

- (4) contribute information to the national database referred to in subsection (d); and
- (5) agree to reimburse volunteer mentors for out-of-pocket expenses related to service as a mentor under this section.

(d) Mentoring database

The Administrator shall—

- (1) include in the database required by section 638(k)(1) of this title, in cooperation with the SBIR, STTR, and FAST programs, information on Mentoring Networks and mentors participating under this section, including a description of their areas of expertise;
- (2) work cooperatively with Mentoring Networks to maintain and update the database;
- (3) take such action as may be necessary to aggressively promote Mentoring Networks under this section; and
- (4) fulfill the requirements of this subsection either directly or by contract.

(Pub. L. 85-536, §2[35], as added Pub. L. 106-554, §1(a)(9) [title I, §112], Dec. 21, 2000, 114 Stat. 2763, 2763A-680.)

§ 657f. 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.

(b) Certification of small business concerns owned and controlled by service-disabled veterans

With respect to a procurement program or preference established under this chapter that applies to prime contractors, the Administrator shall—

- (1) certify the status of a concern as a small business concern owned and controlled by service-disabled veterans; and
- (2) require the periodic recertification of such status.

(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) \$7,000,000, 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.

(d) Restricted competition

In accordance with this section, a contracting officer may award contracts on the basis of com-

petition restricted to small business concerns owned and controlled by service-disabled veterans certified under subsection (b) 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.

(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 or chapter 85 of title 41.

(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 Secretary 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, the verification of such status; 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 657f-1 of this title 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 a veteran described in paragraph (1).

(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 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 657f-1 of this

title) or a small business concern owned and controlled by service-disabled veterans (under subsection (g) of this section), the concern may appeal the denial of certification to the Office of Hearings and Appeals of the Administration (as established under section 634(i) of this title). 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 veterans 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 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 or 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 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

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).

(3) Enforcement; penalties

Rules similar to the rules of paragraphs (5) and (6) of section 637(m) of this title shall apply for purposes of this section and section 657f-1 of this title.

(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 657f-1 of this title.

(Pub. L. 85-536, §2[36], as added Pub. L. 108-183, title III, §308, Dec. 16, 2003, 117 Stat. 2662; amended Pub. L. 116-283, div. A, title VIII, §§862(b)(2), (d)(1), 864(3), Jan. 1, 2021, 134 Stat. 3778, 3779, 3785.)

Editorial Notes

CODIFICATION

In subsec. (e), “chapter 85 of title 41” substituted for “the Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

The text of subsec. (f) of section 8127 of Title 38, Veterans’ Benefits, which was transferred to subsec. (f) of this section by Pub. L. 116-283, div. A, title VIII, §862(b)(2), Jan. 1, 2021, 134 Stat. 3778, was based on Pub. L. 109-461, title V, §502(a)(1), Dec. 22, 2006, 120 Stat. 3431; Pub. L. 111-275, title I, §104(b)(1), Oct. 13, 2010, 124 Stat. 2867; Pub. L. 114-328, div. A, title XVIII, §1832(b)(2)(D), (d), (f)(1), Dec. 23, 2016, 130 Stat. 2660; Pub. L. 116-283, div. A, title VIII, §862(b)(1)(B), Jan. 1, 2021, 134 Stat. 3776.

PRIOR PROVISIONS

A prior section 2[36] of Pub. L. 85-536 was renumbered section 2[49] and is set out as a note under section 631 of this title.

AMENDMENTS

2021—Subsecs. (a), (b). Pub. L. 116-283, §862(d)(1)(D), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 116-283, §862(d)(1)(C), redesignated subsec. (a) as (c). Former subsec. (c) redesignated (e).

Subsec. (c)(2)(A). Pub. L. 116-283, §864(3), substituted “\$7,000,000” for “\$5,000,000”.

Subsec. (d). Pub. L. 116-283, §862(d)(1)(C), (E), redesignated subsec. (b) as (d) and inserted “certified under subsection (b)” before “if the contracting officer”.

Pub. L. 116-283, §862(d)(1)(A), redesignated subsec. (d) as par. (3) of subsec. (h).

Subsec. (e). Pub. L. 116-283, §862(d)(1)(B), (C), redesignated subsec. (c) as (e) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: “For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 2101(1) of title 41.”

Subsec. (f). Pub. L. 116-283, §862(b)(2), transferred subsec. (f) of section 8127 of Title 38, Veterans’ Benefits, to subsec. (f) of this section. See Codification note above.

Subsec. (g). Pub. L. 116-283, §862(d)(1)(F), added subsec. (g).

Subsec. (h). Pub. L. 116-283, §862(d)(1)(F), added subsec. (h).

Subsec. (h)(3). Pub. L. 116-283, §862(d)(1)(G), inserted “and section 657f-1 of this title” before period at end.

Pub. L. 116-283, §862(d)(1)(A), redesignated subsec. (d) as par. (3) of subsec. (h).

Subsec. (i). Pub. L. 116-283, §862(d)(1)(F), added subsec. (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title VIII, §862(b)(2), Jan. 1, 2021, 134 Stat. 3778, provided that the amendment made by section 862(b)(2) is effective on the transfer date (2 years after Jan. 1, 2021, see section 862(a) of Pub. L. 116-283, set out below).

TRANSFER OF VERIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS OR SERVICE-DISABLED VETERANS TO THE SMALL BUSINESS ADMINISTRATION

Pub. L. 116-283, div. A, title VIII, §862(a), (c), (f), (g), Jan. 1, 2021, 134 Stat. 3776, 3779, 3781, 3782, provided that:

“(a) **TRANSFER DATE.**—For purposes of this section [enacting section 657f-1 of this title, amending this section, sections 632 and 645 of this title, and sections 8127 and 8128 of Title 38, Veterans’ Benefits, and enacting provisions set out as notes under this section, section 632 of this title, and section 8127 of Title 38], the term ‘transfer date’ means the date that is 2 years after the date of enactment of this Act [Jan. 1, 2021].

“(c) **ADDITIONAL REQUIREMENTS FOR DATABASE.**—

“(1) **ADMINISTRATOR ACCESS TO DATABASE BEFORE THE TRANSFER DATE.**—During the period between the date of the enactment of this Act [Jan. 1, 2021] 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.

“(2) **RULE OF CONSTRUCTION.**—Nothing in this section or the amendments made by this section may be construed—

“(A) 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

“(B) 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 [15 U.S.C. 657f(f)] (as transferred pursuant to subsection (b)(2) of this section).

“(3) **RECOGNITION OF THE ISSUANCE OF JOINT REGULATIONS.**—The date specified under section 1832(e) of the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114-328] (15 U.S.C. 632 note) shall be deemed to be October 1, 2018.

“(f) STATUS OF SELF-CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, any small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) that self-certified as a small business concern owned and controlled by service-disabled veterans (as defined in section 36 of such Act (15 U.S.C. 657f)) shall—

“(A) 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

“(B) 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.

“(2) **NON-APPLICABILITY TO DEPARTMENT OF VETERANS AFFAIRS.**—Paragraph (1) shall not apply to participation in contracts (including subcontracts) with the Department of Veterans Affairs.

“(3) **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 section and the amendments made by this section, including the transfer date, and make such notice publicly available, on the date of the enactment of this Act [Jan. 1, 2021].

“(g) TRANSFER OF THE CENTER FOR VERIFICATION AND EVALUATION OF THE DEPARTMENT OF VETERANS AFFAIRS TO THE SMALL BUSINESS ADMINISTRATION.—

“(1) **DEFINITION.**—In this subsection, the term ‘function’—

“(A) means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

“(B) does not include employees.

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

“(3) **TRANSFER OF FUNCTIONS.**—Effective on the transfer date, all functions that, immediately before the transfer date, were functions of the Center for Verification and Evaluation shall be functions of the Small Business Administration.

“(4) **TRANSFER OF ASSETS.**—So much of the property (including contracts for the procurement of property or services) and records used, held, available, or to be made available in connection with a function transferred under this subsection 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.

“(5) **SAVINGS PROVISIONS.**—

“(A) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

“(i) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this subsection; and

“(ii) which are in effect on the transfer date, or were final before the transfer date and are to become effective on or after the transfer date, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator of the Small Business Administration or other authorized official, a court of competent jurisdiction, or by operation of law.

“(B) **PROCEEDINGS NOT AFFECTED.**—The provisions of this subsection shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of Veterans Affairs on the transfer date, with respect to functions transferred by this subsection but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subsection had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subsection had not been enacted.

“(C) **SUITS NOT AFFECTED.**—The provisions of this subsection shall not affect suits commenced before

the transfer date, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

“(D) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Veterans Affairs, or by or against any individual in the official capacity of such individual as an officer of the Department of Veterans Affairs, shall abate by reason of the enactment of this subsection.

“(E) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of Veterans Affairs relating to a function transferred under this subsection may be continued by the Administrator of the Small Business Administration with the same effect as if this subsection had not been enacted.

“(F) EFFECT ON PERSONNEL.—The Secretary of Veterans Affairs shall appoint any employee represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, that is affected by the transfer of functions under this subsection to a position of a continuing nature for which the employee is qualified, at a grade and compensation not lower than the current grade and compensation of the employee.

“(6) 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 subsection is deemed, after the transfer date, to refer to the Small Business Administration.”

§ 657f-1. 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, the Administrator shall—

- (1) certify the status of a 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 section 657f of this title (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).

(Pub. L. 85-536, §2[36A], as added Pub. L. 116-283, div. A, title VIII, §862(e), Jan. 1, 2021, 134 Stat. 3781.)

§ 657g. Participation in federally funded projects

Any small business concern that is certified, or otherwise meets the criteria for participation in any program under section 637(a) of this title, shall not be required by any State, or political subdivision thereof, to meet additional criteria or certification, unrelated to the capability to provide the requested products or services, in order to participate as a small disadvantaged business in any program or project that is funded, in whole or in part, by the Federal Government.

(Pub. L. 108-447, div. K, title I, §155, Dec. 8, 2004, 118 Stat. 3458.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Small Business Reauthorization and Manufacturing Assistance Act of 2004, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the Small Business Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS

Pub. L. 109-59, title X, §10201, Aug. 10, 2005, 119 Stat. 1932, provided that: “The Secretary [of Transportation] shall notify each State or political subdivision of a State to which the Secretary awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g [657g]).”

§ 657h. Small business energy efficiency

(a) Definitions

In this section—

- (1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

- (2) the term “association” means the association of small business development centers established under section 648(a)(3)(A) of this title;

- (3) the term “disability” has the meaning given that term in section 12102 of title 42;

- (4) the term “Efficiency Program” means the Small Business Energy Efficiency Program established under subsection (c)(1);

- (5) the term “electric utility” has the meaning given that term in section 2602 of title 16;

- (6) the term “high performance green building” has the meaning given that term in section 17061 of title 42;

- (7) the term “on-bill financing” means a low interest or no interest financing agreement between a small business concern and an electric utility for the purchase or installation of equipment, under which the regularly sched-