

ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS

Established by Public Law 106-50

January 2017

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Dear Mr. President and Members of Congress:

On behalf of my colleagues, I am pleased to present you the 12th Annual Report on Veterans Entrepreneurship from the Advisory Committee on Veterans Business Affairs (the Committee or ACVBA).

The ACVBA, comprised of veteran small business owners and veteran service organizations, chartered by Congress to advise both the Executive and Legislative Branches of government seeks to ensure our Nation's efforts to help our Veteran business owners are coordinated, integrated, and synchronized – and most of all effective.

America's Veterans and their families continue to face challenges. Far too many are struggling to transition successfully back into meaningful employment and lack opportunities to create small and independent businesses or grow their existing businesses. Given the integral role performed by the spouses of service members and veterans, who themselves are often small business owners as well, the Committee also included opportunities to support veteran spouse and active duty spouse entrepreneurs. The Committee conducted four hearings in FY 2016 addressing the issues such as: access to capital, legal issues, exports, women veteran business outreach, Federal veterans programs, veterans business development, veteran business certification, veteran farmer advocacy, veterans contracting and the Federal Mentor Protégé program, marketing activities, and outreach activities.

On behalf of the entire Committee, and for those who have served our Nation honorably, we present this report and urge that our recommendations be considered and adopted. This work is critical to helping our veteran and military spouse business owners and their families.

Respectfully,

Michael Phipps, Chairman

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EXECUTIVE SUMMARY

Pursuant to Public Law 106–50, as amended, 15 U.S.C. §657b note, the Advisory Committee on Veterans Business Affairs (ACVBA or Committee) serves as an independent source of advice and policy recommendations to: the Administrator of the Small Business Administration (SBA), the Associate Administrator for Veterans Business Development of the Small Business Administration, the Congress, the President, and other United States policymakers. Further, the duties of the Committee include the following:

- Review, coordinate, and monitor plans and programs developed in the public and private sectors that affect the ability of small business concerns owned and controlled by veterans to obtain capital, credit, and to access markets.
- Promote the collection of business information and survey data as they relate to veterans and small business concerns owned and controlled by veterans.
- Monitor and promote plans, programs, and operations of the departments and agencies of the United States that may contribute to the formation and growth of small business concerns owned and controlled by veterans.
- Develop and promote initiatives, policies, programs, and plans designed to foster small business concerns owned and controlled by veterans.

The ACVBA is a Federal advisory committee chartered by the SBA and operationally supported by the SBA Office of Veterans Business Development (OVBD). Its members are appointed for 3-year terms by the SBA Administrator from outside the Federal Government, and receive no compensation for service.

In FY16, the Advisory Committee on Veterans Business Affairs (ACVBA) efforts were focused on expanding previous committee topics covered, introducing new veteran business verticals and introducing new topics that address key issues that are the most important to veteran business owners. The committee met four times, and received briefings about existing and start-up veteran entrepreneurship programs from veteran community members and relevant experts, as well from commercial, institutional, and Federal agency executives. Based on the ACVBA briefings and individual ACVBA member efforts, the ACVBA finds the following:

- In order for this Committee of volunteers to be more effective for the veteran small business community, certain steps should be taken by the SBA to ensure operational efficiency.

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- Government organizations and other institutions are making progress in providing programs for veterans who are interested in starting or improving their start-up business operations – but much work remains. Some programs are legislatively encouraged but not mandated, and therefore can be easily defunded without legislative action.
- In pursuit of the many aspects of business challenges that Veteran businesses face, the Committee has organized topics and recommended measures to be taken in order to assist Veteran entrepreneurs in the following areas:
 - Access to Capital
 - Loan fee waivers and reductions
 - Investor tax exclusions
 - G.I. Bill Usage
 - U.S. Exports incentives
 - Legal Assistance
 - Legal training for Veteran entrepreneurs
 - Research into legal issues for Veteran entrepreneurs including: industry specific legal issues, access to capital and government contracting policy & legislation
 - Legal resources access
 - Federal Programs
 - Creation of a Veteran Business Development program for Service-Disabled Veteran-Owned Small Businesses
 - Expand Veteran programs to agencies that produce veterans
 - Veteran Certification
 - Mentor Protégé
 - Women Veteran Entrepreneurs
 - Veteran Farmer Entrepreneurs
 - Veteran Farmer Boots to Business module
 - Farming Incubator
 - Promote Farming markets and technologies
 - Federal Certification
 - Veteran Business Development

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- The quantity of resources available to veteran owned businesses is vast, and spans the public sector, private sector, non-profits, and academia. Navigating those resources in order to match the proper resource to the particular need is a positively daunting task. Selecting effective resources based on a measured metric of success is virtually impossible. Currently there is no method in which an individual Veteran can move through this labyrinth effectively.
- Tracking and success measuring options are needed to ensure programs meet the needs of the veteran business community. Measurable metrics and accountability are required.

The Committee is committed to engaging in the process and supporting the agendas that promote and enhance Veterans' Entrepreneurship. We are enthusiastically dedicated to the duties as directed through Pub.L. 106-50 § 201(c). The FY2017 agenda will follow up on key issues from FY2016 as well as bring new issues to the forefront.

From one year to the next, the ACVBA's focus issues must have continuity to ensure they are being properly addressed. With the wide breadth of topics the Committee has already addressed, we will start to dig deeper into past agenda items to further identify issues and solutions for veteran-owned small businesses. The following are continuing agenda items that warrant a deeper dive for the coming year:

- The Committee will continue to address concerns regarding *Access to Capital* solutions and expand that area of interest by addressing access to capital by stage of a business maturity and by business type.
- The Committee will continue to expand the *mapping of state and federal resources* to a broader view of how Veteran Entrepreneurs can locate resources and match them to their specific needs.
- The Committee will continue to follow up and keep abreast of the Mentor Protégé status and implementation of the new *Mentor Protégé legislation*.
- The committee will also continue *outreach* by extending formal invitations to heads of key Federal agencies, private-sector entities and Veterans' support groups to remain abreast of current trends and issues sharing Committee concerns.
- The Committee will continue to advocate for *additional Veteran business certification alternatives* and continue to advocate for reform of the Department of Veterans Affairs (VA) Veteran-Owned and Service-Disabled Veteran-Owned Small Business (VOSB and SDVOSB) Certification processes.
- The Committee will start laying out the legal issues surrounding Veteran-owned businesses and *encourage legal education and training for Veteran Entrepreneurs*.
- In an effort to utilize the international skill sets many veterans have gained during their time in service, the Committee will advocate for Veteran businesses and

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business programs that *promote US exports*.

- This year, the Committee will *advocate for Women Veteran business owners* through legislation, education and Government program outreach.
- As part of this agenda, the Committee will address Veteran Business owners *access to the commercial supplier base* through commercial entities' Supplier Diversity Programs (or like programs) to advocate for Veteran business, to include SDVOSBs and VOSBs, outreach, initiatives, and collaboration with large business and Veteran Service Organizations (VSOs).
- Farming and agriculture has been an excellent area for Veteran Entrepreneur growth. To bring more attention to this area, the Committee will promote and encourage entrepreneur training and education for Veteran and Service Disabled Veteran companies regarding *Veteran Farmer businesses*.
- An important way for Veteran Businesses to stay in business is to ensure they have a robust customer base. Therefore, the committee will advocate for methodologies and practices supporting good *business development and marketing skills for Veteran business owners* to include Service Disabled Veteran and Veteran Owned businesses. For government contracting continue to promote for a Service Disabled Veteran Owned Small Business, legislatively back business development program.
- To ensure the Committee has a solid base line with which to measure changes as we follow long term issues, the Committee will advocate for performance metrics and other measurable data regarding government programs, organizations supporting Veteran Entrepreneurship, and all overall agenda topics. This will allow the Committee to evaluate the quality and effectiveness of support available to Veteran businesses.
- Supporting small business resources and entrepreneurship for the spouses of veterans and the spouses of active duty service members presents a significant opportunity to support veteran entrepreneurship. Transitions out of the military are proven to be easier when one's spouse is employed, and research shows a significant number of military spouses are interested in entrepreneurship. *Expansion of veteran entrepreneur support initiatives to include veteran spouses and active duty spouses should be considered* where possible. For the rest of this report the term military spouse shall include veteran spouses and active duty spouses.

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Recommendations

The committee made some changes this year on how recommendations are determined. Committee members were assigned agenda items to research, and at the end of the year, with input from the entire committee, recommendations were made to guide the White House, the Congress and the SBA on courses of action to assist veteran owned businesses. Further details on the recommendations can be found in Appendix A, and full text on each committee hearing can be found at the following link: <https://www.sba.gov/offices/headquarters/ovbd/resources/14397>

Finance - Access to Capital Recommendations

1. Pursue Access to Capital legislative changes that would benefit veteran-owned small businesses, including:
 - a. Recent SBA loan fee waivers, such as the fee reductions enacted by SBA in 2014, should apply to any veteran loan amount and become permanent. Broadly expand the use of Government-sponsored grants & microloans. Making Federal grants available for veteran and military spouse businesses and expanding or establishing veteran- and spouse-specific microloans will help entrepreneurs who otherwise may have difficulty getting funds using traditional means.
 - b. Increase investment by changing tax legislation so private funding providers can dedicate more funding to veteran and military spouse entrepreneurs. This recommendation encourages the SBA to influence tax legislation to provide angel investors and venture capitalists with incentives such as short term tax exclusion for non-capital gains and other incentives when they invest in veteran entrepreneurs.
 - c. The SBA should track and follow up on the proposed pilot to study alternative GI Bill usage for business funding to determine if it is feasible and sufficiently drives sustainable assistance to veteran owned small businesses. This should include renewed efforts to establish the proposed GI Bill business development usage from the Veterans Entrepreneurial Transition (VET) Act of 2015, S. 1870, reported favorably by the U.S. Senate Committee on Small Business and Entrepreneurship in December 2016. Based on the outcome of this pilot additional recommendations should be derived.
 - d. The SBA should collaborate with government agencies that focus on exports, such as the U.S. Department of Commerce, U.S. Export-Import (EXIM) bank, and others. Collaboration encourages loan fee reductions and promotes other financial aid for veteran small businesses that export which increases business development opportunities, export funding opportunities, and helps them export their goods or services outside the United States.
2. **Access to capital awareness and training.** Create two or three-day extensive training program as a follow-on to *Boots to Business* training curriculum focused exclusively on financing options, pros, cons, and pitfalls, and other related capital issues, targeting those who

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have completed *Boots to Business* or have made the decision to pursue business ownership as their path ahead. Include in this program through education and outreach: access to private funding, financial institution sources, education on government financial options, and export financing to educate veteran entrepreneurs on access to capital issues.

Legal-Area Recommendations

3. Create a two or three-day extensive training program as a follow-on to *Boots to Business* focused exclusively on legal specific training classes. This training should include outreach to legal resources and encourage legal assistance to veteran owned small businesses from government programs and commercial legal resources. Different versions of this training program should be considered to address different sized and types of veteran businesses.
4. Conduct research into legal issues that address causes and possible solutions to legal problems, financial impact of legal issues, and other legal issues veteran owned small businesses experience in business. This research should focus on what industry specific legal issues are most prevalent per different business areas of operations. As an example, what legal issues are most important for a veteran manufacturer when it comes to finance/access to capital, partners, resellers, suppliers, exporting, customers, marketing, etc. This research should include specific legislation (legal issues) that are problematic or hinder veteran owned small business operations and growth. The outcome of this research should be used to further assist VOSB's in SBA training programs and other available resources. Additional outcomes should include recommendations for small business regulatory reform that could simplify encumbering legal issues.
 - a. Include in the study government contracting policy / legislation and the impacts on veteran owned small businesses per the below topics:
 - i. The negative effects of Lowest Price Technically Acceptable (LPTA) and reverse auction contracting tactics on veteran owned small businesses.
 - ii. How can contracting officers be incentivized to award contracts based on best value judgment, not on Lowest Priced Technically Acceptable contracts for veteran owned small businesses.
 - iii. The negative effects of bundling, prohibited consolidation, and similar practices, and how to develop negative incentives for contracting officers who bundle products and services.
 - iv. Encourage contracting officers, through training, to utilize veteran owned small business legislation.
5. Provide a simple portal or information point where lawyers, law firms, and providers of legal services such as nonprofits, State Attorney General offices, or State Bar organizations can post their willingness to provide discounted or pro bono legal services for veteran and military spouse-owned small businesses.

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Resources (2016) & Federal Programs (2015) & Outreach / Business Development Recommendations

6. Create a government wide Veteran Business Development program for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) in Federal Contracting.

Establish a formal Veteran Business Development Program for Service Disabled Veteran Owned Small Businesses to assist with government contracting and subcontracting, financing, technical and regulatory assistance. This reform would include revision of Executive Order 13360, revision of existing SBA and FAR Council regulations, and/or new legislation.

In the 1999 and the 2003 legislation, Congress gave the SBA and other Federal agencies broad business development authority to help veterans. The SBA and the FAR Council, however, announced in 2005 rulemaking that the government-wide SDVOSB Program is only for “established” businesses and is not meant to help veteran business development. Congress should encourage the SBA and the FAR Council to carry out its business development authority and establish a statutory Veteran Business Development program similar but separate from the 8(a) program.

Program objectives pay special attention to the below topics.

- a. The language used for federal agency SDVOSB sole-source authority should be amended to allow for greater use.
- b. Ensure a small number of firms don't exclusively benefit from the program. Encourage the program to measure success based on the number of firms successfully completing contracts.
- c. Education/training and outreach for procurement officials and contracting officers is imperative. This recommendation encourages the SBA to assist contracting officers with making more SDVOSB set asides under the current set aside language and by promoting a new Veteran Business Development program, through outreach, education and publicly available examples on how to legally achieve an SDVOSB set aside with limited protests.

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7. Create a “Veterans First” contracting set-aside/preference for Veteran-Owned Small Businesses (VOSBs) and Service Disabled Veteran Owned Small Businesses (SDVOSB’s) at the Department of Defense and the Department of Homeland Security.

DOD-SBA and DHS-SBA interagency set-aside agreements per 15 U.S.C. §644(a) on a pilot basis or otherwise, revisions of DFARS, and/or new legislation relying on language approved by the U.S. Supreme Court in *Kingdomware*.

Set a higher standard for agencies that produce Veterans.

It is the committee’s belief that the federal agencies that produce veterans and service-disabled veterans should also share the VA's fiduciary responsibility. Agencies such as the Department of Defense and Homeland Security should have not only a moral imperative, but a statutory mandate to enforce veterans’ preference in their purchases. The Veterans First contracting program within VA should be legislatively extended to the veteran producing agencies, and should require the same percentage goals and the same set-aside authorities.

Woman Veterans Business Outreach Recommendations

8. Commission research into the topic of women veteran owned businesses to better:
 - a. Understand the factors leading to the increase in participating women veteran owned businesses and how that might affect current and future participation.
 - b. Help identify how to best service the unique needs of women veteran owned business owners.
 - c. Continuously study programs that support woman owned and women veteran owned small businesses to better understand what are the most effective tools to support established women veteran owned small businesses in various phases of their business lifecycle and encourage women veteran entrepreneurs to start businesses.

Veteran Farmer Advocacy / Outreach, Training, Business Development) Recommendations

9. Develop a Veteran Farmer Boots to Business module focused exclusively on Veteran Farming businesses. As part of this program consider incorporating the following:
 - a. Promoting collaboration among veteran non-profits and veteran farming organizations.
 - b. Involve veteran food organizations, such as Farmer Veteran Coalition, to assist with program development.

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- c. Incubator programs per state could be used to consolidate training, access to land and funding, and provide a benchmark for success. This is a supply side solution.
- d. Farm markets / transportation hubs and possible markets for exports could be used to aggregate demand for products, while reducing the burden on emerging businesses to provide markets for the crops they sell. This reduces risk for the emerging farmer. This is a demand side solution.
- e. Assistance in promoting “Farm in a box” or “greenhouse in a box” solutions where everything a veteran business could need is provided in a kit.

Certification Recommendations

- 10. The SBA should continue to advocate for legislation that would provide for a single, government-wide verification process, and authority for veteran owned businesses seeking eligibility to contract with any federal government agency. Like prior legislative proposals (e.g., HR 2882 and S. 2334, both introduced in the 113th Congress), legislative changes would likely be required to both Titles 15 and 38 of the United States Code. The following issues should be taken into consideration when the SBA is addressing veteran verification:
 - a) Controlling legislation and implementing regulations should conform to verification standards and processes for women owned small businesses.
 - b) Prepare the SBA as an agency and veteran owned small business community for the certification process the SBA would implement per the 2017 National Defense Authorization Act.
 - c) Explore, possibly through pilot programs, alternative approaches to administering the verification process, with a goal of identifying the most cost effective, streamlined and timely methodology for executing verification. Models to be considered could include: (1) traditional government programs operated through appropriated funding; (2) use of third party, non-profit verification entity(s) similar to the National Women Business Owners Corporation (NWBOC); (3) others, such as a fee for service programs that could be administered by public, private or non-profit entities.

Business Development (Government Contracting) - Mentor – Protégé

- 11. The Committee’s recommendation is that SBA act aggressively to ensure a fully implemented Service Disabled Veteran (SDV) Mentor Protégé Program that is easily accessibility with reasonable ease of application, review and approval. This program should incorporate:
 - a. A protégé can have multiple mentors for the life of the program.

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- b. Allow large businesses to have more than one protégé at a time. Large businesses have the capacity to have multiple protégés at time. Limiting mentors to one protégé is detrimental to the veteran small business community.

Business Development – Marketing

12. Establish a uniform standard of resources for each Office of Small and Disadvantaged Business Utilization (OSDBU) office. This recommendation encourages the SBA to work with agency OSDBU offices to standardize the publicly available information from the Federal OSDBU Office of Small Business Programs (OSBP) offices of veteran owned business. While each agency OSDBU should be permitted to reflect its mission and priorities, its website should be informational and educational. For example, certain minimum elements should be universal, such as: staff contacts; contact information for agency small business specialists; links to agency procurement forecast; description of agency small business programs and initiatives; a guide for doing business with the agency; links to the SBA, the VA, and other relevant agencies, event calendars and technical assistance providers; the types of products and services the agency procures; and small business procurement performance.

Committee Recommendations

13. The committee members serve on an all-volunteer basis, and when the committee is not at full strength it loses effectiveness and continuity. The SBA should not let the committee membership fall below the public law numbers for veteran small businesses and veteran service organizations. While there are unforeseen circumstances with committee members, the SBA should maintain a pool of 30% vetted and ready to serve committee members. Being a member of the committee requires an investment in time all year, with meetings just being the culmination of each quarters members' diligence. The committee has suffered in their ability to meet and make progress outside committee hearings with research, writing, and educating the public on what they bring to the veteran business community. Accordingly, the SBA should increase the budget for the committee to meet the travel expense of meeting one additional time per year for a total of four official meetings.

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Appendix A: Recommendation Research

Finance - Access To Capital

Name of Committee Member / Organization addressing topic:

Rich McAdams, Committee Member

Recommendation Description: Expand the Committee's Access to Capital concerns by expanding Access to Capital available solutions by stage of business and business type.

Name of Topic / Agenda Item being addressed: Finance – Access to Capital

GAP Description & Current State of the Issue

What are the GAPS and/or short comings for VOB's in reference to the topic?

While there are several programs to help small businesses, including Veteran Owned Businesses (VOB), in accessing capital, it remains difficult for VOBs to access the capital needed to start and/or grow a business. Initial funding is especially difficult.

SBA seems to measure “success” in VOB access to capital purely in terms of loan numbers and loan dollars. This seems to be measuring an input (loans made to start or grow a business) as opposed to measuring an output (successful new or expanded businesses). In some cases, getting a loan for a veteran owned small business can be detrimental if the veteran doesn't understand the loan terms, have a solid business plan, or have the skill sets necessary to run the business.

What is the current state / situation of the topic for VOB's?

According to a 2014 Wells Fargo study (Gallop/Wells Fargo, May 2014), the vast majority of VOB's primary source of funding to launch their business, is personal cash or savings (89%) followed by personal credit cards (44%), with loans coming in third (34%).

The primary sources of funding for VOBs are:

Personal Funds – Savings, stocks, bonds, retirement accounts, and other assets are the #1 source of funding for VOBs per the study above.

Family and Friends – Veteran business owners, like all entrepreneurs, often raise funds from friends and family.

Personal Credit Cards – another liquid, but very expensive source of funding for VOBs.

Banks – fairly straightforward source of funds but generally require a personal guarantee and quite simply, banks don't take risks. Loans are typically given against known collateral or revenue streams, which VOBs who are just starting most times don't have.

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Government Backed Loans – 7(a) and 504 loan programs serve as a backup when VOBs wouldn't otherwise qualify for a bank loan without the government guarantee that these programs provide.

Government Grants – The majority of these grants are awarded for R&D work to support national priorities related to technology, energy, healthcare, public safety, and criminal justice.

Venture Capital (VC)– Venture Capital is provided to early-stage, high potential, and growth startup companies. The VC firm takes an ownership stake and makes money by selling the stake when the company has profitably grown. This funding source generates a lot of money, but for a relatively low number of companies.

Angel Investors – Invest much like venture capitalists by taking an equity stake in return for a 3-7 year timeframe for stock buy-back. They are generally less sophisticated than a VC firm and invest much smaller amounts.

Incubators/Accelerators – many incubators invest as part of their offering to entrepreneurs and take an equity or debt position in their incubator companies.

Crowdfunding – Raising money using an online platform such as Kickstarter, Indiegogo, or GoFundMe. Generally, more focused on product based businesses.

Are there specific factors responsible for the short coming of the topic for VOB's?

Many veterans do not have an adequate understanding of the spectrum of funding options available in the market, the pros and cons of each, and how each type might be used in the varying stages of a company.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

Increase veteran understanding of the options available in the market, the pros, cons, and pitfalls of each, and how each might be used in varying stages of their VOB growth. Increased access to capital for VOB's, but more importantly, more success by VOBs.

Who and/or what are the influencers on VOB's for this recommendations?

Veterans Entrepreneurship Act of 2015. (Real Clear Politics, 2015). The bill:

- Prohibits SBA from collecting a guarantee fee in connection with a loan made under the SBA Express Program to a Veteran or the spouse of a Veteran on or after October 1, 2015, as long as the SBA remains subsidy-neutral.
- Increases the limit from \$18.75 billion to \$23.5 billion for FY2015 commitments for general business loans

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- Prohibits the SBA, starting October 1, 2015, from guaranteeing a loan if: the lender determines that the borrower is unable to obtain credit elsewhere solely because the lender's liquidity depends upon the guaranteed portion of the loan being sold, or the sole purpose for requesting the guarantee is to allow the lender to exceed its legal lending limit.

The bill became Public Law No. 114-38 on July 28, 2015.

- The Small Business Investment Company Capital Act of 2015. The bill would increase the cap on Small Business Investment Companies' (SBIC) family of funds. SBICs are privately owned and managed funds that use private capital leveraged by a Small Business Administration (SBA) guarantee to invest in qualified small businesses. The bill was passed on April 2015. (Risch, 2015)
- Microloan Modernization Act of 2015. The bill grants microloan providers to increase flexibility in providing loans and technical assistance with the intent of increasing

References

What references were used in your evaluation?

Committee on Small Business: MILITARY TO ENTREPRENEURSHIP: PRIVATE SECTOR INITIATIVES TO HELP VETERANS PURSUE BUSINESS OPPORTUNITIES

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<http://www.techrepublic.com/article/the-dark-side-of-venture-capital-five-things-startups-need-to-know/>

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David Nilssen, Has Access to Capital Really Improved for Entrepreneurs?

<http://www.entrepreneur.com/article/232137>

David Waring, Minority Small Business Grants and Other Resources:

<http://fitsmallbusiness.com/minority-small-business-grants/#sthash.VZoyGW0X.dpuf>

Dileep Rao, Why 99.95% Of Entrepreneurs Should Stop Wasting Time Seeking Venture Capital:

<http://www.forbes.com/sites/dileeprao/2013/07/22/why-99-95-of-entrepreneurs-should-stop-wasting-time-seeking-venture-capital/>

Economic Development Administration: Improving Access to Capital for High-Growth Companies:

<http://www.eda.gov/oie/files/NACIE-Report-Access-to-Capital.pdf>

GALLUP: SMALL BUSINESS DIVERSE SEGMENTS LENDING STUDY

Grants for Veterans in Technology: <http://www.usveteransmagazine.com/article/grants-veterans-technology>

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H. Rept. 114-187 - VETERANS ENTREPRENEURSHIP ACT:

<https://www.congress.gov/congressional-report/114th-congress/house-report/187>

<https://www.fas.org/sgp/crs/misc/R42695.pdf>

NSBA White Paper on Access to Capital: <http://www.nsba.biz/wp-content/uploads/2013/08/2013-MY-Report.pdf>

Peformance.gov, <http://www.performance.gov/content/ensure-inclusive-entrepreneurship#>

Legal

Name of Committee Member / Organization addressing topic:

Michael J. Zacchea / CT Veterans Chamber of Commerce, Michael Phipps, Chairman

Recommendation Description: Promote and encourage legal education and training for Veteran Entrepreneurs. Legal issues to address are commercial and government contracting.

Name of Topic / Agenda Item being addressed.: Legal

GAP Description & Current State of the Issue

What are the GAPs and/or short comings for Veteran Owned Small Businesses (VOSB's) in reference to the topic?

Veteran Owned Small Businesses

- a) Legal issues are complicated and can result in many unforeseen costs. Types of legal support used by veterans often involve issues relating to contracts, business organization, real estate, taxes, licenses, intellectual property, industry and more. Legal support for these issues can be expensive, and choosing the right type of lawyer or law firm can be confusing and complicated.
- b) Unlike their civilian counterparts, most veterans were not exposed to everyday corporate legal issues during their time in service.

Government Contracting Specific

- c) Reverse auctions – Federal Government issues a price for a specific contract, and businesses including Veteran-owned businesses, then compete to push the price down to win the bid.
- d) Lowest Price Technically Acceptable (LPTA) contracts – similar outcomes to Reverse Auctions.
- e) Bundling – Federal agencies unnecessarily bundle packages of products and services to avoid small and veteran utilization requirements (i.e., the Rule of Two).

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What is the current state / situation of the topic for VOSB's?

Veteran Owned Small Businesses

- a) Limited, unknown and complicated resources for getting legal aid.
- b) Limited training on the dangers of complicated but normal legal issues that occur as part of doing business.

Government Contracting Specific

- c) Reverse auctions and LPTA contracts squeeze veteran owned business profit margins. Small businesses create more than 2/3 of jobs in our country so this is a government tactic that hinders job creation by squeezing margins on small businesses.
- d) Ultimately these types of contracts hinder competition within the small businesses community, which find it extremely difficult to compete even if they have the capability to perform the work.
- e) These types of contracts also hinder innovative solutions for contract performance because it incentivizes cost-cutting rather than performance. This phenomenon is called Lowest-Price Technically Acceptable.

Are there specific factors responsible for the short coming of the topic for VOSB's?

- a) Lowest Price Technically Acceptable (LPTA) contracts & reverse auction ostensibly saves tax payer money as a best value proposition in the short-term, but ultimately costs more than it saves because it reduces innovation incentive, job creation, and limits profitability.
- b) Distorts the contracting process and undermines profitability for short-term gain.
- c) It discourages VOSB small businesses from bidding on reverse-auction contracts because it will require multiple bids for an ever-shrinking dollar value – it is not cost-effective for small businesses to bid on reverse-auction contracts
- d) It creates below-market price dynamics. The reverse auction starts at market price, and is bid down. Essentially, below-market work becomes a giveaway to the federal government.
- e) It distorts the overall market for prices and services and gives the federal government an unfair advantage in the market. Below market work creates sub-optimal outcomes.
- f) The federal government obtains contract work at prices not available to the public.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOSB's?

- a) Promotes competition for veteran owned small businesses.

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- b) Promotes growth of veteran owned small businesses.
- c) Promotes start-up and sustained VOSBs into the commercial and federal contracting ecosystems.

Who and/or what are the influencers on VOSB's for this recommendations?

- a) The Small Business Administration.
- b) Congress
- c) The veteran owned small businesses community.
- d) Law firms that represent veteran owned small businesses.
- e) Advisory Committee on Veteran Business Affairs / Interagency Task Force

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

- a) Decrease in veteran owned small businesses asking for legal assistance.
- b) Improve competition for VOSBs bidding on federal government contracts.

What is the estimated financial impact on other entities including the SBA and other Agencies for this recommendation?

- a) Restoring the fair market price to certain federal contracts will cost more money short term but will create more competition and encourage entry into the federal contracting space.
- b) Eliminating or restricting contract competition on price or margin will help create jobs in small veteran-owned businesses.

References

What references were used in your evaluation?

- a) Presentation by Dismas N. Locaria of Venable LLP
- b) Scott Davidson, GovCon Ops LLC
- a) Max Kidalov

Exports - Entrepreneur Training / Outreach

Name of Committee Member / Organization addressing topic:

Michael Phipps / Chairmain

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Name of Topic / Agenda Item being addressed.: Advocate for Veteran businesses and business programs that promote US exports.

GAP Description & Current State of the Issue

Among Veteran-owned firms, 93.0 percent reported no export sales, compared with 92.1 percent for all firms. Many Veteran business owners have been located overseas, and may perceive the overseas market as less risky than non-Veteran business owners, though they may lack the practical and regulatory knowledge to establish such a business venture. This assistance will allow more Veteran business to tap into their overseas experiences and put these experiences to use in business. This recommendation would also increase US exports.

Recommendation(s) are included in the recommendations section of the report.

Export recommendations have been incorporated into access to capital, legal and veteran farming agenda items.

Woman Veteran Business Outreach

Name of Committee Member / Organization addressing topic:

Michael J. Zacchea / CT Veterans Chamber of Commerce

Recommendation Description: Increase in Women Veteran Owned Businesses from 2007 Survey of Business Owners to 2012 Survey of Business Owners

Name of Topic / Agenda Item being addressed.: Women Veteran Business Entrepreneurship

GAP Description & Current State of the Issue

What are the GAPS and/or short comings for VOB's in reference to the topic?

According to the National Women's Business Council the number of women veteran owned businesses (VOB) increased from just under 100k in 2007 to 384,548 in 2012. By percentage, in 2007 Women VOB's were 3.5% and by 2012 this number increased to 16% of the total veteran business community. It is currently not known why this increase in Women VOB's occurred.

The 2015 **National Defense Authorization Act** (NDAA) section 825 included an unfunded mandate for the SBA to develop a certification program for Women-Owned Businesses.

Are there specific factors responsible for the short coming of the topic for VOB's?

- a) Lack of intersectionality between Women-owned Business Entities, and VOBs/SDVOBs
- b) Increasingly, new businesses—especially small businesses—are being created by women. Business networks can help any firm to build its customer and supplier base, improve access to debt and equity finance, and provide useful advice and support. However, women owned businesses often cannot effectively access business networks even though they might benefit the most from them. For instance, according to one survey, over half of the

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minority businesses expressing a need for credit, reported not applying for loans because they feared being denied (Bates and Robb 2013).

- c) According to the Department of Labor's (DOL) Bureau of Labor Statistics Spotlight on Statistics for Women Veterans in the Workforce (Department of Labor, 2015), of the 21.4 million Veterans in 2013, 2.2 million are women, of which more than half served in Gulf War I or Gulf War II. Women Veterans as a cohort have been the subject of Federal research in the areas of employment/unemployment (DOL), health care (HHS), and law enforcement (DOJ). The Center for Women Veterans at the VA includes on their site information/resources on employment, STEM careers, entrepreneurship, homelessness, military sexual trauma, public service and community engagement, and links to women's health research studies and Veterans organizations and has partnered with Treasury to host employment fairs (Department of Veterans Affairs, 2015). Additionally, the SBA has a specific Women-Owned Small Businesses (WOSB) Federal Contracting Program as well as contribute to a specific program for women veterans called Veteran Women Igniting the Spirit of Entrepreneurship (VWISE). VWISE is a training program in entrepreneurship and small business management run by the Institute for Veterans and Military Families at Syracuse University. It is partly funded by U.S. Small Business Administration through a Cooperative Agreement and the donations from corporate and foundation partners.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

- a) Greater data transparency for an important and growing section of the veteran business community.

Who and/or what are the influencers on VOB's for this recommendations?

- a) The Small Business Administration, Congress, The White House, Advisory Committee on Veteran Business Affairs, Interagency Task Force, Census.

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

- a) Developing women veteran programs, resources allocation to existing programs to encourage Women VOB's.
- b) The new Women Owned Small Business Program

References

What references were used in your evaluation?

SBO 2012

Bates, T. (2002). Race, self-employment, and upward mobility: An elusive American dream. Washington, DC: Woodrow Wilson Press Center.

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<http://http://www.bls.gov/spotlight/2014/women-vets/>

Department of Labor (n.d.). (2015, July 12). Employment & training administration (ETA).

Retrieved from <http://www.dol.gov/dol/topic/training/onestop.htm>

Department of Veterans Affairs. (2015, August 5). Retrieved from

<http://www.va.gov/womenvet/resources.asp>

Resources (2016) / Federal Programs (2015) / Outreach – Business Development

Name of Committee Member / Organization addressing topic:

Michael Phipps, Chairman

Recommendation Description:

Outreach – business development: Access to commercial supplier base through their Supplier Diversity Programs (or like programs) to advocate for Veteran business, to include Service Disabled Veteran and Veteran Owned Small Business. Initiatives and collaboration to increase business development with large business, Veteran Service Organizations and Government programs.

Business development – marketing: 2016 - Advocate for methodologies and practices of good business development and marketing skills for Veteran business owners.

Resources (2016). Federal programs (2015): Expand mapping of state and federal resources to a broader view of how Veteran Entrepreneurs can locate resources and match them to their specific needs.

Name of Topic / Agenda Item being addressed: Business Development, Marketing, Federal Programs

GAP Description & Current State of the Issue

What are the gaps, short comings, specific factors for SDVOSBs in reference to the topic?

1. No business development program exists for SDVOSB's

There is currently no business development program for service disable veteran owned small business in Federal contracting. Current resources for veteran owned small business exist in several programs and within several different agencies making it confusing and arduous for veteran entrepreneurs in the government space to pursue an individual course of action for business development. Of the 21 agencies that have an Office of Small & Disadvantaged Business Utilization (OSDBU) only seven have a dedicated SDVOSB Advocate. While agencies have made strides to support SDVOBs and meet their SDVOB contracting goals, not all agencies have been successful. Additionally, left up to the agencies, there is no mechanism to ensure SDVOSB subcontracting numbers are maintained.

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The SBA has the ability, with current legislation, to take new evidence and activities into consideration and create a SDVOSB Business Development program to bring the currently dispersed support and resources, and ineffective Federal Acquisition Regulations into one program.

2. Contracting officers don't understand or are reluctant to use the current SDVOSB sole source and competitive set-aside authorities.

The current set-aside language in the FAR is ineffective, confusing and rarely used. Due to the language ambiguity, contracting officers rarely use the SDVOSB set-aside in the FAR. Contracting officers want clear direction, and assurance that there will be no back lash or questioning of their decisions. This problem becomes evident upon exploration of the extremely low numbers of SDVOBS sole source or competitive set asides found when searching the Federal Procurement Data System <https://www.fpds.gov/>.

Under FAR Part 19, SBA Regulations 13 FAR Part 124 and Standard Operating Procedure 80 05 3A governing the 8(a) Small Disadvantaged Business (SDB) Program, sole source and competitive set-asides are used as part of a mix of tools to get companies to grow under a company-specific business development plan. Companies participating in the 8(a) program begin with sole source set-asides or low-dollar competitive set-asides. Then, they gradually grow into competitive set-asides and unrestricted Federal and commercial procurements. The SDVOSB program, on the other hand, does not use or have effective sole source or competitive set-asides for business development.

The current language used for sole source authority for federal agencies other than the VA, sets a high bar which limits its use. **The focus of Federal SDVOSB sole source authority is not on the business development needs of veterans, but on whether the particular SDVOSB firm has unique capability. This amounts to duplication of FAR §6.302-1 source authority for unique source, which confuses and discourages Contracting Officers.** The limitations on the use of SDVOSB sole source authority can create barriers for the participation of these firms.

Under 48 FAR Part 19.1405 "*Service-disabled Veteran-owned small business set-aside.*" the contracting officer (CO) may set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to SDVOSBs if the CO has a reasonable expectation that offers will be received from two or more SDVOSBs and the award will be made at a fair market price. If the CO receives only one acceptable offer from an SDVOSB in response to a set-aside, the CO should make an award to that concern.

Under 48 FAR Part 19.1406 "Sole source awards to service-disabled veteran-owned small business concerns," a contracting officer may award contracts to SDVOSB concerns on a sole source basis (see FAR 19.501(d) and 6.302-5), provided only one SDVOSB can satisfy the requirement and at a fair and reasonable price and the anticipated award price of the contract will not exceed \$5 million for within NAICS codes for manufacturing and \$3 million for a requirement within any other NAICS code and the SDVOSB has been determined to be a responsible

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contractor. In order for a contracting officer (CO) to sole-source to an SDVOSB firm, “The CO does not have a reasonable expectation that offers would be received from two or more SDVOSBs.” (Federal Acquisition Regulation, Part 19.406 (a)(1), 2015).

The practical net effect of this language is that an SDVOSB firm must be the only firm to be able to satisfy a requirement before it can be the recipient of a sole-source award.

No such requirement is used for the 8(a) program, the most prolific beneficiary of sole source awards. In 1999, the Congressional Commission on Service members and Veterans Transition Assistance (Principi Commission) recognized that veterans have earned business development benefits necessary for economic self-sufficiency and called for the creation of 8(a)-style contracting preferences. As compared with groups benefitting as 8(a) SDBs, between 1999 and 2003, Congress provided broad legislative authority to implement this benefit. The earned benefits status of the SDVOSB is lower, in that SDVOSBs are not being equally allowed to receive sole source contracts for business development. Additional requirements for the use of a sole-source for SDVOSBs include a monetary cap of \$3.5M (\$6M for manufacturing) and that the award can be made at a fair and reasonable price. A sole-source award can also be made using the “Only One Responsible Source” of the Competition in Contracting Act (FAR, Subpart 6.3 – Other than Full and Open Competition) under certain specific circumstances.

3. Majority of contracting dollars going to limited number of SDVOSB’s

Additionally, the dollars being awarded to SDVOSB’s are going to a small group of companies leaving the majority of SDVOSB out of equation. This is due to the transactional incentives being driven by the 3% SDVOSB total spending and not necessarily by participation. Regretfully, the SDVOSB Program, as it now stands, is not a business development program that would allow for direct award regulations while promoting metrics to start, grow and maintain a multitude of Service Disabled Veteran Owned Small Businesses.

4. The only Veterans First preference exists in the U. S. Department of Veterans Affairs (VA), but not in agencies that create veterans.

The Veterans Benefits, Health Care and Information Technology Act of 2006 (PL 109-461, 2015), created the Veterans First Contracting Program, which allows the Department of Veterans Affairs (VA) to give SDVOSBs and VOSBs preferential treatment in the award of contracts using sole-source and restricted competition. A VA contracting officer (CO) may award a contract using other than competitive procedures (sole source) “if the business concern is deemed responsible, the anticipated award price exceeds the simplified threshold up to \$5M, and if the CO believes that the contract awarded will be at a fair and reasonable price that offers the best value to the government.” Had the sole-source language for this authority mirrored the restrictive language used for the balance of the Government, the VA would have been as impeded in its effectiveness to create opportunities for VOSBs and SDVOSBs.

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What is the current state / situation of the topic for VOB's?

Within the Federal Government, SBA is generally the lead agency responsible for the policy and programmatic aspects of the veterans business development mission. This includes capital, technical assistance and entrepreneurship training, contracting, regulatory relief, and other assistance measures. However, the SBA's mission has not received strong legislative and funding support compared to the VA's role in veterans' benefits. VA's entrepreneurship benefits, however, are limited by disability ratings. Currently, many SBA-lead government programs that support veteran owned businesses are supported by grants and private sector assistance. Due to this factor, if non-recurrent partners' funding for programs like Boots to Business, VBOC's, TAP, Reboot, Vwise and others are reduced or stopped, resources for veteran owned small businesses will be greatly diminished or come to a halt.

On the other hand, the SBA for years has administered a business development program for small disadvantaged businesses called the 8(a) Small Disadvantaged Business (SDB) Business Development (BD) Program. This program has an extensive infrastructure, statutory authority, and policy support. Although the 8(a) Program has had a significant tilt towards government contracting, its authorities also include financial and technical assistance. There is also a related training counterpart, the 7(j) program. What Service-Disabled Veterans need is a well-rounded, well-founded, broadly available business development program that incorporates financial and technical assistance efforts already provided under the auspices of the SBA Office of Veteran Business Development (OVBD). This program should include procurement-related assistance of the type available to 8(a) firms but separately from the 8(a) Program.

In comparison with the 8(a) SDB Business Development Program, there is limited statutory that would support long term VOB/SDVOSB participation. The only exception to this is the VA Veteran Owned Business rules.

The current state of Veteran business involvement in Federal Contracting is outlined in the research conducted by Professor Max Kidalov and his co-author Jennifer Lee (who both testified in front of the ACVBA at the SBA) at the Naval Postgraduate School, "An Open Door and a Leg Up: Increasing Service-Disabled Veteran-Owned Small Business (SDVOSB) Participation in Defense, Navy, and Marine Corps Contracting," available here: <http://calhoun.nps.edu/handle/10945/47473>. The research conclusively demonstrates that the current SDVOSB Program supports a dwindling number of established firms. This is because the SDVOSB Program as currently designed is not effectively aligned to increase broad-based participation of SDVOSB firms as contractors.

The research highlights the need to create a growth pathway from low-dollar simplified acquisitions to more complex buys. The research also demonstrates that contracting officers have trouble deciding when to use discretionary SDVOSB set-asides. For this reason, the research recommends a Business Development Program for SDVOSB's, government-wide.

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Recommendation(s) are included in the recommendations section of the report.

14. Create a “Veterans First” contracting set-aside/preference for Veteran-Owned Small Businesses (VOSBs) and Service Disabled Veteran Owned Small Businesses (SDVOSB’s) at the Department of Defense and the Department of Homeland Security.

Action: DOD-SBA and DHS-SBA interagency set-aside agreements per 15 U.S.C. §644(a) on a pilot basis or otherwise, revisions of DFARS, and/or new legislation relying on language approved by the U.S. Supreme Court in *Kingdomware*.

Set a higher standard for agencies that product Veterans.

It is our belief that the federal agencies that produce veterans and service-disabled veterans should also share VA's fiduciary responsibility. Agencies such as the Department of Defense and Homeland Security should have not only a moral imperative but a statutory mandate to enforce veterans preference in their purchases. The Veterans First contracting program within VA should be legislatively extended to the aforementioned agencies requiring the same percentage goaling and the same set-aside authorities.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB’s?

Expected Result of the Recommendation.

By creating a SDVOSB business development program and legislatively extending the VA’s Veteran First program to DoD and DHS veteran owned businesses will experience greater opportunities and increased participation in federal procurement. In parallel by educating procurement officials on noncompetitive procurement alternatives through outreach activities will also have a great impact on provided opportunities to SDVOSBs.

Who and/or what are the influencers on VOB’s for this recommendations?

1. The White House
2. Congress
3. The Small Business Administration
4. FAR Council

What is the estimated financial impact on other entities including the SBA and other Agencies for this recommendation?

In order for the SBA to manage this program effectively they would require additional funds. There are multiple programs and resources that would help reduce the financial burden to the SBA by utilizing or merging current budgets and programs to manage this program. Additionally, the

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SBA and other Federal agencies would benefit by a program with clear goals focusing current spend to one program alleviating ad hoc support.

References

What references were used in your evaluation?

Statistics for Veteran Owners of Respondent Firms by Owner's Service-Disabled Veteran Status and Gender for the U.S.: 2007 2007 Survey of Business Owners. Retrieved July 23, 2015 from http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_afpt=table

FAR 19.1406 (a)(1) Circumstances for its use include: 1) only one responsible source and no other supplies or services will satisfy agency requirements; 2) unusual and compelling urgency; 3) Industrial mobilization; engineering, developmental, or research capability; or expert services; 4) International agreement,; 5) Authorized or required by statute; 6) National security and 7) public interest.

120 STAT. 3432, P.L. 109-461, Dec. 22, 2006, Sec. 502 §8127

<http://www.start2farm.gov/programs/vsat-veterans-sustainable-agriculture-training>.

Retrieved July 20,2015.

“S.2334, The Improving Opportunities for Service-Disabled Veteran-Owned Small Business Act of 2013 and companion bill H.R. 2882; H.R. 4425, the Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015.” Dilger and Lowry, SBA Veterans Assistance Programs: An Analysis of Contemporary Issues. Congressional Research Service, 7-5700, www.crs.gov

Public Law 113-291. Retrieved August 13, 2015 from <https://www.congress.gov/bill/113th-congress/house-bill/3979>

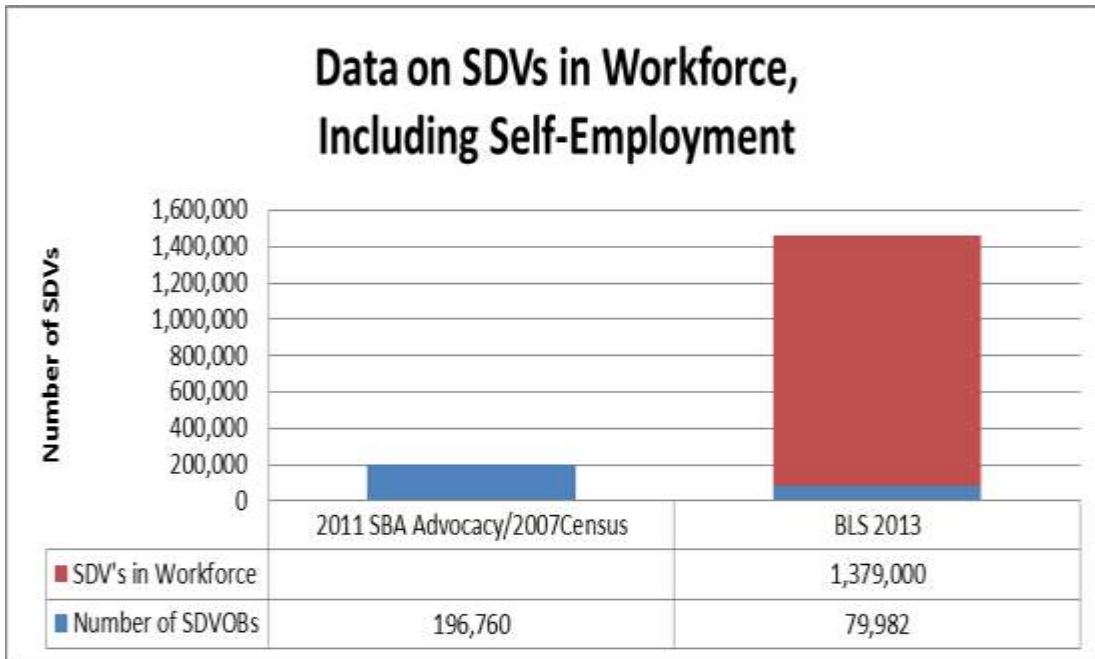
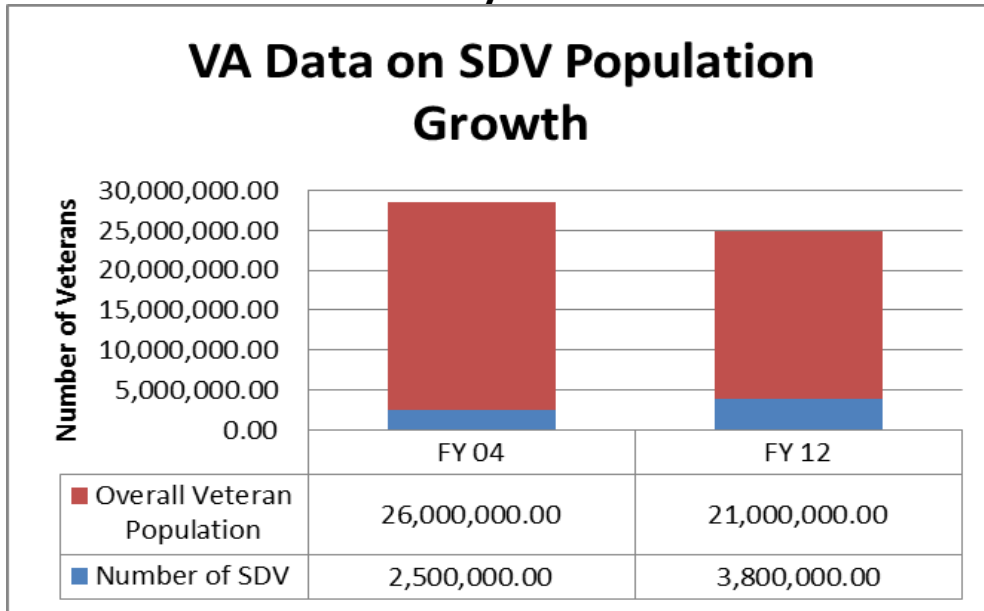
Addendum

Analysis conclusively demonstrates that the current SDVOSB Program supports a dwindling number of established firms.

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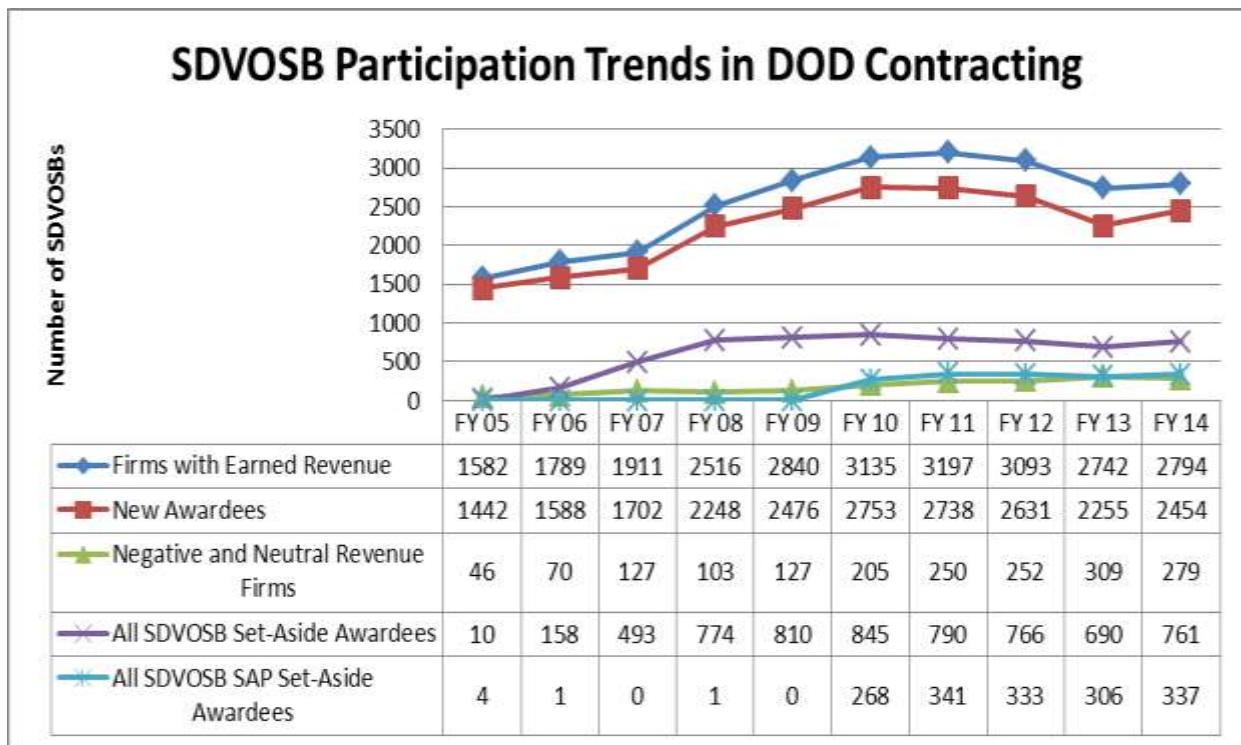
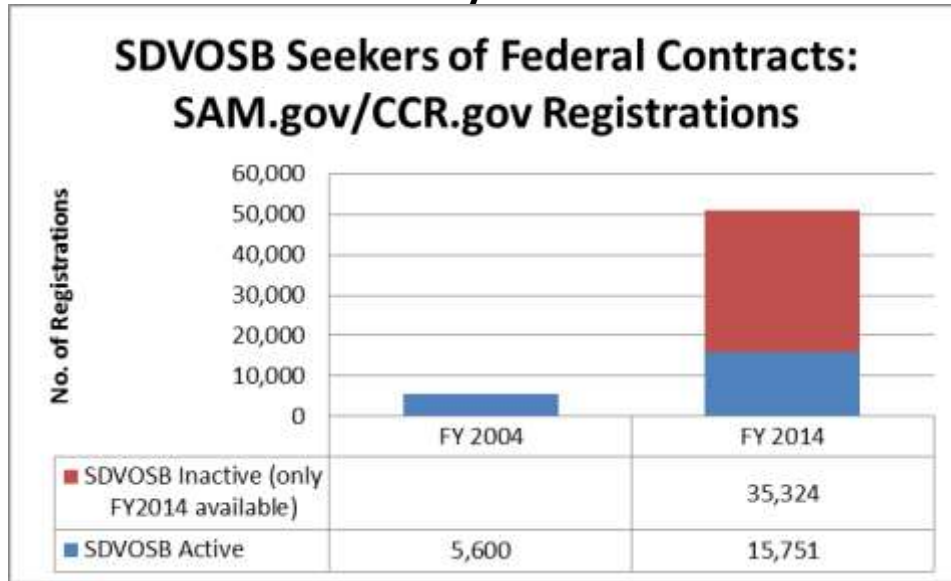
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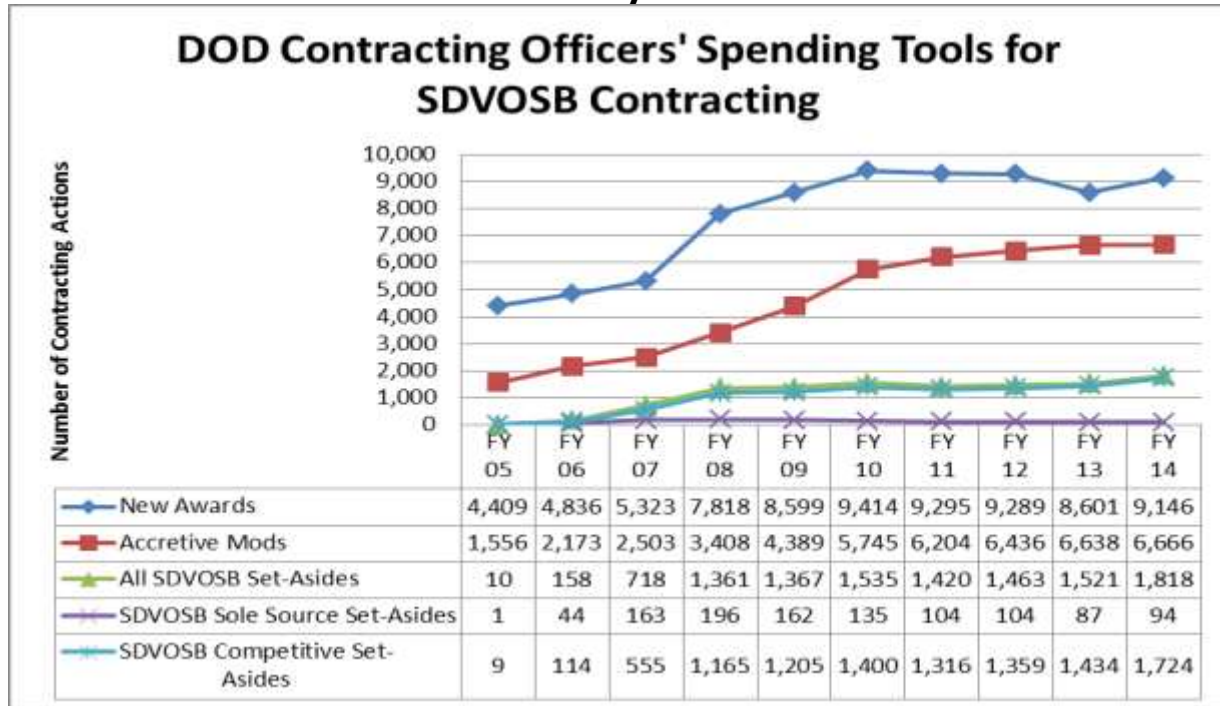
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The research highlights the need to create a growth pathway from low-dollar simplified acquisitions to more complex buys. The research also demonstrates that contracting officers have trouble deciding on when to use discretionary SDVOSB set-asides. For this reason, the research recommends a Business Development Program for SDVOSB's, government-wide.

Certification

Name of Committee Member / Organization addressing topic:

Ronald R. Aument, Committee Member; Michael J. Zacchea / CT Veterans Chamber of Commerce

Recommendation Description: Advocate for additional Veteran business certification alternatives and continue to advocate for reform with Department of VA Veteran and Service Disabled Veteran Certification process.

Name of Topic / Agenda Item being addressed: Certification

GAP Description & Current State of the Issue

What are the GAPS and/or short comings for VOB's in reference to the topic?

Gaps and/or short-comings may be summarized as follows:

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- There are disparities among federal agencies regarding requirements for VOB participation in contracting with those differing among individual agencies. Is there a compelling public policy justification for these differences?
- The verification/certification program administered by the Department of Veterans Affairs for businesses has been criticized as excessively onerous and a barrier to entry for VOB's attempting to do business with VA. Is the level of rigor applied by VA to this process consistent with the requirements of the controlling statute and public policy interests?

What is the current state / situation of the topic for VOB's?

Today there are disparities among federal agencies' certification requirements for veteran-owned and service disabled veteran-owned businesses that wish to do business with those respective agencies. The official standard for most federal agencies is self-certification as provided by SBA regulations and the FAR. Since the Department of Veterans Affairs' (VA) 2010 implementation of the PL 109-461, VOBs endeavoring to do business with VA must first undergo a rigorous, formal verification/certification process that has proven to be a barrier many veteran-owned businesses have been unable to overcome. While the VA verification process is formally limited to only those entities proposing to do business with VA, there have been reports of individual contracting officers from other agencies requiring firms bidding on SDVOSB set-asides to be listed in VA's Veteran Information Pages (VIP) database of verified VOBs.

The National Defense Authorization Act for Fiscal Year 2017, signed into law by the President on December 23, 2016 as Public Law 114-255, contained some important changes for VOBs that effect the current verification/certification process. Key provisions are: (1) it standardizes definitions in Titles 15 and 38 of the U.S. Code (SBA and VA titles) for veteran-owned small businesses (VOSBs) and service-disabled veteran-owned small businesses (SDVOSBs); (2) it requires VA to use the regulations established by the SBA for establishing ownership and control of VOSBs and SDVOSBs; and it authorizes the Office of Hearings and Appeals of the SBA to decide challenges to the status of a VOSB or SDVOSB based upon issues of ownership or control if denied VA verification and/or inclusion in VA's VIP database; it further requires VA to annually reimburse SBA for the cost of adjudicating such challenges. Implementing regulations are required on the parts of both SBA and VA, and while these changes should result in improvements to the verification/certification process, they will not address all existing program gaps.

Certification as business eligible to bid on a VOB set-aside, whether through self-certification or through the formal VA verification process, is required for all federal contracting. Self-certification is similarly required of women-owned businesses submitting bids for women-owned business federal set-asides, although the 2015 National Defense Authorization Act has mandated changes to the self-certification practice.

Through presentations to the ACVBA, it is clear there is wide interest among private businesses to expand VOB and WOB participation in their supply chains. However, just like federal agencies, private businesses would welcome some authoritative source(s) they could turn to that would help establish the bono fides of the VOB or WOB they are considering as potential sources for products

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and services. With respect to WOBs, there are established non-profit entities that have stepped in to provide such certification services.

- a) NDAA 2017 – Prohibits VA from issuing additional regulations and/or barriers regarding the ownership, control, and size status of an SDVOSB or VOSB for certification and contracting purposes. The NDAA requires VA to use regulations developed by the SBA, which apply to both federal SDVOSB programs: the SBA’s self-certification program and the VA’s verification program. - See more at: <http://smallgovcon.com/service-disabled-veteran-owned-small-businesses/sdvosb-programs-2017-ndaa-sharply-curtailed-vas-authority/#sthash.PPLX97Br.dpuf>
 - 1) Establishes a consolidated definition, which will be set forth in the Small Business Act, not the VA’s governing statutes.
 - 2) Amends the VA’s statutory authority to specify that “[t]he term ‘small business concern owned and controlled by veterans’ has the meaning given that term under . . . the Small Business Act.” A similar provision applies to the term “small business concern owned and controlled by veterans with service-connected disabilities.”
 - 3) Amends VA’s authority to specify that companies included in the VA’s VetBiz database must be “verified, using regulations issued by the Administrator of the Small Business Administration with respect to the status of the concern as a small business concern and the ownership and control of such concern.”
 - 4) States explicitly that “The Secretary [of the VA] may not issue regulations related to the status of a concern as a small business concern and the ownership and control of such small business concern.”
 - 5) The President signed the NDAA 2017 act on 23 Dec 2016
<https://obamawhitehouse.archives.gov/the-press-office/2016/12/23/statement-president-signing-national-defense-authorization-act-fiscal>
 - 6) Secretary of VA and the Administrator of the SBA have 180 days to issue joint regulation implementing the NDAA 2017 from the date of the President’s signing i.e. 23 June 2017.
 - 7) Regulations will then be opened for public comment. The finalized rule will be issued sometime after the period of public comment has been closed.
- b) Kingdomware https://www.supremecourt.gov/opinions/15pdf/14-916_6j37.pdf The operating law is The Veterans Benefits, Healthcare, and Technology Act of 2006, known at the 2006 Veterans Act.
 - 1) The case centers on a dispute between veteran business owners and the VA regarding purchases made from the GSA’s Federal Supply Schedule (FSS).

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- 2) The VA argued that purchasing off the FSS did not require agency contract officers
- 3) to research the market to find out if qualified VOSB or SDVOSB vendors supplied the items needed. Veterans argued that the “Veterans First” language in the VA Act states that the VA has a clear mandate to buy from veteran-owned vendors without further interpretation by either the agency or its contracting officers.
- 4) The Court writes that “[Section] 8127 unambiguously requires the Department (Veterans Affairs) to use the Rule of Two” before applying other procedures. The Court points out that the statute includes the word “shall,” and writes “[u]nlike the word ‘may,’ which implies discretion, the word ‘shall’ usually connotes a requirement.” Accordingly, “the Department shall (or must) prefer veteran-owned small businesses when the Rule of Two is satisfied.”

Are there specific factors responsible for the short-coming of the topic for VOB’s?

The Veterans Benefit Act of 2003 established the SDVOSB set-aside program and was augmented by Executive Order 13360 which required federal procurement officials and prime contractors to provide opportunities for SDVOSBs to increase their federal contracting and subcontracting. As the program grew over time, reports of abuses demanded examinations by GAO and the VA IG which indeed did find instances where ineligible firms had inappropriately, and in some case fraudulently, been awarded contracts. As a reaction to these findings, Congress enacted the verification requirements of PL 109-461 which were eventually implemented in 2010. After VA’s first round of verification was completed in the summer of 2011, 19,000 of the 27,000 VOBs in VA VIP database were disqualified, not because of fraud, but simply because they “had a problem with their business model,” according to the head of VA’s OSDBU.

In a hearing before the House Committee on Veterans’ Affairs on August 2, 2012, VA testified that as of July 12, 2012, VA had reduced the number of verified veteran owned businesses to 6,079 entities. VA further testified that for the entirety of FY 2011, 25 firms were referred to the VA Inspector General for investigation of possible misrepresentation. At this same hearing, VA’s Assistant Inspector General reported they had closed 48 cases since FY 2009, of which 35 were unsubstantiated, 8 lacked DOJ interest for prosecution, and 5 involved administrative remedies. All this suggested this solution may be disproportionate to the problem it was intended to solve. In a March 2016 report, GAO concluded VA has made strides to improve the verification process, but did not address the central question of disparate treatment across federal agencies and similarly situated federal contracting preference groups (i.e., SDVOSBs and WOBs).

- a) VA requires that the service-disabled veteran holding the highest officer position manage the company on a full-time basis; the SBA’s regulations do not. Following a 2013 Court of Federal Claims decision, the VA allows certain restrictions of a veterans’ ability to transfer his or her ownership, but that decision doesn’t necessarily apply to the SBA, which has held that “unconditional means unconditional,” as applied to transfer restrictions. And of

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course, the VA's regulations require formal verification; the SBA's call for self-certification. - See more at: <http://smallgovcon.com/service-disabled-veteran-owned-small-businesses/sdvosb-programs-2017-ndaa-sharply-curtailed-vas-authority/#sthash.PPLX97Br.dpuf>

- b) Rule of Two - since 1984 has implemented the statutory requirement, 15 U.S.C. § 644(a)(3), that small businesses receive “a fair proportion of the total purchases and contracts for property and services for the Government” <http://www.procurement-lawyer.com/2015/07/kingdomware-and-the-rule-of-two/>
 - 1) Federal Acquisition Regulation § 19.502-2(b) competition for Acquisitions greater than \$150,000 will be reserved exclusively for small business participation when there is a reasonable expectation of making an Award at a fair market price on offers obtained from two or more (and no less than two) responsible small business concerns. Congress has defined this required “fair proportion” as yearly minimum Government-wide percentage goals, i.e., marketplace participation for all small business concerns of “not less than 23 percent of the total value of all prime contract awards for each fiscal year,” 15 U.S.C. § 644(g)(1)(A)(i).
 - 2) The Rule of Two is invariably applied for each Acquisition over \$150,000 without regard to Government-wide attainment of the “fair proportion.” Federal Acquisition Regulation § 19.502-6, “Insufficient causes for not setting aside an acquisition,” provides at subparagraph (f) that it is not a sufficient cause for not setting aside an acquisition when “[s]mall business concerns are already receiving a fair proportion of the agency’s contracts for supplies and services,” i.e. Agencies cannot decline to undertake the Rule of Two analysis even though Government-wide restricted competition goals for a particular fiscal year have already been met.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

1. A more level playing field for VOBs seeking to do business with the federal government
2. VOBs will be treated consistently with other government contracting preference groups (e.g., WOBs) with respect to verification
3. A trusted authoritative source for authentication of VOB bono fides for any entity, public or private, that is considering doing business with a firm portraying itself as a VOB
4. NDAA 17 – explicitly transfers jurisdiction and authority for regulations for veteran certification to SBA
5. Kingdomware <http://www.washingtonexaminer.com/why-the-kingdomware-technologies-supreme-court-case-matters-to-veterans/article/2583718>

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- a. explicitly prohibits VA from requiring additional certification requirements beyond that of the original act
 - b. explicitly affirms statutory requirement for VA to favor VOBs when the Rule of Two is satisfied
6. Improve and increase competition among Veteran-owned Businesses
 7. Strict application of the Rule of Two

Who and/or what are the influencers on VOB's for this recommendation?

There are many and varied influencers relative to this recommendation, including the Executive Branch, the Legislative Branch and a host of VSOs and other interest groups.

1. Executive Branch
 - White House and OMB
 - Department of Veterans Affairs
 - Small Business Administration
2. Congress: Committees of jurisdiction for both VA and SBA; Congressional Budget Office
3. Interest Groups include a broad spectrum of Veterans Service Organizations and veterans' business advocacy groups.

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

There will likely be workload and budget impact, both plus and minus, for both SBA and VA. This will be affected by how any change is structured and funded.

What is the estimated financial impact on other entities including the SBA and other Agencies for this recommendation?

See above comment.

References

What references were used in your evaluation?

Government Accountability Office Reports

Veteran-owned Small Businesses: VA Improved Its Verification Program but Lacks an Effective Operational Plan for Ongoing Efforts – March 2016

Veteran-owned Small Businesses: Preliminary Observations on Verification Program Progress and Challenges – November 2013

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SDVOSB Programs: 2017 NDAA Sharply Curtails VA's Authority ny Steve Koprince

<http://smallgovcon.com/service-disabled-veteran-owned-small-businesses/sdvosb-programs-2017-ndaa-sharply-curtails-vas-authority/#sthash.PPLX97Br.FGsOXa0j.dpuf>

Statement by the President on Signing the National Defense Authorization Act for Fiscal Year 2017

<https://obamawhitehouse.archives.gov/the-press-office/2016/12/23/statement-president-signing-national-defense-authorization-act-fiscal>

KINGDOMWARE TECHNOLOGIES, INC. v. UNITED STATES

https://www.supremecourt.gov/opinions/15pdf/14-916_6j37.pdf

Legal Digest: The Impact of the Kingdomware Ruling

<http://www.procurement-lawyer.com/2015/07/kingdomware-and-the-rule-of-two/>

Why the Kingdomware Technologies Supreme Court case matters to veterans

<http://www.washingtonexaminer.com/why-the-kingdomware-technologies-supreme-court-case-matters-to-veterans/article/2583718>

Veteran Farmer Advocacy (Outreach, Training, Business Development)

Name of Committee Member / Organization addressing topic:

Michael J. Zacchea / CT Veterans Chamber of Commerce. Input from Michael O’Gorman, Jamie Critelli, Farmer Veteran Coalition

Recommendation Description: Promote and encourage entrepreneur training and education to Veteran and Service Disabled regarding the Veteran Farmers act in order to promote and expand Veteran Farmer businesses.

Name of Topic / Agenda Item being addressed: Veteran Farmer Advocacy, Outreach Training, Business Development

GAP Description & Current State of the Issue

What are the GAPS and/or short comings for VOB’s in reference to the topic?

What is the current state / situation of the topic for VOB’s?

- a) There are banks that are specific to agriculture such as those in the Farm Credit System. Their network covers the entire country and they have a regional footprint and have a congressional mandate to help new and underserved farmers. Fulton Bank in New York provides loans ranging from \$25,000 to 2.5MM and offers support to beginning farmers.
- b) USDA: \$466 Million in loans to almost 4000 veterans since 1999
- c) Veterans Re-entry into Agribusiness

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- a. Conservation Reserve Program for retiring farmers to sell to second career farmers
- b. Beginning Farmer and Rancher program; \$20 M program w/ 5% set-aside for veterans training
- c. AgrAbility program focuses on post 9/11 veterans w a service-connected disability
- d. Natural Resources and Conservation Service for technical assistance
- e. Non-insured Crop Disaster Relief Program for small and homestead farmers
- f. Armed to Farm by Rural Development Office of USDA
 - i. week long introductory training program for veterans and military spouses
 - ii. twice a year
- g. Value-added Grant Program for expansion
- h. National Institute for Food and Agriculture
 - i. Beginning Farmer and Rancher Development Program
 - ii. \$20 million program with 5% set-aside for non-profits promoting veteran farming
- i. Office of Advocacy and Outreach
 - i. 2501 program \$10M/year, 25% goes to organizations promoting veteran farming and ranching

Are there specific factors responsible for the short coming of the topic for VOB's?

- a) Obstacles
 - a. access to capital
 - b. access to land
 - c. training opportunities. Learning to farm is difficult for a first generation farmer.
 - d. Personal risk
- b) US farmers are “graying out” of the workforce;
- c) Some risk due to owning a business since a farmer will not be eligible for unemployment if they lose their side job
- d) The majority of American farmers need off-farm employment to make ends meet. “Farming” is a nebulous term and perhaps too utopian. A BIT of self reliance is what people want but not necessarily the fully reliant farming lifestyle.

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Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

- a) More veterans entering into agri-business post-military

Who and/or what are the influencers on VOB's for this recommendations?

- a) Federico Manno, Fulton Banking.
- b) Lanon Baccam, Deputy Undersecretary USDA; USDA's Veterans Coordinator
- c) Michael O'Gorman, Executive Director, Farmer Veteran Coalition Veterans in Agricultural Small Business Ventures.
- d) Jamie Critelli, Farmer Veteran Coalition - Agri-business Policy for Veteran Owned Small Business.

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

With the current government resources supporting agriculture business, the impact is estimated to help veterans understand and access current programs.

What is the estimated financial impact on other entities including the SBA and other Agencies for this recommendation?

- a) More efficient and effective use of monies already budgeted for veterans' transition and training programs.

References

What references were used in your evaluation?

- a) Michael O'Gorman, Jamie Critelli, Farmer Veteran Coalition
- b) CEA brief from Cornell University, Jan 2017

Mentor – Protégé - Government Contracting Business Development

Name of Committee Member / Organization addressing topic:

Ed Fielder, Committee Member, Former Chairman

Recommendation Name: Implementation of Mentor Protégé Legislation

Name of Topic: Implementation of Mentor Protégé Legislation/ Continuing Issue from 2010.

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GAP Description & Current State of the Issue

What are the gaps, short comings, specific factors for SDVOSBs in reference to the topic?

The ACVBA became aware and interested in this topic in 2012. The legislation for Mentor Protégé status for Service Disabled Veterans was first passed by Congress in the Small Business Jobs Act of 2010 and later expanded in the National Defense Authorization Act (NDAA) of 2013. The ACVBA formally added tracking and reporting on the progress of implementation of this legislation in 2013, 2014, 2015 and 2016. Progress on implementation was slow and in reality seemed to start in 2014 and essentially completed in late 2016 after the public comment period, the government comment period and final implementation being announced/ published in August 2106. Implementation is scheduled to start on October 1, 2016 with the establishment of a website for SDV Companies to apply for Mentor Protégé status. Although the committee is encouraged, we will be tracking this going forward to ensure full implementation, accessibility and reasonable ease of application, review and approval.

Information is available About All Small Business Mentor Protégé Program, Eligibility Requirements and How to Apply can be found on the Small Business Administration website at <https://www.sba.gov/contracting/government-contracting-programs/all-small-mentor-protége-program>.

Formal description of the program from the SBA website follows;

The Small Business Jobs Act of 2010 and the National Defense Authorization Act for Fiscal Year 2013 provided authority for the Small Business Administration to establish mentor-protégé programs for all small businesses. Rather than creating separate programs for each constituency – Service Disabled Veteran Owned Businesses, Women Owned Small Businesses, Historically Underutilized Business Zones- the SBA chose to create a single, all-inclusive mentor-protégé program modeled on the successful mentor-protégé program available to participants in its 8(a) program.

The purpose of the new program is to develop strong protégé firms through mentor-provided business development assistance, and to help protégés successfully compete for government contracts. Mentor-provided assistance can be sought for any, or all of the following activities:

- **Management and Technical Assistance**
Internal business management systems; accounting processes; marketing and business/strategic planning assistance; technology transfers; and manufacturing assistance.
- **Financial Assistance**
In the form of equity investments and/or loans; and bonding.

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- **Contracting Assistance**
Contracting processes; capabilities; acquisitions; and performance.
- **Trade Education**
International Trade business and strategic planning; finding markets; and learning how to export.
- **Business Development Assistance**
Strategy; and identifying contracting and partnership opportunities.
- **General and/or Administrative Assistance**
Business processes and support; human resource sharing; security clearance support; and capacity building.

What are the GAPS and/or short comings for VOB's in reference to the topic?

Congress in the Small Business Jobs Act of 2010 and the National Defense Authorization Act (NDAA) of 2013 directed the SBA to give SDV's the same status as developing 8(a) firms. The ability to enter Mentor Protégé status for developing SDV businesses adds tools that will greatly foster and assist SDV firms grow, grow wisely and be benefitted by the resources and guidance of their Mentor partners. The inability to implement this program for over 6 years greatly handicapped the resources, growth potential and status of SDV firms.

What is the current state / situation of the topic for VOB's?

The program was implemented on October 1, 2016 (see GAP Description & Current State of the Issue above). The Committee will continue to track this going forward to ensure full implementation, accessibility and reasonable ease of application, review and approval.

Are there specific factors responsible for the short coming of the topic for VOB's?

The committee has received regular briefings on this topic since 2014. Although we heard about the process of implementation and where that process was the Committee was never made aware of any reasonable cause for the ongoing delays in implementation.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

The ability to enter Mentor Protégé status for developing SDV businesses adds tools that will greatly foster and assist SDV firms to grow, to grow wisely and be benefitted by the resources and guidance of their Mentor partners. The inability to implement this program for over 6 years greatly handicapped the growth potential, maturation and status of SDV firms.

Who and/or what are the influencers on VOB's for this recommendations?

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As stated above the Committee will continue monitor the ongoing implementation of the SDV Mentor Protégé Program and provide reports annually. The SBA should act aggressively to monitor program full implementation, accessibility and reasonable ease of application, review and approval. It is hoped that the appropriate Small Business Committees of Congress will track and encourage full implementation.

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

Congress through the SBA is giving Contracting Officers in each agency one more tool for ensuring the use of SDV businesses and attainment of SDV goaling. CO's will be able to award increasingly larger, complex contracts – assured that the SDV firms that are awarded are fully resourced and mentored by their Mentors. In essence, any risk of awarding larger, complex contracts to SDV small business will be mitigated.

What is the estimated financial impact on other entities including the SBA and other Agencies for this recommendation?

The Committee is not aware from SBA briefings of any financial impact to other agencies. The only financial impact to the SBA is related to implementing and ongoing management of the program, which we believe is minimal in comparison to the benefit to SDV businesses and agency Contracting Officers.

References

What references were used in your evaluation?

Committee SBA briefings and ACBA reports from 2014 and 2015.

Business Development – Marketing

Name of Committee Member / Organization addressing topic:

Jim O'Farrell, Committee Member

Recommendation Description: Advocate for methodologies and practices of good business development and marketing skills for Veteran business owners to include Service Disabled Veteran and Veteran Owned Businesses.

Name of Topic / Agenda Item being addressed: Business Development – Marketing

GAP Description & Current State of the Issue

What are the GAPS and/or short comings for VOB's in reference to the topic?

1. Currently, there is not uniform and widely available information for VOBs on how to win business with the federal government.

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What is the current state / situation of the topic for VOB's?

1. Most agencies include specific information, such as SDVOSB eligibility requirements, on their OSDBU (OSBP) websites, while only five include links to SBA and/or the VA for program information, and one contains no material at all other than staff contact information. There is a vast difference in the quality of the information provided, placing VOBs at a distinct disadvantage with certain agencies.

Are there specific factors responsible for the short coming of the topic for VOB's?

1. The shortfalls in uniformity are clear with regards to the resources that are provided by the agencies and their OSDBU arms. A disjointed and sometimes inadequate provision of information from one agency to the next is a major barrier and pinpoint gap leading to this recommendation.

Recommendation(s) are included in the recommendations section of the report.

Expected Result of the Recommendation

What are the expected impacts and results of the recommendation for VOB's?

1. A Government-wide, user-friendly, educational and informative Veteran small business website for each OSDBU agency page that will assist first-time and existing vendors.

Who and/or what are the influencers on VOB's for this recommendation?

1. Executive Order 13360 of 2005 (E.O. 13360) (Executive Order No. 13360 of 2005, 2015) was a call to action for activities to galvanize agency efforts to increase the participation of SDVOSBs in the Federal procurement process.
2. E.O. 13360 called for “the development of a SDVOSB strategy that includes the designation of a senior level official to implement the same, and that boosts the use of SDVOSBs in direct and subcontracting actions, including the increased use of set-asides, education of potential vendors, and of agency personnel.”
3. Included were specific responsibilities for:
 - a. the SBA – create a mechanism in coordination with the VA for the dissemination of information to SDVOSBs on federal procurement (the Office of Veterans Business Development);
 - b. the GSA - the development of GWACs (Government Wide Acquisition Contracts) reserved for SDVOSBs;
 - c. DoD - for the inclusion of SDVOSB targeted training in the curriculum of the Defense Acquisition University (Service-Disabled Veteran-Owned Business Training);
 - d. the VA - in the use of Center for Veterans Enterprise (CVE) for verification;
 - e. and the DOL - in the development of a Veterans Transition Program (VETS Transition Assistance Program).

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4. E.O 13360 supports this recommendation and the outcome of this executive order should have created additional synergy and information sharing between the above-mentioned agencies and their OSDBU's. At a minimum, the port of entry for almost all SDVOSB's are the agencies web resources which should at least have consistent information to help guide the Veteran user to correct and useful information.

What are the expected impacts and results of the recommendation for the SBA or other Agencies?

1. Improved performance by VOSBs in building their businesses will result in ever-growing confidence in SBA and other Agencies.

References

What references were used in your evaluation?

SBA Veteran Business Market Research Study, August 31, 2015, Office of Veteran Business Development.