

114TH CONGRESS
2D SESSION

H. R. 5099

To establish a pilot program on partnership agreements to construct new facilities for the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mr. ASHFORD (for himself, Mr. SMITH of Nebraska, Mr. YOUNG of Iowa, Mr. WALZ, and Mr. FORTENBERRY) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To establish a pilot program on partnership agreements to construct new facilities for the Department of Veterans Affairs.

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

3 **SECTION 1. PILOT PROGRAM FOR PARTNERSHIP AGREE-**
4 **MENTS TO CONSTRUCT NEW FACILITIES FOR**
5 **THE DEPARTMENT OF VETERANS AFFAIRS.**

6 (a) IN GENERAL.—The Secretary of Veterans Affairs
7 may carry out a program under which the Secretary may
8 enter into up to 5 partnership arrangements with a State
9 or local authority, a 501(c)(3) corporation, a limited liabil-

1 ity corporation, private entity, donor or donor group, or
2 other non-Federal entity, to conduct one or more “super
3 construction projects” (as defined in section 8103 of title
4 38, United States Code), “major construction projects”
5 (as defined in section 8104 of title 38, United States
6 Code), or major construction projects to construct a new
7 cemetery, or to develop additional gravesites or columba-
8 rium niches at an existing cemetery.

9 (b) APPLICATION OF CERTAIN LAWS.—This author-
10 ity may be carried out notwithstanding any other law (in-
11 cluding section 8103(e) of the title 38, United States
12 Code), except for those Federal laws relating to environ-
13 mental and historic preservation, and the Davis-Bacon Act
14 (sections 3141 through 3148 of title 40, United States
15 Code).

16 (c) SELECTION OF PROJECTS.—The projects that the
17 Secretary may select for this program may be ones for
18 which—

19 (1)(A) Congress has appropriated partial fund-
20 ing for the designated project; or

21 (B) Veterans Affairs has identified a need for
22 the project through its long-range capital planning
23 process, by listing the project on the Major Con-
24 struction Strategic Capital Investment Planning

1 (SCIP) priority list, submitted to Congress in its an-
2 nual budget submission; and

3 (2) a non-Federal entity has or is willing to
4 enter into a formal agreement with the Secretary, to
5 independently finance and/or donate funds towards
6 the underlying project, in an amount acceptable and
7 at no additional cost to the government.

8 (d) AGREEMENTS.—Each partnership agreement for
9 regarding the designated project shall provide:

10 (1) The non-Federal entity shall conduct any
11 necessary environmental and historic preservation
12 due diligence, comply with local zoning requirements
13 (except for studies and consultations required of the
14 Department under Federal law), and obtain any per-
15 mits required before beginning construction.

16 (2) The non-Federal entity shall use Veterans
17 Affairs construction standards when designing and
18 building the project, except to the extent the Sec-
19 retary deems otherwise.

20 (3) The non-Federal entity shall form a Board
21 of Directors comprised of between 5 and 10 mem-
22 bers, and a designated Chair to oversee the Board.
23 At least 1 member of the Board shall be a Veteran
24 who is not an employee of the Department of Vet-
25 erans Affairs. The proposed or existing Board mem-

1 bers shall be required to promptly disclose any ac-
2 tual or potential conflicts to the Secretary, and must
3 agree as a condition of their appointment, to remove
4 themselves from Board membership if the Chairman
5 and Secretary agree that doing so is appropriate due
6 to an underlying apparent or existing conflict. At
7 least 1 member of the Board shall be an employee
8 of the Department of Veterans Affairs, and function
9 as a non-voting member of the Board.

10 (4) Within 180 days of inception or other time-
11 frame as the Secretary shall approve, the Board
12 shall establish a written Charter of the Board of Di-
13 rectors, to describe the roles, responsibilities, poli-
14 cies, and procedures of operation, to help ensure
15 successful project management, design, and con-
16 struction, and completion of the designated project.
17 The Board shall be responsible for overseeing the ac-
18 tivities needed to finance, design, and construct the
19 designated project for the Department. The Board
20 shall provide written updates to the Secretary re-
21 garding the status of the designated project, on oc-
22 casions and a frequency that he shall approve.

23 (5) The Board shall defer to the Secretary on
24 all matters that are inherent to the Department's
25 mission and operations, including conditional or final

1 acceptance of the designated project. The Board
2 shall not dissolve until after the Department has
3 provided its final acceptance of the completed des-
4 ignated project, plus any additional time or later
5 event that the Board of Directors and Secretary
6 shall jointly approve.

7 (e) PROJECT FUNDS.—Except as to the designated
8 project identified in subsection (j) and except to the extent
9 that Congress later provides a future appropriation of ad-
10 ditional funds to support the project, the Secretary may
11 provide funds to help finance, design, and construct the
12 designated project, in an amount not to exceed the total
13 dollars that Congress has appropriated at the time of the
14 partnership agreement between the Department and non-
15 Federal entity. The Secretary shall be permitted to provide
16 such funds under terms, conditions, and schedule that the
17 Secretary deems appropriate. The non-Federal entity shall
18 be required to contribute the balance of the funds needed
19 to complete the designated project.

20 (f) APPLICATION.—To be eligible to participate in the
21 program to be established under subsection (a), the non-
22 Federal entities shall submit to the Secretary an applica-
23 tion to address facility needs, including healthcare, as
24 identified in the Veterans Affairs Construction and Long-
25 range Capital Plan, at such time, in such manner, and

1 containing such information as the Secretary may require,
2 including the following:

3 (1) The name, resume, and experience of the
4 project manager for each designated project that the
5 non-Federal entity is proposing to pursue with the
6 Secretary under this program.

7 (2) A description of the non-Federal entity's
8 proposed monetary and non-monetary contributions
9 for the designated project, and how future funding
10 will be secured.

11 (3) A description of the process the non-Federal
12 entity would utilize to select a third party contractor
13 or developer as applicable, to perform the work nec-
14 essary to complete the designated project.

15 (4) A description of the Board of Directors and
16 project management plan that the non-Federal enti-
17 ty will use, to ensure concise and consistent commu-
18 nication of all parties involved in the project.

19 (5) A description of the procedures that the
20 non-Federal entity will utilize to review, monitor,
21 and process change orders when received, including
22 how the Department's input and feedback will be in-
23 corporated, particularly for issues that would affect
24 the time or cost of the designated project(s).

1 (6) A detailed estimate of costs to complete the
2 designated project.

3 (7) A description of the estimated timelines,
4 and milestones associated with the activities needed
5 to finance, design, and construct the designated
6 project.

7 (8) Agree to obtain an independent annual fi-
8 nancial audit of all activities and costs relating to
9 the underlying designated project, in accordance
10 with generally accepted accounting principles.

11 (9) Such other information as the Secretary
12 may require.

13 (g) COMPTROLLER GENERAL REPORT.—The Comp-
14 troller General of the United States shall submit to Con-
15 gress a biennial report on the partnership agreements en-
16 tered into under the program.

17 (h) REPORT.—The Secretary shall provide a report
18 to the Veterans Affairs Committees as part of the Depart-
19 ment's annual budget submission, upon acceptance of a
20 donation under this authority. The report shall provide a
21 detailed status of the Project, including the percentage
22 complete.

23 (i) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed as a limitation on the authority

1 of the Secretary to enter into other agreements that are
2 authorized by law and not inconsistent with this section.

3 (j) SELECTED DEPARTMENT OF VETERANS AFFAIRS
4 CONSTRUCTION PROJECT(S).—One of the 5 partnership
5 agreement projects that the Secretary is permitted to pur-
6 sue with a non-Federal entity under subsection (a) a
7 project to design, finance, and construct a new ambulatory
8 care center in Omaha, Nebraska. Any such project shall
9 include necessary space and parking as determine by the
10 Secretary. The Secretary shall be permitted to contribute
11 funds towards the project in an amount not to exceed
12 \$56,000,000, and in no event shall the Secretary's con-
13 tribution or liability exceed such amount, unless and the
14 extent that Congress later provides a future appropriation
15 of additional funds to support the project.

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