any false entry in any book, report, or statement of or to the Administration, or, without being duly authorized, draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other part of the Administration, or (4) gives any unauthorized information concerning any future action or plan of the Administration which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans or other assistance from the Administration, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(c) Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or that of another, any property mortgaged or pledged to, or held by, the Administration, shall be fined not more than \$5,000 or imprisoned not more than five

years, or both; but if the value of such property does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(d)(1) Whoever misrepresents the status of any concern or person as a “small business concern”**[, a], a “small business concern owned and controlled by service-disabled veterans”, a “small business concern owned and controlled by veterans”, a “qualified HUBZone small business concern”, a “small business concern owned and controlled by socially and economically disadvantaged individuals”, or a “small business concern owned and controlled by women”, in order to obtain for oneself or another any—**

(A) prime contract to be awarded pursuant to section **[9, 15, or 31] 8, 9, 15, 31, 36, or 36A;**

(B) subcontract to be awarded pursuant to section 8(a);

(C) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

(D) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall be subject to the penalties and remedies described in paragraph (2).

(2) Any person who violates paragraph (1) shall—

(A) be punished by a fine of not more than \$500,000 or by imprisonment for not more than 10 years, or both;

(B) be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812);

(C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation); and

(D) be ineligible for participation in any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) for a period not to exceed 3 years.

(3) **LIMITATION ON LIABILITY.**—This subsection shall not apply to any conduct in violation of subsection (a) if the defendant acted in good faith reliance on a written advisory opinion from a Small Business Development Center (as defined in this Act), or an entity participating in the Procurement Technical Assistance Cooperative Agreement Program defined in chapter 142 of title 10, United States Code; however nothing in this Act shall obligate either entity to provide such a letter nor shall the provision of such a letter in any way render the providing entity liable to the business concern should the Administrator later determine that the concern is not a small business concern. Upon issuance of an advisory opinion under this paragraph, the entity issuing the advisory opinion shall remit a copy of the opinion to the General Counsel of the Administration, who may reject the advisory opinion. If the General Counsel of the Administration rejects the advisory opinion, the Administration shall notify the entity issuing the advisory opinion and the recipient of the opinion, after which time the business concern may not rely upon the opinion.

(e) Any representation of the status of any concern or person as a “small business concern”**[(, a), a]**, a “*small business concern owned and controlled by service-disabled veterans*”, a “*small business concern owned and controlled by veterans*”, a “HUBZone small business concern”, a “small business concern owned and controlled by socially and economically disadvantaged individuals”, or a “small business concern owned and controlled by women” in order to obtain any prime contract or subcontract enumerated in subsection (d) of this section shall be in writing.

(f) Whoever falsely certifies past compliance with the requirements of section 7(j)(10)(I) of this Act shall be subject to the penalties prescribed in subsection (d).

(g) SUBCONTRACTING LIMITATIONS.—

(1) IN GENERAL.—Whoever violates a requirement established under section 46 shall be subject to the penalties prescribed in subsection (d), except that, for an entity that exceeded a limitation on subcontracting under such section, the fine described in subsection (d)(2)(A) shall be treated as the greater of—

(A) \$500,000; or

(B) the dollar amount expended, in excess of permitted levels, by the entity on subcontractors.

(2) MONITORING.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall take such actions as are necessary to ensure that an existing Federal subcontracting reporting system is modified to notify the Administrator, the appropriate Director of the Office of Small and Disadvantaged Business Utilization, and the appropriate contracting officer if a requirement established under section 46 is violated.

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SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) *CONTRACTING OFFICER DEFINED.*—For purposes of this section, the term “contracting officer” has the meaning given such term in section 2101 of title 41, United States Code.

(b) *CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.*—With respect to a procurement program or preference established under this Act that applies to prime contractors, the Administrator shall—

(1) certify the status of the concern as a “small business concern owned and controlled by service-disabled veterans”; and

(2) require the periodic recertification of such status.

[(a)] (c) SOLE SOURCE CONTRACTS.—In accordance with this section, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

(2) the anticipated award price of the contract (including options) will not exceed—

(A) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(B) \$3,000,000, in the case of any other contract opportunity; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

[(b)] *(d) RESTRICTED COMPETITION.*—In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers **[and that the award can be made at a fair market price]**, *that the award can be made at a fair market price, and if each concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans.*

[(c)] *(e) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.*—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

[(d)] *ENFORCEMENT; PENALTIES.*—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

[(e)] *CONTRACTING OFFICER.*—For purposes of this section, the term “contracting officer” has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

(f) DATABASE OF VETERAN-OWNED BUSINESSES.—(1) Subject to paragraphs (2) through (6), the Administrator shall maintain a database of small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, and the veteran owners of such business concerns.

(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Administrator such information as the Administrator may require with respect to the small business concern or the veteran. Application for inclusion in the database shall constitute permission under section 552a of title 5 (commonly referred to as the Privacy Act) for the Administrator to obtain from the Administrator of Veterans Affairs such personal information maintained by the Secretary as may be necessary to verify the information contained in the application.

(B) For purposes of this subsection—

(i) the Secretary of Veterans Affairs shall—

(I) verify an individual's status as a veteran or a service-disabled veteran; and

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

(ii) the Administrator shall verify—

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

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

(C) The Administrator may not certify a concern under subsection (b) or section 36A if the Secretary of Veterans Affairs cannot provide the verification described under subparagraph (B)(i)(I).

(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

(4) The Administrator shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database.

(5) If the Administrator determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary the Administrator shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

(6)(A) If a small business concern is not included in the database because the Administrator does not certify the status of the concern as a small business concern owned and controlled by veterans (under section 36A) or a small business concern owned and controlled by service-disabled veterans (under section 36(g)), the concern may appeal the denial of certification to the Office of Hearings and Appeals of the Small Business Administration (as established under section 5(i) of the Small Business Act). The decision of the Office of Hearings and Appeals shall be considered a final agency action.

(B)(i) If an interested party challenges the inclusion in the database of a small business concern owned and controlled by veterans or a small business concern owned and controlled by service-disabled veteran based on the status of the concern as a small business concern or the ownership or control of the concern, the challenge shall be heard by the Office of Hearings and Appeals of the Small Business Administration as described in subparagraph (A). The decision of the Office of Hearings and Appeals shall be considered final agency action.

(ii) In this subparagraph, the term "interested party" means—

(I) the Secretary of Veterans Affairs of the Administrator; or

(II) in the case of a small business concern that is awarded a contract, the applicable contracting officer or another small business concern that submitted an offer for the contract that was awarded to the small business concern that is the subject of a challenge made under clause (i).

(g) CERTIFICATION REQUIREMENT.—Notwithstanding subsection (c), a contracting officer may only award a sole source contract to a small business concern owned and controlled by service-disabled veterans or a contract on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if such a concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans.

(h) ENFORCEMENT; PENALTIES.—

(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information pro-

vided to the Administration by a small business concern under subsection (b)); and

(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (b).

(2) **EXAMINATIONS.**—

(A) **EXAMINATION OF APPLICANTS.**—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (b), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (b).

(B) **EXAMINATION OF CERTIFIED CONCERNS.**—The procedures established under paragraph (1) shall provide for the examination of risk-based samples of small business concerns certified under subsection (b), or of any small business concern that the Administrator believes poses a particular risk or with respect to which the Administrator receives specific and credible information alleging that the small business concern no longer meets eligibility requirements to be certified as a small business concern owned and controlled by service-disabled veterans.

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

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

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

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

(i) **PROVISION OF DATA.**—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out subsection (b) or to be able to certify the status of the concern as a small business concern owned and controlled by veterans under section 36A.

SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

(a) **IN GENERAL.**—With respect to the program established under section 8127 of title 38, United States Code, the Administrator shall—

(1) certify the status of the concern as a “small business concern owned and controlled by veterans”; and

(2) require the periodic recertification of such status.

(b) **ENFORCEMENT; PENALTIES.**—

(1) **VERIFICATION OF ELIGIBILITY.**—In carrying out this section, the Administrator shall establish procedures relating to—

(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section

(including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (a)); and

(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (a).

(2) EXAMINATION OF APPLICANTS.—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (a), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (a).

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

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

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

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

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