

116TH CONGRESS
1ST SESSION

H. R. 1615

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

MARCH 7, 2019

Mr. KELLY of Mississippi (for himself, Mr. CHABOT, Mr. STAUBER, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. FITZPATRICK, Mr. BERGMAN, Ms. KUSTER of New Hampshire, Mr. WATKINS, Mrs. RADEWAGEN, Ms. VELÁZQUEZ, Mr. DAVID P. ROE of Tennessee, Mr. DUNN, Mr. BANKS, Mr. CURTIS, Mr. BALDERSON, Mr. BURCHETT, Mr. CROW, Mr. HAGEDORN, Mr. BILIRAKIS, Mr. JOYCE of Pennsylvania, and Mr. STIVERS) 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; TABLE OF CONTENTS.**

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

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Transfer date.
- Sec. 3. Amendment to and transfer of veteran-owned and service-disabled veteran-owned business database.
- Sec. 4. Dollar threshold for sole source awards to small business concern owned and controlled by service-disabled veterans.
- Sec. 5. Additional requirement for database.
- Sec. 6. Procurement program for small business concerns owned and controlled by service-disabled veterans.
- Sec. 7. Certification for small business concerns owned and controlled by veterans.
- Sec. 8. Status of self-certified small business concerns owned and controlled by service-disabled veterans and veterans.
- Sec. 9. Transfer of the Center for Verification and Evaluation of the Department of Veterans Affairs to the Small Business Administration.
- Sec. 10. Report.

7 **SEC. 2. TRANSFER DATE.**

8 For purposes of this Act, the term “transfer date”
 9 means the date that is 2 years after the date of enactment
 10 of this Act, except that such date may be extended an un-
 11 limited number of times by a period of not more than 6
 12 months if the Administrator of the Small Business Admin-
 13 istration and the Secretary of Veterans Affairs jointly
 14 issue a notice to Congress and the Law Revision Counsel
 15 of the House of Representatives containing—

16 (1) a certification that such extension is nec-
 17 essary;

1 (2) the rationale for and the length of such ex-
2 tension; and

3 (3) a plan to comply with the requirements of
4 this Act within the timeframe of the extension.

5 **SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-**
6 **OWNED AND SERVICE-DISABLED VETERAN-**
7 **OWNED BUSINESS DATABASE.**

8 (a) AMENDMENT OF VETERAN-OWNED AND SERV-
9 ICE-DISABLED VETERAN-OWNED BUSINESS DATA-
10 BASE.—Effective on the transfer date, section 8127 of
11 title 38, United States Code, is amended—

12 (1) in subsection (e)—

13 (A) by striking “the Secretary” and insert-
14 ing “the Administrator”; and

15 (B) by striking “subsection (f)” and insert-
16 ing “section 36 of the Small Business Act”;

17 (2) in subsection (f)—

18 (A) by striking “the Secretary” each place
19 such term appears, other than under paragraph
20 (7) and in the last place such term appears
21 under paragraph (2)(A), and inserting “the Ad-
22 ministrator”;

23 (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking
2 “to access” and inserting “to obtain from
3 the Secretary of Veterans Affairs”; and

4 (ii) by striking subparagraph (B) and
5 inserting the following:

6 “(B) For purposes of this subsection—

7 “(i) the Secretary of Veterans Affairs
8 shall—

9 “(I) verify an individual’s status as a
10 veteran or a service-disabled veteran; and

11 “(II) establish a system to permit the
12 Administrator to access, but not alter,
13 such verification; and

14 “(ii) the Administrator shall verify—

15 “(I) the status of a business concern
16 as a small business concern; and

17 “(II) the ownership and control of
18 such business concern.

19 “(C) If the Administrator receives an applica-
20 tion from an individual with respect to a business
21 concern for inclusion in the database, but the indi-
22 vidual’s status as a veteran or service-disabled vet-
23 eran, the business concern’s status as a small busi-
24 ness concern, or the ownership and control of such
25 business concern cannot be verified under subpara-

graph (B), the Administrator may not include the business concern in the database maintained by the Administrator.”;

(C) by striking paragraphs (4) and (7);

(D) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and redesignating paragraph (8) as paragraph (6); and

(E) in paragraph (6), as so redesignated—

(i) in subparagraph (B)(ii)—

(I) by amending subclause (I) to read as follows:

“(I) the Secretary of Veterans Affairs or the Administrator; or”; and

(II) in subclause (II), by striking

“the contracting officer of the Department” and inserting “the applicable contracting officer”; and

(ii) by striking subparagraph (C);

(3) by redesignating subsection (k) (relating to definitions) as subsection (l);

(4) by inserting after subsection (j) (relating to annual reports) the following:

“(k) ANNUAL TRANSFER FOR CERTIFICATION COSTS.—For each fiscal year, the Secretary of Veterans

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

15 (5) in subsection (k) (relating to definitions), as
 16 so redesignated, by adding at the end the following:

17 “(4) The term ‘Administrator’ means the Ad-
 18 ministrator of the Small Business Administration.”.

19 (b) TRANSFER OF REQUIREMENTS RELATING TO
 20 DATABASE TO THE SMALL BUSINESS ACT.—Effective on
 21 the transfer date, subsection (f) of section 8127 of title
 22 38, United States Code (as amended by subsection (a)),
 23 is transferred to section 36 of the Small Business Act (15
 24 U.S.C. 657f), inserted so as to appear after subsection (e).

1 (c) CONFORMING AMENDMENTS.—The following
 2 amendments shall take effect on the transfer date:

3 (1) SMALL BUSINESS ACT.—Section
 4 3(q)(2)(C)(i)(III) of the Small Business Act (15
 5 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking
 6 “section 8127(f) of title 38, United States Code”
 7 and inserting “section 36”.

8 (2) TITLE 38.—Section 8128 of title 38, United
 9 States Code, is amended by striking “section
 10 8127(f) of this title” and inserting “section 36 of
 11 the Small Business Act”.

12 **SEC. 4. DOLLAR THRESHOLD FOR SOLE SOURCE AWARDS**
 13 **TO SMALL BUSINESS CONCERN OWNED AND**
 14 **CONTROLLED BY SERVICE-DISABLED VET-**
 15 **ERANS.**

16 (a) SMALL BUSINESS ACT.—Effective on the transfer
 17 date, section 36(c) of the Small Business Act, as redesign-
 18 nated by section 6(a)(2), is amended—

19 (1) by striking the first dollar figure and insert-
 20 ing “\$7,000,000”; and

21 (2) by striking the second dollar figure and in-
 22 serting “\$5,000,000”.

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

1 “(2) the anticipated award price of the contract
2 will not exceed the amount described under section
3 36(c) of the Small Business Act; and”.

4 **SEC. 5. ADDITIONAL REQUIREMENT FOR DATABASE.**

5 (a) ADMINISTRATION ACCESS TO DATABASE BEFORE
6 THE TRANSFER DATE.—During the period between the
7 date of the enactment of this Act and the transfer date,
8 the Secretary of Veterans Affairs shall provide the Admin-
9 istrator of the Small Business Administration with access
10 to the contents of the database described under section
11 8127(f) of title 38, United States Code.

12 (b) RULE OF CONSTRUCTION.—Nothing in this Act
13 or the amendments made by this Act may be construed
14 as prohibiting the Administrator of the Small Business
15 Administration from combining the contents of the data-
16 base described under section 8127(f) of title 38, United
17 States Code, with other databases maintained by the Ad-
18 ministration.

19 (c) RECOGNITION OF THE ISSUANCE OF JOINT REG-
20 ULATIONS.—The date specified under section 1832(e) of
21 the National Defense Authorization Act for Fiscal Year
22 2017 (15 U.S.C. 632 note) shall be deemed to be October
23 1, 2018.

1 **SEC. 6. PROCUREMENT PROGRAM FOR SMALL BUSINESS**
2 **CONCERNS OWNED AND CONTROLLED BY**
3 **SERVICE-DISABLED VETERANS.**

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

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

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

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

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

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

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

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

3 (4) in subsection (d), as so redesignated, by
4 striking “and that the award can be made at a fair
5 market price” and inserting “, that the award can
6 be made at a fair market price, and if each concern
7 is certified by the Administrator as a small business
8 concern owned and controlled by service-disabled
9 veterans”; and

10 (5) by adding at the end the following:

11 “(g) CERTIFICATION REQUIREMENT.—Notwith-
12 standing subsection (c), a contracting officer may only
13 award a sole source contract to a small business concern
14 owned and controlled by service-disabled veterans or a
15 contract on the basis of competition restricted to small
16 business concerns owned and controlled by service-disabled
17 veterans if such a concern is certified by the Administrator
18 as a small business concern owned and controlled by serv-
19 ice-disabled veterans.

20 “(h) ENFORCEMENT; PENALTIES.—

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

24 “(A) the filing, investigation, and disposi-
25 tion by the Administration of any challenge to

1 the eligibility of a small business concern to re-
2 ceive assistance under this section (including a
3 challenge, filed by an interested party, relating
4 to the veracity of a certification made or infor-
5 mation provided to the Administration by a
6 small business concern under subsection (b));
7 and

8 “(B) verification by the Administrator of
9 the accuracy of any certification made or infor-
10 mation provided to the Administration by a
11 small business concern under subsection (b).

12 “(2) EXAMINATIONS.—

13 “(A) EXAMINATION OF APPLICANTS.—The
14 procedures established under paragraph (1)
15 shall provide for a program of examinations by
16 the Administrator of any small business concern
17 making a certification or providing information
18 to the Administrator under subsection (b), to
19 determine the veracity of any statements or in-
20 formation provided as part of such certification
21 or otherwise provided under subsection (b).

22 “(B) EXAMINATION OF CERTIFIED CON-
23 CERNS.—The procedures established under
24 paragraph (1) shall provide for the examination
25 of risk-based samples of small business con-

cerns certified under subsection (b), or of any small business concern that the Administrator believes poses a particular risk or with respect to which the Administrator receives specific and credible information alleging that the small business concern no longer meets eligibility requirements to be certified as a small business concern owned and controlled by service-disabled veterans.

“(3) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by service-disabled veterans for purposes of subsection (b), shall be subject to—

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

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

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

“(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

1 information as the Administrator determines to be nec-
 2 essary to carry out subsection (b) or to be able to certify
 3 the status of the concern as a small business concern
 4 owned and controlled by veterans under section 36A.”.

5 (b) PENALTIES FOR MISREPRESENTATION.—Section
 6 16 of the Small Business Act (15 U.S.C. 645) is amend-
 7 ed—

8 (1) in subsection (d)(1)—

9 (A) by striking “, a” and inserting “, a
 10 ‘small business concern owned and controlled by
 11 service-disabled veterans’, a ‘small business con-
 12 cern owned and controlled by veterans’, a”; and

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

16 (2) in subsection (e), by striking “, a” and in-
 17 serting “, a ‘small business concern owned and con-
 18 trolled by service-disabled veterans’, a ‘small busi-
 19 ness concern owned and controlled by veterans’, a”.

20 **SEC. 7. CERTIFICATION FOR SMALL BUSINESS CONCERNS**
 21 **OWNED AND CONTROLLED BY VETERANS.**

22 The Small Business Act (15 U.S.C. 631 et seq.) is
 23 amended by inserting after section 36 the following new
 24 section:

1 **“SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS**
2 **OWNED AND CONTROLLED BY VETERANS.**

3 “(a) IN GENERAL.—With respect to the program es-
4 tablished under section 8127 of title 38, United States
5 Code, the Administrator shall—

6 “(1) certify the status of the concern as a
7 ‘small business concern owned and controlled by vet-
8 erans’; and

9 “(2) require the periodic recertification of such
10 status.

11 “(b) ENFORCEMENT; PENALTIES.—

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

15 “(A) the filing, investigation, and disposi-
16 tion by the Administration of any challenge to
17 the eligibility of a small business concern to re-
18 ceive assistance under this section (including a
19 challenge, filed by an interested party, relating
20 to the veracity of a certification made or infor-
21 mation provided to the Administration by a
22 small business concern under subsection (a));
23 and

24 “(B) verification by the Administrator of
25 the accuracy of any certification made or infor-

1 mation provided to the Administration by a
2 small business concern under subsection (a).

3 “(2) EXAMINATION OF APPLICANTS.—The pro-
4 cedures established under paragraph (1) shall pro-
5 vide for a program of examinations by the Adminis-
6 trator of any small business concern making a cer-
7 tification or providing information to the Adminis-
8 trator under subsection (a), to determine the verac-
9 ity of any statements or information provided as
10 part of such certification or otherwise provided
11 under subsection (a).

12 “(3) PENALTIES.—In addition to the penalties
13 described in section 16(d), any small business con-
14 cern that is determined by the Administrator to have
15 misrepresented the status of that concern as a small
16 business concern owned and controlled by veterans
17 for purposes of subsection (a), shall be subject to—

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

20 “(B) sections 3729 through 3733 of title
21 31, United States Code; and

22 “(C) section 8127(g) of title 38, United
23 States Code.”.

1 **SEC. 8. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**
2 **CERNS OWNED AND CONTROLLED BY SERV-**
3 **ICE-DISABLED VETERANS AND VETERANS.**

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

9 (1) if the concern files a certification applica-
10 tion with the Administrator of the Small Business
11 Administration before the end of the 1-year period
12 beginning on the transfer date, maintain such self-
13 certification until the Administrator makes a deter-
14 mination with respect to such certification; and

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

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

25 (c) NOTICE.—The Administrator shall notify any
26 small business concern that self-certified as a small busi-

1 ness concern owned and controlled by veterans or a small
 2 business concern owned and controlled by service-disabled
 3 veterans about the requirements of the Verification Align-
 4 ment and Service-disabled Business Adjustment Act, in-
 5 cluding the transfer date and any extension of such trans-
 6 fer date made pursuant to section 2, and make such notice
 7 publicly available, on—

8 (1) the date of the enactment of this Act; and

9 (2) the date on which an extension described
 10 under section 2 is approved.

11 **SEC. 9. TRANSFER OF THE CENTER FOR VERIFICATION**
 12 **AND EVALUATION OF THE DEPARTMENT OF**
 13 **VETERANS AFFAIRS TO THE SMALL BUSI-**
 14 **NESS ADMINISTRATION.**

15 (a) ABOLISHMENT.—The Center for Verification and
 16 Evaluation of the Department of Veterans Affairs defined
 17 under section 74.1 of title 38, Code of Federal Regula-
 18 tions, is abolished effective on the transfer date.

19 (b) TRANSFER OF FUNCTIONS.—All functions that,
 20 immediately before the effective date of this section, were
 21 functions of the Center for Verification and Evaluation
 22 shall—

23 (1) on the date of enactment of this Act, be
 24 functions of both the Center for Verification and
 25 Evaluation and the Small Business Administration,

1 except that the Small Business Administration shall
2 not have any authority to carry out any verification
3 functions of the Center for Verification and Evalua-
4 tion; and

5 (2) on the transfer date, be functions of the
6 Small Business Administration.

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

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

21 **SEC. 10. REPORT.**

22 Not later than the end of the 1-year period beginning
23 on the date of the enactment of this Act, and every 6
24 months thereafter until the transfer date, the Adminis-
25 trator of the Small Business Administration and Secretary

1 of Veterans Affairs shall jointly issue a report to the Com-
2 mittees on Appropriations, Small Business, and Veterans'
3 Affairs of the House of Representatives and the Commit-
4 tees on Appropriations, Small Business and Entrepreneur-
5 ship, and Veterans' Affairs of the Senate on the planning
6 for the transfer of functions and property required under
7 this Act and the amendments made by this Act on the
8 transfer date. Such report shall include—

9 (1) whether and how the verification database
10 and operations of the Center for Verification and
11 Evaluation of the Department of Veterans Affairs
12 will be incorporated into the existing certification
13 database of the Small Business Administration;

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

16 (A) already verified concerns that will
17 come up for recertification; and

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

20 (3) an explanation of how outreach to veteran
21 service organizations, the service-disabled veteran-
22 owned and veteran-owned small business community,
23 and other stakeholders will be conducted; and

- 1 (4) other pertinent information determined by
- 2 the Administrator and the Secretary.

