

114TH CONGRESS
1ST SESSION

H. R. 3945

To amend the Small Business Act and title 38, United States Code, to improve contracting opportunities for certain veteran-owned small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2015

Mr. COFFMAN (for himself, Mr. CHABOT, Mr. MILLER of Florida, Ms. VELÁZQUEZ, Mr. HANNA, Mr. CONNOLLY, and Mr. MOULTON) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Small Business Act and title 38, United States Code, to improve contracting opportunities for certain veteran-owned small businesses, 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 “Improving Opportuni-
5 ties for Service-Disabled Veteran-Owned Small Businesses
6 Act of 2015”.

1 **SEC. 2. IMPROVING CONTRACTING OPPORTUNITIES FOR**
2 **CERTAIN VETERAN-OWNED SMALL BUSI-**
3 **NESSES.**

4 (a) DEFINITION OF SMALL BUSINESS CONCERN
5 CONSOLIDATED.—Section 3(q) of the Small Business Act
6 (15 U.S.C. 632(q)) is amended—

7 (1) by amending paragraph (2) to read as fol-
8 lows:

9 “(2) SMALL BUSINESS CONCERN OWNED AND
10 CONTROLLED BY SERVICE-DISABLED VETERANS.—

11 The term ‘small business concern owned and con-
12 trolled by service-disabled veterans’ means any of
13 the following:

14 “(A) A small business concern—

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

22 “(ii) the management and daily busi-
23 ness operations of which are controlled by
24 one or more service-disabled veterans or, in
25 the case of a veteran with permanent and

1 severe disability, the spouse or permanent
2 caregiver of such veteran.

3 “(B) A small business concern—

4 “(i) not less than 51 percent of which
5 is owned by one or more service-disabled
6 veterans with a disability that is rated by
7 the Secretary of Veterans Affairs as a per-
8 manent and total disability who are unable
9 to manage the daily business operations of
10 such concern; or

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

16 “(C)(i) During the time period described in
17 clause (ii), a small business concern that was a
18 small business concern described in subpara-
19 graph (A) or (B) immediately prior to the death
20 of a service-disabled veteran who was the owner
21 of the concern, the death of whom causes the
22 concern to be less than 51 percent owned by
23 one or more service-disabled veterans, if—

1 “(I) the surviving spouse of the de-
2 ceased veteran acquires such veteran’s
3 ownership interest in such concern;

4 “(II) such veteran had a service-con-
5 nected disability (as defined in section
6 101(16) of title 38, United States Code)
7 rated as 100-percent disabling under the
8 laws administered by the Secretary of Vet-
9 erans Affairs or such veteran died as a re-
10 sult of a service-connected disability; and

11 “(III) immediately prior to the death
12 of such veteran, and during the period de-
13 scribed in clause (ii), the small business
14 concern is included in the database de-
15 scribed in section 8127(f) of title 38,
16 United States Code.

17 “(ii) The time period described in this
18 clause is the time period beginning on the date
19 of the veteran’s death and ending on the earlier
20 of—

21 “(I) the date on which the surviving
22 spouse remarries;

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

1 “(III) the date that is 10 years after
2 the date of the death of the veteran.”; and

3 (2) by adding at the end the following new
4 paragraphs:

5 “(6) ESOP.—The term ‘ESOP’ has the mean-
6 ing given the term ‘employee stock ownership plan’
7 in section 4975(e)(7) of the Internal Revenue Code
8 of 1986 (26 U.S.C. 4975(e)(7)).

9 “(7) SURVIVING SPOUSE.—The term ‘surviving
10 spouse’ has the meaning given such term in section
11 101(3) of title 38, United States Code.”.

12 (b) VETERANS AFFAIRS DEFINITION OF SMALL
13 BUSINESS CONCERN CONSOLIDATED.—

14 (1) IN GENERAL.—Section 8127 of title 38,
15 United States Code, is amended—

16 (A) by striking subsection (h) and redesign-
17 ating subsections (i) through (l) as subsections
18 (h) through (k), respectively; and

19 (B) in subsection (k), as so redesignated—

20 (i) by amending paragraph (2) to read
21 as follows:

22 “(2) The term ‘small business concern owned
23 and controlled by veterans’ has the meaning given
24 that term under section 3(q)(3) of the Small Busi-
25 ness Act (15 U.S.C. 632(q)(3)).”; and

1 (ii) by adding at the end the following
2 new paragraph:

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

9 (2) CONFORMING AMENDMENTS.—Such section
10 is further amended—

11 (A) in subsection (b), by inserting “or a
12 small business concern owned and controlled by
13 veterans with service-connected disabilities”
14 after “a small business concern owned and con-
15 trolled by veterans”;

16 (B) in subsection (c), by inserting “or a
17 small business concern owned and controlled by
18 veterans with service-connected disabilities”
19 after “a small business concern owned and con-
20 trolled by veterans”;

21 (C) in subsection (d) by inserting “or small
22 business concerns owned and controlled by vet-
23 erans with service-connected disabilities” after
24 “small business concerns owned and controlled
25 by veterans” both places it appears; and

1 (D) in subsection (f)(1), by inserting “,
 2 small business concerns owned and controlled
 3 by veterans with service-connected disabilities,”
 4 after “small business concerns owned and con-
 5 trolled by veterans”.

6 (c) TECHNICAL CORRECTION.—Section 8(d)(3) of the
 7 Small Business Act (15 U.S.C. 637(d)(3)), is amended by
 8 adding at the end the following new subparagraph:

9 “(H) In this contract, the term ‘small business
 10 concern owned and controlled by service-disabled
 11 veterans’ has the meaning given that term in section
 12 3(q).”.

13 **SEC. 3. REGULATIONS RELATING TO DATABASE OF THE**
 14 **SECRETARY OF VETERANS AFFAIRS.**

15 (a) REQUIREMENT TO USE CERTAIN SMALL BUSI-
 16 NESS ADMINISTRATION REGULATIONS.—Section
 17 8127(f)(4) of title 38, United States Code, is amended by
 18 striking “verified” and inserting “verified, using regula-
 19 tions issued by the Administrator of the Small Business
 20 Administration with respect to the status of the concern
 21 as a small business concern and the ownership and control
 22 of such concern,”.

23 (b) PROHIBITION ON SECRETARY OF VETERANS AF-
 24 FAIRS ISSUING CERTAIN REGULATIONS.—Section 8127(f)

1 of title 38, United States Code, is amended by adding at
2 the end the following new paragraph:

3 “(7) The Secretary may not issue regulations related
4 to the status of a concern as a small business concern and
5 the ownership and control of such small business con-
6 cern.”.

7 (c) DELAYED EFFECTIVE DATE.—The amendments
8 made by this section and section 2 shall take effect on
9 the date on which the Administrator of the Small Business
10 Administration and the Secretary of Veterans Affairs
11 jointly issue regulations implementing such sections. Such
12 date shall be not later than 18 months after the date of
13 enactment of this Act.

14 **SEC. 4. APPEALS OF INCLUSION IN DATABASE.**

15 (a) IN GENERAL.—Section 8127(f) of title 38, United
16 States Code, as amended by section 3, is further amended
17 by adding at the end the following new paragraph:

18 “(8)(A) If the Secretary does not verify a concern for
19 inclusion in the database under this subsection based on
20 the status of the concern as a small business concern or
21 the ownership or control of the concern, the concern may
22 appeal the denial of verification to the Office of Hearings
23 and Appeals of the Small Business Administration (as es-
24 tablished under part 134 of title 13, Code of Federal Reg-
25 ulations, or any successor administrative appellate entity

1 created with the Small Business Administration). The de-
2 cision of the Office of Hearings and Appeals shall be con-
3 sidered a final agency action.

4 “(B)(i) If an interested party challenges the inclusion
5 in the database of a small business concern owned and
6 controlled by veterans or a small business concern owned
7 and controlled by veterans with service-connected disabil-
8 ities based on the status of the concern as a small business
9 concern or the ownership or control of the concern, the
10 challenge shall be heard by the Office of Hearings and
11 Appeals of the Small Business Administration as de-
12 scribed in subparagraph (A). The decision of the Office
13 of Hearings and Appeals shall be considered final agency
14 action.

15 “(ii) In this subparagraph, the term ‘interested party’
16 means—

17 “(I) the Secretary; and

18 “(II) in the case of a small business concern
19 that is awarded a contract, the contracting officer of
20 the Department or another small business concern
21 that submitted an offer for the contract that was
22 awarded to the small business concern that sub-
23 mitted an offer under clause (i).

24 “(C) For each fiscal year, the Secretary shall reim-
25 burse the Administrator of the Small Business Adminis-

1 tration in an amount necessary to cover any cost incurred
2 by the Office of Hearings and Appeals of the Small Busi-
3 ness Administration for actions taken by the Office under
4 this paragraph. The amount of any such reimbursement
5 shall be determined jointly by the Secretary and the Ad-
6 ministrator and shall be provided from fees collected by
7 the Secretary under multiple-award schedule contracts.
8 Any disagreement about the amount shall be resolved by
9 the Director of the Office of Management and Budget.”.

10 (b) EFFECTIVE DATE.—Paragraph (8) of subsection
11 (f) of title 38, United States Code, as added by subsection
12 (a), shall apply with respect to a verification decision made
13 by the Secretary of Veterans Affairs on or after the date
14 of the enactment of this Act.

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