

PROTECTING BUSINESS OPPORTUNITIES FOR VETERANS
 ACT OF 2017

JULY 24, 2017.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. ROE of Tennessee, from the Committee on Veterans' Affairs,
 submitted the following

R E P O R T

[To accompany H.R. 2749]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2749) to amend title 38, United States Code, to improve the oversight of contracts awarded by the Secretary of Veterans Affairs to small business concerns owned and controlled by veterans, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	3
Subcommittee Consideration	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
Statement of General Performance Goals and Objectives	4
New Budget Authority, Entitlement Authority, and Tax Expenditures	4
Earmarks and Tax and Tariff Benefits	5
Committee Cost Estimate	5
Congressional Budget Office Estimate	5
Federal Mandates Statement	5
Advisory Committee Statement	5
Constitutional Authority Statement	5
Applicability to Legislative Branch	5
Statement on Duplication of Federal Programs	5
Disclosure of Directed Rulemaking	5
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill as Reported	6

PURPOSE AND SUMMARY

H.R. 2749, the “Protecting Business Opportunities for Veterans Act of 2017,” was introduced by Representative Jack Bergman of Michigan on May 26, 2017. H.R. 2749 would strengthen enforcement of existing restrictions on Veteran- and Service Disabled Veteran-Owned Small Businesses improperly passing through Department of Veterans Affairs (VA) contracts. An “improper pass-through” occurs when a small business obtains a contract but does not perform the required percentage of work, instead giving the work to another business while collecting profit. The legislation requires Veteran- and Service Disabled Veteran-Owned Small Businesses to certify that they are performing the required percentage of work and directs VA to refer violators or suspected violators to the VA Office of Inspector General (OIG) for investigation. Finally, the legislation references existing administrative and criminal penalties for fraudulent representation and directs the Secretary to consider whether they should apply in each case.

BACKGROUND AND NEED FOR LEGISLATION

The Small Business Act (15 U.S.C. 657s) and Part 19 of the Federal Acquisition Regulation set forth limitations on subcontracting for small businesses. A limitation on subcontracting is effectuated as a minimum percentage of work that a small business prime contractor must perform itself. The small business may not subcontract out the work, except to another small business of the same type, called a “similarly situated entity.” The percentage of work a small business is required to perform depends on whether the contract is for supplies, services, or construction. Each contracting officer awarding a particular contract is tasked with detecting violations of these limitations, called improper pass-throughs, on that contract. In practice, contracting officers lack tools to detect improper pass-throughs, and they proliferate widely. A contracting officer’s only options to demonstrate an improper pass-through are to monitor the contractor’s performance personally or to scrutinize invoices. These methods are time consuming and typically ineffectual, because it is often unclear for which company or companies employees work, invoices are vague, and the contracting officer has no ability to examine subcontractor invoices or business records.

The Veterans Benefits, Health Care, and Information Technology Act of 2006 (38 U.S.C. 8127) gave Veteran Owned Small Businesses (VOSBs) and Service Disabled Veteran Owned Small Businesses (SDVOSBs) particular preference in VA contracting, called the Rule of Two. VA must set aside contracts for competition among them, with SDVOSBs having first preference and VOSBs having second preference, when it expects that two or more such businesses will submit an offer, and the contract can be awarded at a fair and reasonable price. The Supreme Court ruled in *Kingdomware Technologies, Inc. v. United States* on June 16, 2016, that the Rule of Two applies to all VA contracting. Thus, VOSBs and SDVOSBs now receive substantially all VA contracts that are set aside for small business, so the issue of compliance with limitations on subcontracting now primarily concerns VOSBs and SDVOSBs. Improper pass-throughs are problematic, because they create unnecessary layers of profit that wastefully inflate the costs

of federal contracts. Moreover, improper pass-throughs deny law abiding VOSBs and SDVOSBs the opportunity to obtain and perform work, through which they establish agency contacts and grow their businesses.

The legislation is necessary to improve existing detection and enforcement of improper pass-throughs. Companies would be required to submit certifications with all quotes or proposals specifying the performance requirements they are subject to, indicating compliance, and acknowledging the applicability of criminal penalties for fraud or false statements. Such certification may dissuade companies from executing improper pass-throughs and would remove the excuse that a company was unaware of the specific limitation on subcontracting that applies. Explicitly tasking OIG to assist VA in investigating improper pass-throughs will bring a level of expertise and resources far above what individual contracting officers can muster.

Finally, the issue of bundling is relevant to the legislation. “Bundling” is defined in Part 2 of the Federal Acquisition Regulation as combining two or more purchases, which were previously made under separate smaller contracts, into one contract in a way that will likely render small businesses unable to perform. The practice of bundling is restricted by a variety of statutes and regulations concerning procurement. Nonetheless, agencies periodically engage in bundling after following regulatory processes to justify the bundling, or by disregarding the restrictions. It is improper for VA or any agency to engage in bundling in order to enlarge the size of contracts to make limitations on subcontracting more difficult for small businesses, including VOSBs and SDVOSBs, to comply with. Similarly, it would be improper for VA to engage in bundling in this manner in order to apply the penalties set forth in this legislation. The intent of the legislation is to detect and reduce improper pass-throughs that exist in the normal course of VA procurement activities, not pass-throughs that become improper directly as the result of bundling.

HEARINGS

There were no full Committee hearings held on H.R. 2749.

On June 29, 2017, the Subcommittee on Oversight and Investigations conducted a legislative hearing on: H.R. 2006, H.R. 2749, H.R. 2781, and a draft bill to improve the hiring, training, and efficiency of acquisition personnel and organizations of the Department of Veterans Affairs, and for other purposes (now H.R. 3169).

The following witnesses testified:

The Honorable Jack Bergman of Michigan; the Honorable Ann McLane Kuster of New Hampshire; the Honorable Mike Coffman of Colorado; the Honorable Neal Dunn of Florida; the Honorable Jimmy Panetta of California; the Honorable Bruce Poliquin of Maine; Mr. Thomas Burgess, Associate Deputy Assistant Secretary, Office of Logistics and Supply Chain Management, Department of Veterans Affairs; Mr. Thomas Leney Executive Director, Small and Veteran Business Programs, Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs; Ms. Kaitlin Gray, Assistant Director, National Veterans Employment and Education Division, The American Legion; Mr. Patrick Murray, Associate Director, Na-

tional Legislative Service, Veterans of Foreign Wars of the United States; and Mr. Wayne Simpson, Member, National Veterans Small Business Coalition.

A statement for the record was submitted by:
The Associated General Contractors of America.

SUBCOMMITTEE CONSIDERATION

On July 12, 2017, the Subcommittee on Oversight and Investigations met in open markup session, a quorum being present, and ordered H.R. 2749 reported favorably to the full Committee. A motion by Representative Ann McLane Kuster of New Hampshire to report H.R. 2749 favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE CONSIDERATION

On July 19, 2017, the full Committee met in open markup session, a quorum being present, and ordered H.R. 2749 reported favorably to the House of Representatives by voice vote. A motion by Representative Tim Walz of Minnesota to report H.R. 2749 favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 2749 reported to the House.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to ensure the Secretary of Veterans Affairs has the sufficient mechanisms to identify, investigate, and penalize businesses that improperly utilize contracting set-asides meant for the performance of work by Veteran- and Service Disabled Veteran-Owned Small Businesses.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

A Congressional Budget Office (CBO) report was not available at the time this report was filed. The Committee believes that there is no new budget authority, entitlement authority, or tax expenditures.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2749 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

A CBO report was not available at the time this report was filed. The Committee believes that there are no effects on direct spending or revenues.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

A CBO report was not available at the time this report was filed. CBO has preliminarily estimated that there are no effects on direct spending or revenues.

FEDERAL MANDATES STATEMENT

A CBO report was not available at the time this report was filed. The Committee believes that there are no Federal mandates.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 2749.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 2749 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 2749 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2749 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), H.R. 2749 contains no directed rule making that would require the Secretary to prescribe regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 cites the short title of H.R. 2749 to be the “Protecting Business Opportunities for Veterans Act of 2017.”

Section 2. Limitations on subcontracts under contracts with small business concerns owned and controlled by veterans

Section 2(a) would amend section 8127 of title 38, U.S.C., by redesignating subsection (l) as subsection (m) and inserting a new subsection (l) entitled, “Limitations on Subcontracting.”

Section 8127(l)(1) would dictate that the requirements applicable to a covered small business concern under section 46 of the Small Business Act also apply with respect to a Veteran- or Service Disabled Veteran-Owned Small Business under this Section. The term “similarly situated entity” used in section 46 of the Small Business Act would also include a Veteran- or Service Disabled Veteran-Owned Small Business subcontracted by another Veteran- or Service Disabled Veteran-Owned Small Business.

Section 8127(l)(2) would only allow the Secretary to award a contract under Section 8127 after obtaining a certification from the offeror that it will comply with the requirements described in Section 8127(l)(1). The certification must specify the exact performance requirements applicable under Section 8127(l)(1) and explicitly acknowledge that the certification is subject to the penalties described in section 1001 of title 18, U.S.C.

Section 8127(l)(3) would require VA’s Director of Small and Disadvantaged Business Utilization and its Chief Acquisition Officer to jointly implement a process using the systems described in section 16(g)(2) of the Small Business Act, and any other relevant systems available, to monitor compliance with this subsection and jointly refer any violations or suspected violations to the VA Office of Inspector General. This Section would further require any small business concern that the Secretary determines, in consultation with the Office of Inspector General, did not act in good faith with respect to the requirements described in Section 8127(l)(1), to receive any or all of the following: (i) referral to the VA Debarment and Suspension Committee; (ii) a fine under section 16(g)(1) of the Small Business Act; and (iii) prosecution for violating section 1001 of title 18, U.S.C. The VA Office of Inspector General would also be required by this Section to submit a report to the House and Senate Committees on Veterans’ Affairs detailing, for the fiscal year during which the report is submitted, (i) the number of referred violations and suspected violations received under this Section; and (ii) the disposition of same, including the number of small business concerns suspended or debarred from Federal contracting or referred to the Attorney General for prosecution.

Section 2(b) would make the new subsection (l) created by Section 2(a) of this legislation effective with respect to any contract entered into after the date of enactment of this legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

* * * * *

SUBCHAPTER II—PROCUREMENT AND SUPPLY

* * * * *

§ 8127. Small business concerns owned and controlled by veterans: contracting goals and preferences

(a) **CONTRACTING GOALS.**—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—

(A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and

(B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).

(2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.

(3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

(4) The Secretary shall establish a review mechanism to ensure that, in the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

(b) **USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold (as defined in section 134 of title 41), a contracting officer of the Department may use procedures other than competitive procedures.

(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 134 of title 41) but will not exceed \$5,000,000; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

(d) **USE OF RESTRICTED COMPETITION.**—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

(e) **ELIGIBILITY OF SMALL BUSINESS CONCERNS.**—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by the Secretary under subsection (f).

(f) **DATABASE OF VETERAN-OWNED BUSINESSES.**—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans and the veteran owners of such business concerns.

(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran. Application for inclusion in the database shall constitute permission under section 552a of title 5 (commonly referred to as the Privacy Act) for the Secretary to access such personal information maintained by the Secretary as may be

necessary to verify the information contained in the application.

(B) If the Secretary receives an application for inclusion in the database from an individual whose status as a veteran cannot be verified because the Secretary does not maintain information with respect to the veteran status of the individual, the Secretary may not include the small business concern owned and controlled by the individual in the database maintained by the Secretary until the Secretary receives such information as may be necessary to verify that the individual is a veteran.

(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

(4) No small business concern may be listed in the database until the Secretary has verified that—

(A) the small business concern is owned and controlled by veterans; and

(B) in the case of a small business concern for which the person who owns and controls the concern indicates that the person is a veteran with a service-connected disability, that the person is a veteran with a service-connected disability.

(5) The Secretary shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database.

(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

(8)(A) If a small business concern is not included in the database because the Secretary does not verify the status of the concern as a small business concern or the ownership or control of the concern, the concern may appeal the denial of verification to the Office of Hearings and Appeals of the Small Business Administration (as established under section 5(i) of the Small Business Act). The decision of the Office of Hearings and Appeals shall be considered a final agency action.

(B)(i) If an interested party challenges the inclusion in the database of a small business concern owned and controlled by veterans or a small business concern owned and controlled by veterans with service-connected disabilities based on the status of the concern as a small business concern or the ownership or control of the concern, the challenge shall be heard by the Office of Hearings and Appeals of the Small Business Administration as described in subparagraph (A). The decision of the Office of Hearings and Appeals shall be considered final agency action.

(ii) In this subparagraph, the term “interested party” means—

(I) the Secretary; or

(II) in the case of a small business concern that is awarded a contract, the contracting officer of the Department or another small business concern that submitted an offer for the contract that was

awarded to the small business concern that is the subject of a challenge made under clause (i).

(C) For each fiscal year, the Secretary shall reimburse the Administrator of the Small Business Administration in an amount necessary to cover any cost incurred by the Office of Hearings and Appeals of the Small Business Administration for actions taken by the Office under this paragraph. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget.

(g) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—(1) Any business concern that is determined by the Secretary to have willfully and intentionally misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a period of not less than five years.

(2) In the case of a debarment under paragraph (1), the Secretary shall commence debarment action against the business concern by not later than 30 days after determining that the concern willfully and intentionally misrepresented the status of the concern as described in paragraph (1) and shall complete debarment actions against such concern by not later than 90 days after such determination.

(3) The debarment of a business concern under paragraph (1) includes the debarment of all principals in the business concern for a period of not less than five years.

(h) TREATMENT OF BUSINESSES AFTER DEATH OF VETERAN-OWNER.—(1) Subject to paragraph (3), if the death of a veteran causes a small business concern to be less than 51 percent owned by one or more veterans, the surviving spouse of such veteran who acquires ownership rights in such small business concern shall, for the period described in paragraph (2), be treated as if the surviving spouse were that veteran for the purpose of maintaining the status of the small business concern as a small business concern owned and controlled by veterans.

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

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

(B) The date on which the surviving spouse relinquishes an ownership interest in the small business concern.

(C) The date that is ten years after the date of the veteran's death.

(3) Paragraph (1) only applies to a surviving spouse of a veteran with a service-connected disability rated as 100 percent disabling or who dies as a result of a service-connected disability.

(i) **PRIORITY FOR CONTRACTING PREFERENCES.**—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority:

(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by paragraph (1).

(3) Contracts awarded pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

(B) section 31 of such Act (15 U.S.C. 657a).

(4) Contracts awarded pursuant to any other small business contracting preference.

(j) **APPLICABILITY OF REQUIREMENTS TO CONTRACTS.**—(1) If after December 31, 2008, the Secretary enters into a contract, memorandum of understanding, agreement, or other arrangement with any governmental entity to acquire goods or services, the Secretary shall include in such contract, memorandum, agreement, or other arrangement a requirement that the entity will comply, to the maximum extent feasible, with the provisions of this section in acquiring such goods or services.

(2) Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided under the Small Business Act (15 U.S.C. 631 et seq.).

(k) **ANNUAL REPORTS.**—Not later than December 31 each year, the Secretary shall submit to Congress a report on small business contracting during the fiscal year ending in such year. Each report shall include, for the fiscal year covered by such report, the following:

(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(3) The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(4) The percentage of the total amount of all contracts awarded by each such Administration during that fiscal year that were awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(l) **LIMITATIONS ON SUBCONTRACTING.**—(1)(A) *The requirements applicable to a covered small business concern under section 46 of the Small Business Act (15 U.S.C. 657s) shall apply with respect to a small business concern owned and controlled by veterans that is awarded a contract under this section.*

(B) *For purposes of applying the requirements of section 46 of the Small Business Act (15 U.S.C. 657s) pursuant to subparagraph (A), the term “similarly situated entity” used in such section 46 includes*

a subcontractor for a small business concern owned and controlled by veterans described in such subparagraph (A).

(2) The Secretary may award a contract under this section only after the Secretary obtains from the offeror a certification that the offeror will comply with the requirements described in paragraph (1)(A) if awarded the contract. Such certification shall—

(A) specify the exact performance requirements applicable under such paragraph; and

(B) explicitly acknowledge that the certification is subject to section 1001 of title 18.

(3)(A) The Director of Small and Disadvantaged Business Utilization for the Department, established pursuant to section 15(k) of the Small Business Act (15 U.S.C. 644(k)), and the Chief Acquisition Officer of the Department, established pursuant to section 1702 of title 41, shall jointly implement a process using the systems described in section 16(g)(2) of the Small Business Act (15 U.S.C. 645(g)(2)), and any other relevant systems available, to monitor compliance with this subsection.

(B) The Director of Small and Disadvantaged Business Utilization and the Chief Acquisition Officer shall jointly refer any violations or suspected violations of this subsection to the Inspector General of the Department.

(C) If the Secretary determines, in consultation with the Inspector General of the Department, that a small business concern that is awarded a contract under this section did not act in good faith with respect to the requirements described in paragraph (1)(A), the small business concern shall be subject to any or all of the following consequences—

(i) referral to the Debarment and Suspension Committee of the Department;

(ii) a fine under section 16(g)(1) of the Small Business Act (15 U.S.C. 645(g)(1)); and

(iii) prosecution for violating section 1001 of title 18.

(D) Not later than November 30 of each year, the Inspector General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report for the fiscal year preceding the fiscal year during which the report is submitted that includes, for the fiscal year covered by the report—

(i) the number of referred violations and suspected violations received under subparagraph (B); and

(ii) the disposition of such referred violations, including the number of small business concerns suspended or debarred from Federal contracting or referred to the Attorney General for prosecution.

[1] (m) DEFINITIONS.—In this section:

(1) The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term “small business concern owned and controlled by veterans” means a small business concern—

(A)(i) not less than 51 percent of which is owned by one or more veterans or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(ii) the management and daily business operations of which are controlled by one or more veterans; or
(B) not less than 51 percent of which is owned by one or more veterans with service-connected disabilities that are permanent and total who are unable to manage the daily business operations of such concern or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more such veterans.

* * * * *

