

109TH CONGRESS
1ST SESSION

H. R. 3082

To amend title 38, United States Code, to require that 9 percent of procurement contracts entered into by the Department of Veterans Affairs be awarded to small business concerns owned by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2005

Mr. BOOZMAN (for himself, Ms. HERSETH, Mr. BILIRAKIS, Mr. BURTON of Indiana, and Mr. EVERETT) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to require that 9 percent of procurement contracts entered into by the Department of Veterans Affairs be awarded to small business concerns owned by veterans, 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 “Veteran-Owned Small
5 Business Promotion Act of 2005”.

1 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS REQUIRE-**
2 **MENT FOR PARTICIPATION BY SMALL BUSI-**
3 **NESSES OWNED AND CONTROLLED BY VET-**
4 **ERANS IN 9 PERCENT OF PROCUREMENT**
5 **CONTRACTS.**

6 (a) IN GENERAL.—Subchapter II of chapter 81 of
7 title 38, United States Code, is amended by adding at the
8 end the following new section:

9 **“§ 8127. Contract requirement for small business con-**
10 **cerns owned and controlled by veterans**

11 “(a) REQUIREMENT.—(1) The Department shall
12 award not less than 9 percent of the total value of all
13 prime contract and subcontract awards by the Department
14 for each fiscal year to small business concerns owned and
15 controlled by veterans.

16 “(2) At least one-third of the total value of all awards
17 made under paragraph (1) shall be awarded to small busi-
18 ness concerns owned and controlled by veterans with serv-
19 ice-connected disabilities.

20 “(b) SOLE SOURCE CONTRACTS.—For purposes of
21 meeting the requirement of subsection (a), and in accord-
22 ance with this section, a contracting officer of the Depart-
23 ment shall award a sole source contract to any small busi-
24 ness concern owned and controlled by veterans if—

25 “(1) such concern is determined to be a respon-
26 sible contractor with respect to performance of such

1 contract opportunity and the contracting officer does
2 not have a reasonable expectation that 2 or more
3 small business concerns owned and controlled by vet-
4 erans will submit offers for the contracting oppor-
5 tunity;

6 “(2) the anticipated award price of the contract
7 (including options) will not exceed \$5,000,000; and

8 “(3) in the estimation of the contracting officer,
9 the contract award can be made at a fair and rea-
10 sonable price that offers best value to the United
11 States.

12 “(c) USE OF RESTRICTED COMPETITION.—For pur-
13 poses of meeting the requirements of subsection (a), and
14 in accordance with this section, a contracting officer of
15 the Department shall award contracts on the basis of com-
16 petition restricted to small business concerns owned and
17 controlled by veterans if the contracting officer has a rea-
18 sonable expectation that 2 or more small business con-
19 cerns owned and controlled by veterans will submit offers
20 and that the award can be made at a fair and reasonable
21 price that offers best value to the United States.

22 “(d) ELIGIBILITY OF SMALL BUSINESS CON-
23 CERNS.—To be eligible to be awarded a contract under
24 this section, a small business concern shall be listed in

1 the database of veteran-owned businesses maintained by
2 the Secretary under subsection (e).

3 “(e) DATABASE OF VETERAN-OWNED BUSI-
4 NESSES.—(1) Subject to the succeeding provisions of this
5 subsection, the Secretary shall maintain a database of
6 small business concerns owned and controlled by veterans.

7 “(2) Information maintained in the database shall be
8 submitted on a voluntary basis by such veterans.

9 “(3) In maintaining the database, the Secretary shall
10 carry out only two verification functions, as follows:

11 “(A) Verification that each person listed in the
12 database is a veteran.

13 “(B) In the case of a veteran who indicates a
14 service-connected disability, verification of the serv-
15 ice-disabled status of such veteran.

16 “(4) The Secretary shall make the database available
17 to all Federal departments and agencies.

18 “(5) If the Secretary determines that the public dis-
19 semination of certain types of information maintained in
20 the database is inappropriate, the Secretary shall take
21 such steps as are necessary to maintain such types of in-
22 formation in a secure and confidential manner.

23 “(f) ENFORCEMENT PENALTIES FOR MISREPRESENTEN-
24 TATION.—Any small business concern that is determined
25 by the Secretary to have misrepresented the status of that

1 concern as a small business concern owned and controlled
2 by veterans for purposes of this subsection, shall be sub-
3 ject to—

4 “(1) section 1001 of title 18; and

5 “(2) sections 3729 through 3733 of title 31.

6 “(g) TREATMENT OF BUSINESSES AFTER DEATH OF
7 VETERAN-OWNER.—(1) If the death of a veteran causes
8 a small business concern to be less than 51 percent owned
9 by one or more veterans, the surviving spouse of such vet-
10 eran who inherits ownership rights in such small business
11 concern shall be treated as if the surviving spouse were
12 that veteran for the purpose of maintaining the status of
13 the small business concern as a small business concern
14 owned and controlled by veterans for the period described
15 in paragraph (2).

16 “(2) The period referred to in paragraph (1) is the
17 period beginning on the date on which the veteran dies
18 and ending on the earliest of the following dates:

19 “(A) The date on which the surviving spouse
20 remarries.

21 “(B) The date on which the surviving spouse
22 gives up an ownership interest in the small business
23 concern.

24 “(C) The date that is ten years after the date
25 of the veteran’s death.

1 “(h) PRIORITY FOR CONTRACTING PREFERENCES.—

2 “(1) PRIORITY AMONG VETERAN-OWNED SMALL
3 BUSINESSES.—Preferences for awarding prime con-
4 tract and subcontract awards under this section
5 shall be applied in the following order of priority:

6 “(A) Small business concerns owned and
7 controlled by veterans with service-connected
8 disabilities.

9 “(B) Small business concerns owned and
10 controlled by veterans.

11 “(2) RELATIONSHIP TO OTHER CONTRACTING
12 PREFERENCES.—A procurement may not be made
13 from any source on the basis of a preference pro-
14 vided under any other provision of law if the pro-
15 curement would otherwise be made from a different
16 source under this section.

17 “(i) DEFINITIONS.—In this section:

18 “(1) The term ‘small business concern’ has the
19 same meaning as under section 3 of the Small Busi-
20 ness Act (15 U.S.C. 632).

21 “(2) The term ‘small business concern owned
22 and controlled by veterans’ means a small business
23 concern—

24 “(A) not less than 51 percent of which is
25 owned by one or more veterans or, in the case

1 of any publicly owned business, not less than 51
2 percent of the stock of which is owned by one
3 or more veterans;

4 “(B) the management and daily business
5 operations of which are controlled by one or
6 more veterans or, in the case of a veteran with
7 service-connected total disability that is perma-
8 nent in nature, the spouse of such veteran; and

9 “(C) that is listed in the database of vet-
10 eran-owned businesses maintained by the Sec-
11 retary under subsection (e).”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of such chapter is amended by inserting
14 after the item relating to section 8126 the following new
15 item:

“8127. Contract requirement for small business concerns owned and controlled
by veterans.”.

16 **SEC. 3. DEPARTMENT OF VETERANS AFFAIRS CON-**
17 **TRACTING PRIORITY FOR VETERAN-OWNED**
18 **SMALL BUSINESSES.**

19 (a) PRIORITY FOR VETERAN-OWNED SMALL BUSI-
20 NESSES.—Subchapter II of chapter 81 of title 38, United
21 States Code, as amended by section 1, is further amended
22 by adding at the end the following new section:

1 **“§ 8128. Contracting priority for small business con-**
2 **cerns owned and controlled by veterans.**

3 “(a) IN GENERAL.—In procuring goods and services
4 pursuant to a contracting preference under this title or
5 any other provision of law, the Secretary shall give priority
6 to a small business concern owned and controlled by vet-
7 erans, if such business concern also meets the require-
8 ments of that contracting preference.

9 “(b) DEFINITION.—The term ‘small business concern
10 owned and controlled by veterans’ has the meaning given
11 that term under section 8127 of this title.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of such chapter, as amended by section
14 1, is further amended by inserting after the item relating
15 to section 8127 the following new item:

“8128. Contracting priority for small business concerns owned and controlled
by veterans.”.

16 **SEC. 4. EFFECTIVE DATE.**

17 (a) IN GENERAL.—The amendments made by this
18 Act shall apply to contracts awarded during fiscal years
19 beginning after September 30, 2006.

20 (b) TRANSITION RULE.—In carrying out section
21 8127 of title 38, United States Code, as added by section
22 1(a), with respect to contracts awarded during fiscal year
23 2007, the Secretary of Veterans Affairs shall treat the ref-

1 erence to “9 percent” in subsection (a)(1) of such section
2 as if it were a reference to “6 percent”.

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