

115TH CONGRESS
2D SESSION

H. R. 7169

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 27, 2018

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

A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. SMALL BUSINESS ACT REQUIREMENTS.**

6 (a) PROCUREMENT PROGRAM FOR SMALL BUSINESS
7 CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-
8 ABLED VETERANS.—Section 36 of the Small Business Act
9 (15 U.S.C. 657f) is amended—

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

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

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

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

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

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

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

6 (4) in subsection (c), as so redesignated—

7 (A) in paragraph (2)(B), by striking “and”
8 at the end;

9 (B) in paragraph (3), by striking the pe-
10 riod and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(4) the concern is certified by the Adminis-
13 trator as a small business concern owned and con-
14 trolled by service-disabled veterans.”;

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

22 (6) by adding at the end the following:

23 “(f) ENFORCEMENT; PENALTIES.—

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

4 “(A) the filing, investigation, and disposi-
5 tion by the Administration of any challenge to
6 the eligibility of a small business concern to re-
7 ceive assistance under this section (including a
8 challenge, filed by an interested party, relating
9 to the veracity of a certification made or infor-
10 mation provided to the Administration by a
11 small business concern under subsection (b));
12 and

13 “(B) verification by the Administrator of
14 the accuracy of any certification made or infor-
15 mation provided to the Administration by a
16 small business concern under subsection (b).

17 “(2) EXAMINATIONS.—

18 “(A) EXAMINATION OF APPLICANTS.—The
19 procedures established under paragraph (1)
20 shall provide for a program of examinations by
21 the Administrator of any small business concern
22 making a certification or providing information
23 to the Administrator under subsection (b), to
24 determine the veracity of any statements or in-

1 formation provided as part of such certification
2 or otherwise provided under subsection (b).

3 “(B) EXAMINATION OF CERTIFIED CON-
4 CERNS.—The procedures established under
5 paragraph (1) shall provide for the examination
6 of risk-based samples of small business con-
7 cerns certified under subsection (b), or of any
8 small business concern that the Administrator
9 believes poses a particular risk or with respect
10 to which the Administrator receives specific and
11 credible information alleging that the small
12 business concern no longer meets eligibility re-
13 quirements to be certified as a small business
14 concern owned and controlled by service-dis-
15 abled veterans.

16 “(3) PENALTIES.—In addition to the penalties
17 described in section 16(d) (15 U.S.C. 657f(d)), any
18 small business concern that is determined by the Ad-
19 ministrator to have misrepresented the status of that
20 concern as a small business concern owned and con-
21 trolled by service-disabled veterans for purposes of
22 subsection (b), shall be subject to—

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

1 “(B) sections 3729 through 3733 of title
2 31, United States Code; and

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

5 “(g) PROVISION OF DATA.—Upon the request of the
6 Administrator, the head of any Federal department or
7 agency shall promptly provide to the Administrator such
8 information as the Administrator determines to be nec-
9 essary to carry out subsection (b) or to be able to certify
10 the status of the concern as a small business concern
11 owned and controlled by veterans.”.

12 (b) PENALTIES FOR MISREPRESENTATION.—Section
13 16 of the Small Business Act (15 U.S.C. 645) is amend-
14 ed—

15 (1) in subsection (d)(1)—

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

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

21 (2) in subsection (e), by striking “,, a” and in-
22 serting “, a ‘small business concern owned and con-
23 trolled by service-disabled veterans’, a”.

1 **SEC. 3. USE OF VETERAN-OWNED AND SERVICE-DISABLED**
2 **VETERAN-OWNED BUSINESS DATABASE BY**
3 **THE DEPARTMENT OF VETERANS AFFAIRS**
4 **AND SMALL BUSINESS ADMINISTRATION.**

5 (a) IN GENERAL.—Effective on the transfer date,
6 section 8127 of title 38, United States Code, is amended—

7 (1) in subsection (e), by striking “the Sec-
8 retary” and inserting “the Administrator”;

9 (2) in subsection (f)—

10 (A) by striking “the Secretary” each place
11 such term appears and inserting “the Adminis-
12 trator”;

13 (B) in paragraph (2), by striking subpara-
14 graph (B) and inserting the following:

15 “(B) For purposes of this subsection—

16 “(i) the Secretary shall—

17 “(I) verify an individual’s status as a
18 veteran; and

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

22 “(ii) the Administrator shall verify a busi-
23 ness concern’s status as a small business con-
24 cern.

25 “(C) If the Administrator receives an applica-
26 tion from an individual with respect to a business

1 concern for inclusion in the database, but the indi-
 2 vidual’s status as a veteran cannot be verified under
 3 subparagraph (B) or the business concern’s status
 4 as a small business concern cannot be verified under
 5 subparagraph (B), the Administrator may not in-
 6 clude the business concern in the database main-
 7 tained by the Administrator.”; and

8 (C) in paragraph (8)—

9 (i) in subparagraph (B)(ii)—

10 (I) by amending subclause (I) to

11 read as follows:

12 “(I) the Secretary or the Administrator;

13 or”; and

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

15 “the contracting officer of the Depart-

16 ment” and inserting “the applicable

17 contracting officer”; and

18 (ii) by striking subparagraph (C);

19 (3) by redesignating subsection (k) as sub-

20 section (l);

21 (4) by inserting after subsection (k) the fol-

22 lowing:

23 “(k) ANNUAL TRANSFER FOR CERTIFICATION

24 COSTS.—For each fiscal year, the Secretary shall reim-

25 burse the Administrator in an amount necessary to cover

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

13 (5) in subsection (1), as so redesignated, by
14 adding at the end the following:

15 “(3) The term ‘Administrator’ means the Ad-
16 ministrator of the Small Business Administration.”.

17 (b) ADMINISTRATION ACCESS TO DATABASE BEFORE
18 THE TRANSFER DATE.—During the period between the
19 date of enactment of this Act and the transfer date, the
20 Secretary of Veterans Affairs shall provide the Adminis-
21 trator of the Small Business Administration with access
22 to the database described under section 8127(f) of title
23 38, United States Code.

24 (c) RULE OF CONSTRUCTION.—Nothing in this Act
25 or the amendments made by this Act may be construed

1 as prohibiting the Small Business Administration from
2 combining the database described under section 8127(f)
3 of title 38, United States Code, with other databases
4 maintained by the Administration.

5 **SEC. 4. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**
6 **CERNS OWNED AND CONTROLLED BY SERV-**
7 **ICE-DISABLED VETERANS AND VETERANS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, any small business concern that self-certified
10 as a small business concern owned and controlled by vet-
11 erans or a small business concern owned and controlled
12 by service-disabled veterans shall—

13 (1) if the concern files a certification applica-
14 tion with the Administrator before the end of the 1-
15 year period beginning on the transfer date, maintain
16 such self-certification until the Administrator makes
17 a determination with respect to such certification;
18 and

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

1 (b) NON-APPLICABILITY TO DEPARTMENT OF VET-
2 ERANS AFFAIRS.—Subsection (a) shall not apply to par-
3 ticipation in contracts (including subcontracts) with the
4 Department of Veterans Affairs.

5 **SEC. 5. TRANSFER OF THE CENTER FOR VERIFICATION**
6 **AND EVALUATION OF THE DEPARTMENT OF**
7 **VETERANS AFFAIRS TO THE SMALL BUSI-**
8 **NESS ADMINISTRATION.**

9 (a) ABOLISHMENT.—The Center for Verification and
10 Evaluation of the Department defined under section 74.1
11 of title 38, Code of Federal Regulations, is abolished effec-
12 tive on the transfer date.

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

17 (1) on the date of enactment of this Act, be
18 functions of both the Center for Verification and
19 Evaluation and the Small Business Administration,
20 except that the Small Business Administration shall
21 not have any authority to carry out any certification
22 functions; and

23 (2) on the transfer date, be functions of the
24 Small Business Administration.

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

9 (d) REFERENCES.—Any reference in any other Fed-
 10 eral law, Executive order, rule, regulation, or delegation
 11 of authority, or any document of or pertaining to a func-
 12 tion of the Center for Verification and Evaluation that is
 13 transferred under this section is deemed, after the transfer
 14 date, to refer to the Small Business Administration.

15 **SEC. 6. DOLLAR THRESHOLD FOR SOLE SOURCE AWARDS**
 16 **TO SMALL BUSINESS CONCERN OWNED AND**
 17 **CONTROLLED BY SERVICE-DISABLED VET-**
 18 **ERANS.**

19 (a) SMALL BUSINESS ACT.—Effective on the transfer
 20 date, paragraph (2) of section 36(c) of the Small Business
 21 Act, as redesignated by section 2(a)(2), is amended to
 22 read as follows:

23 “(2) the anticipated award price of the contract
 24 will not exceed—

1 “(A) \$7,000,000, in the case of a contract
2 opportunity assigned a standard industrial clas-
3 sification code for manufacturing; or

4 “(B) \$5,000,000, in the case of any other
5 contract opportunity; and”.

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

9 “(2) the anticipated award price of the contract
10 will not exceed the amount described under section
11 36(a)(2) of the Small Business Act; and”.

12 **SEC. 7. REPORT.**

13 Not later than the end of the 1-year period beginning
14 on the date of the enactment of this Act, and every 6
15 months thereafter until the transfer date, the Adminis-
16 trator of the Small Business Administration and Secretary
17 of Veterans Affairs shall, jointly, issue a report to the
18 Committees on Appropriations, Small Business, and Vet-
19 eran’s Affairs of the House of Representatives and the
20 Committees on Appropriations, Small Business and En-
21 trepreneurship, and Veteran’s Affairs of the Senate on the
22 planning for the transfer of functions and property re-
23 quired under this Act and the amendments made by this
24 Act on the transfer date. Such report shall include—

1 (1) whether and how the verification database
2 and operations of the Center for Verification and
3 Evaluation of the Department of Veterans Affairs
4 will be incorporated into the Small Business Admin-
5 istration’s existing certification database;

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

8 (A) already verified concerns that will
9 come up for recertification; and

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

12 (3) an explanation of how outreach to veteran
13 service organizations, the service-disabled veteran-
14 owned and veteran-owned small business community,
15 and other stakeholders will be conducted; and

16 (4) other pertinent information determined by
17 the Administrator and the Secretary.

18 **SEC. 8. TRANSFER DATE.**

19 For purposes of this Act, the term “transfer date”
20 means the date that is 2 years after the date of enactment
21 of this Act, except that such date may be extended an un-
22 limited number of times by a period of not more than 6
23 months if the Administrator of the Small Business Admin-
24 istration and Secretary of Veterans Affairs jointly certify

- 1 to Congress that such extension is necessary and notify
- 2 Congress of the length of the extension.

