

107TH CONGRESS
2D SESSION

H. R. 5583

To amend the Small Business Act to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, to establish a presumption that service-disabled veterans and other handicapped individuals are eligible for benefits under the Small Business Development Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2002

Mr. EVANS introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, to establish a presumption that service-disabled veterans and other handicapped individuals are eligible for benefits under the Small Business Development Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Service-Disabled Vet-
5 erans’ Small Business Federal Procurement Preference
6 Act of 2002”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) Provide veterans, who sacrificed a portion
4 of their potential life earnings in order to serve the
5 United States, a more effective opportunity to com-
6 pete in the marketplace by establishing a Govern-
7 ment-wide procurement goal for small business con-
8 cerns owned and controlled by veterans.

9 (2) Establish a presumption that service-dis-
10 abled veterans and other handicapped individuals are
11 socially disadvantaged for purposes of the Disadvan-
12 tagged Business Program administered by the Small
13 Business Administration under section 8(a) of the
14 Small Business Act.

15 (3) Simplify and coordinate the Government-
16 wide and agency procurement goals for small busi-
17 ness concerns.

18 **SEC. 3. PRESUMPTION THAT HANDICAPPED INDIVIDUALS**
19 **ARE SOCIALLY DISADVANTAGED FOR PUR-**
20 **POSES OF THE BUSINESS DEVELOPMENT**
21 **PROGRAM.**

22 (a) IN GENERAL.—Section 8(a)(5) of the Small Busi-
23 ness Act (15 U.S.C. 637(a)(5)) is amended by adding at
24 the end the following: “For purposes of this Act, handi-
25 capped individuals shall be treated as socially disadvan-
26 tagged individuals unless the Administrator determines on

1 the basis of credible evidence that such individual is not
 2 socially disadvantaged.”.

3 (b) CONFORMING AMENDMENT.—Section 2(f)(1)(C)
 4 of the Small Business Act (15 U.S.C. 631(f)(1)(C)) is
 5 amended by striking “and other minorities” and inserting
 6 “other minorities, and handicapped individuals”.

7 **SEC. 4. INCLUSION OF VETERANS AND HANDICAPPED INDIVIDUALS IN GOVERNMENT-WIDE PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS, REQUIREMENT THAT AGENCY GOALS NOT BE LESS THAN GOVERNMENT-WIDE GOALS, ETC.**

13 Section 15(g) of the Small Business Act (15 U.S.C.
 14 644(g)) is amended to read as follows:

15 “(g) GOVERNMENT-WIDE AND AGENCY SMALL BUSINESS PROCUREMENT GOALS.—

17 “(1) ESTABLISHMENT BY PRESIDENT OF GOVERNMENT-WIDE GOALS.—The President shall annually establish Government-wide goals for procurement contracts awarded to small business concerns and each of the specified subcategories of small business concerns.

23 “(2) SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by small business concerns shall be established at not less than

1 28 percent of the total value of all prime contract
2 and subcontract awards for each fiscal year.

3 “(3) SMALL BUSINESS CONCERNS OWNED AND
4 CONTROLLED BY VETERANS.—

5 “(A) IN GENERAL.—The Government-wide
6 goal for participation by small business con-
7 cerns owned and controlled by veterans shall be
8 established at not less than 3 percent of the
9 total value of all prime contract and sub-
10 contract awards for each fiscal year.

11 “(B) SERVICE-DISABLED VETERANS.—
12 Prime contract and subcontract awards to small
13 business concerns owned and controlled by serv-
14 ice-disabled veterans may be counted toward
15 the attainment of the goal established under
16 subparagraph (A) only if such concerns are not
17 certified by the Administration as eligible to re-
18 ceive benefits under section 8(a).

19 “(4) QUALIFIED HUBZONE SMALL BUSINESS
20 CONCERNS.—The Government-wide goal for partici-
21 pation by qualified HUBZone small business con-
22 cerns shall be established at not less than 2.5 per-
23 cent of the total value of all prime contract awards
24 for fiscal year 2002, and not less than 3 percent of

1 the total value of all prime contract awards for fiscal
2 year 2003 and each fiscal year thereafter.

3 “(5) SMALL BUSINESS CONCERNS OWNED AND
4 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-
5 ADVANTAGED INDIVIDUALS.—

6 “(A) IN GENERAL.—The Government-wide
7 goal for participation by small business con-
8 cerns owned and controlled by socially and eco-
9 nomically disadvantaged individuals shall be es-
10 tablished at not less than 10 percent of the
11 total value of all prime contract and sub-
12 contract awards for each fiscal year.

13 “(B) SERVICE-DISABLED VETERANS.—The
14 Government-wide goal for participation by small
15 business concerns owned and controlled by serv-
16 ice-disabled veterans which are certified by the
17 Administration as eligible to receive benefits
18 under section 8(a) shall be established at not
19 less than 3 percent of the total value of all
20 prime contract and subcontract awards for each
21 fiscal year.

22 “(C) HANDICAPPED INDIVIDUALS.—The
23 Government-wide goal for participation by small
24 business concerns owned and controlled by
25 handicapped individuals which are certified by

the Administration as eligible to receive benefits under section 8(a) shall be established at not less than 2 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(6) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.—The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.

“(7) AGENCY GOALS.—

“(A) IN GENERAL.—Each Federal agency shall have annual goals that present, for that agency, the maximum practicable opportunity for small business concerns and each of the specified subcategories of small business concerns to perform prime contracts let by such agency and subcontracts under such prime contracts.

“(B) NOT LESS THAN GOVERNMENT-WIDE GOALS.—No Federal agency may have an agency goal under subparagraph (A) which is less than the corresponding Government-wide goal

established by the President under paragraph (1).

“(C) PROCEDURE FOR ESTABLISHMENT.—

Each year, the Administration and the head of each Federal agency shall jointly establish the goals described in subparagraph (A) for such agency. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

“(D) EXPANSION OF PARTICIPATION.—For

the purpose of establishing goals under this paragraph, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns and each of the specified subcategories of small business concerns. The head of each Federal agency, in attempting to attain such participation, shall consider—

“(i) contracts awarded as the result of unrestricted competition; and

1 “(ii) contracts awarded after competi-
 2 tion restricted to eligible small business
 3 concerns under this section and under the
 4 program established under section 8(a).”.

5 **SEC. 5. DEFINITIONS.**

6 (a) DEFINITIONS RELATING TO HANDICAPPED INDI-
 7 VIDUALS.—

8 (1) IN GENERAL.—Section 3(f) of the Small
 9 Business Act (15 U.S.C. 632(f)) is amended to read
 10 as follows:

11 “(f) DEFINITIONS RELATING TO SMALL BUSINESS
 12 CONCERNS OWNED AND CONTROLLED BY HANDICAPPED
 13 INDIVIDUALS.—For purposes of this Act:

14 “(1) SMALL BUSINESS CONCERN OWNED AND
 15 CONTROLLED BY HANDICAPPED INDIVIDUALS.—The
 16 term ‘small business concern owned and controlled
 17 by handicapped individuals’ means any small busi-
 18 ness concern—

19 “(A) not less than 51 percent of which is
 20 owned by one or more handicapped individuals
 21 or, in the case of any publicly owned business,
 22 not less than 51 percent of the stock of which
 23 is owned by one or more handicapped individ-
 24 uals;

1 “(B) the management and daily business
2 operations of which are controlled by one or
3 more handicapped individuals or, in the case of
4 a handicapped individual with permanent and
5 severe disability, the spouse or permanent care-
6 giver of such an individual; and

7 “(C) which is not a small business concern
8 owned and controlled by service-disabled vet-
9 erans.

10 “(2) HANDICAPPED INDIVIDUAL.—The term
11 ‘handicapped individual’ means an individual—

12 “(A) who has a physical, mental, or emo-
13 tional impairment, defect, ailment, disease, or
14 disability of a permanent nature which in any
15 way limits the selection of any type of employ-
16 ment for which the person would otherwise be
17 qualified or qualifiable; or

18 “(B) who is a service-disabled veteran.”.

19 (2) CONFORMING AMENDMENT.—Section
20 15(c)(1) of the Small Business Act (15 U.S.C.
21 644(c)(1)) is amended by striking subparagraph (C).

22 (b) SPECIFIED SUBCATEGORIES OF SMALL BUSINESS
23 CONCERNS.—Section 3 of the Small Business Act (15
24 U.S.C. 632) is amended by adding at the end the following
25 new subsection:

1 “(r) SPECIFIED SUBCATEGORIES OF SMALL BUSI-
2 NESS CONCERNS.—For purposes of this Act, the term
3 ‘specified subcategories of small business concerns’ means
4 the following subcategories of small business concerns:

5 “(1) Small business concerns owned and con-
6 trolled by veterans (including small business con-
7 cerns owned and controlled by service-disabled vet-
8 erans only if such concerns are not certified by the
9 Administration as eligible to receive benefits under
10 section 8(a)).

11 “(2) Qualified HUBZone small business con-
12 cerns.

13 “(3) Small business concerns owned and con-
14 trolled by socially and economically disadvantaged
15 individuals.

16 “(4) Small business concerns owned and con-
17 trolled by service-disabled veterans which are cer-
18 tified by the Administration as eligible to receive
19 benefits under section 8(a).

20 “(5) Small business concerns owned and con-
21 trolled by handicapped individuals which are cer-
22 tified by the Administration as eligible to receive
23 benefits under section 8(a).

24 “(6) Small business concerns owned and con-
25 trolled by women.”.

1 (c) SMALL BUSINESS CONCERN OWNED AND CON-
2 TROLLED BY SOCIALLY AND ECONOMICALLY DISADVAN-
3 TAGED INDIVIDUALS.—Section 3 of the Small Business
4 Act (15 U.S.C. 632) is further amended by adding at the
5 end the following new subsection:

6 “(s) SMALL BUSINESS CONCERN OWNED AND CON-
7 TROLLED BY SOCIALLY AND ECONOMICALLY DISADVAN-
8 TAGED INDIVIDUALS.—For purposes of this Act:

9 “(1) IN GENERAL.—The term ‘small business
10 concern owned and controlled by socially and eco-
11 nomically disadvantaged individuals’ means a small
12 business concern—

13 “(A) which is at least 51 percent owned by
14 one or more socially and economically disadvan-
15 taged individuals; or, in the case of any publicly
16 owned business, at least 51 percent of the stock
17 of which is owned by one or more socially and
18 economically disadvantaged individuals; and

19 “(B) whose management and daily busi-
20 ness operations are controlled by one or more of
21 such individuals.”.

22 “(2) APPLICATION OF DEFINITION BY PERSONS
23 OTHER THAN THE ADMINISTRATION.—Any indi-
24 vidual or entity (other than the Administration)
25 shall presume for purposes of carrying out any pro-

1 gram that socially and economically disadvantaged
2 individuals include Black Americans, Hispanic
3 Americans, Native Americans, Asian Pacific Ameri-
4 cans, other minorities, handicapped individuals, and
5 any other individual found to be disadvantaged by
6 the Administration pursuant to section 8(a) of the
7 Small Business Act.”.

8 **SEC. 6. UNIFORM APPLICATION OF DEFINITION OF SPECI-**
9 **FIED SUBCATEGORIES OF SMALL BUSINESS**
10 **CONCERNS.**

11 (a) IN GENERAL.—

12 (1) Section 8(d)(1) of the Small Business Act
13 (15 U.S.C. 637(d)(1)) is amended—

14 (A) in the first sentence, by striking “,
15 small business concerns owned and controlled
16 by veterans” and all that follows through
17 “women,” and inserting “and each of the speci-
18 fied subcategories of small business concerns”;
19 and

20 (B) in the second sentence, by striking “,
21 small business concerns owned and controlled
22 by veterans” and all that follows through
23 “women” and inserting “and each of the speci-
24 fied subcategories of small business concerns”.

1 (2) Section 8(d)(4)(D) of the Small Business
2 Act (15 U.S.C. 637(d)(4)(D)) is amended by strik-
3 ing “, qualified HUBZone” and all that follows
4 through “women” and inserting “and each of the
5 specified subcategories of small business concerns”.

6 (3) Section 8(d)(4)(E) of the Small Business
7 Act (15 U.S.C. 637(d)(4)(E)) is amended by strik-
8 ing “, small business concerns owned and controlled
9 by veterans” and all that follows through “women,”
10 and inserting “and each of the specified subcat-
11 egories of small business concerns”.

12 (4) Paragraphs (6)(A), (6)(C), (6)(F), and
13 (10)(B) of section 8(d) of the Small Business Act
14 (15 U.S.C. 637(d)) are each amended by striking “,
15 small business concerns owned and controlled by vet-
16 erans” and all that follows through “women” and
17 inserting “and each of the specified subcategories of
18 small business concerns”.

19 (5) Section 15(h)(1) of the Small Business Act
20 (15 U.S.C. 644(h)(1)) is amended by striking “,
21 small business concerns owned and controlled by vet-
22 erans” and all that follows through “women” and
23 inserting “and each of the specified subcategories of
24 small business concerns”.

1 (6) Subparagraphs (A), (D), and (E) of section
2 15(h)(2) of the Small Business Act (15 U.S.C.
3 644(h)(2)) are each amended by striking “, small
4 business concerns owned and controlled by service-
5 disabled veterans” and all that follows through
6 “women” and inserting “and each of the specified
7 subcategories of small business concerns”.

8 (7) Section 16(d)(1) of the Small Business Act
9 (15 U.S.C. 645(d)(1)) is amended by striking
10 “‘small business concern’” and all that follows
11 through “women’,” and inserting “small business
12 concern or as any of the specified subcategories of
13 small business concerns”.

14 (8) Section 16(e) of the Small Business Act (15
15 U.S.C. 645(e)) is amended by striking “‘small busi-
16 ness concern’” and all that follows through
17 “women’” and inserting “small business concern or
18 as any of the specified subcategories of small busi-
19 ness concerns”.

20 (b) APPLICATION TO CONTRACT CLAUSES.—

21 (1) IN GENERAL.—Section 8(d)(3) of the Small
22 Business Act (15 U.S.C. 637(d)(3)) is amended—

23 (A) in the first and second sentences of
24 subparagraph (A), by striking “, small business
25 concerns owned and controlled by veterans” and

1 all that follows through “women” and inserting
2 “and each of the specified subcategories of
3 small business concerns”;

4 (B) by striking subparagraphs (C), (D),
5 (E), (F), and (G); and

6 (C) by inserting after subparagraph (B)
7 the following new subparagraphs:

8 “(C) As used in this contract, the terms
9 ‘small business concern’ and ‘specified subcat-
10 egories of small business concerns’ have the re-
11 spective meanings given such terms pursuant to
12 section 3 of the Small Business Act and rel-
13 evant regulations promulgated thereto.

14 “(D) The contractor shall presume that so-
15 cially and economically disadvantaged individ-
16 uals include Black Americans, Hispanic Ameri-
17 cans, Native Americans, Asian Pacific Ameri-
18 cans, other minorities, handicapped individuals,
19 and any other individual found to be disadvan-
20 taged by the Administration pursuant to section
21 8(a) of the Small Business Act.

22 “(E) Contractors acting in good faith may
23 rely on written representations by their sub-
24 contractors regarding their status as a small

1 business concern or as any of the specified sub-
2 categories of small business concerns.”.

3 (2) TREATMENT OF REFERENCES TO DEFINI-
4 TIONS.—Any reference in a law, regulation, or other
5 document of the United States to the meaning or
6 definition given to the term “small business concern
7 owned and controlled by socially and economically
8 disadvantaged individuals”, “small business concern
9 owned and controlled by women”, “small business
10 concern owned and controlled by veterans”, or
11 “qualified HUBZone small business concern” in sec-
12 tion 8(d)(3) of the Small Business Act (15 U.S.C.
13 637(d)(3)) (as in effect on the day before the date
14 of the enactment of this Act) shall be treated as a
15 reference to the meaning or definition given such
16 term in section 3 of the Small Business Act (as
17 amended by this Act).

○