

116TH CONGRESS
1ST SESSION

H. R. 1615

IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2019

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

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

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

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

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

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

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

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

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

12 (1) in subsection (e)—

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

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

17 (2) in subsection (f)—

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

22 (B) in paragraph (1), by striking “small
23 business concerns owned and controlled by vet-
24 erans with service-connected disabilities” each
25 place such term appears and inserting “small

1 business concerns owned and controlled by serv-
2 ice-disabled veterans”;

3 (C) in paragraph (2)—

4 (i) in subparagraph (A), by striking
5 “to access” and inserting “to obtain from
6 the Secretary of Veterans Affairs”; and

7 (ii) by striking subparagraph (B) and
8 inserting the following:

9 “(B) For purposes of this subsection—

10 “(i) the Secretary of Veterans Affairs shall—

11 “(I) verify an individual’s status as a vet-
12 eran or a service-disabled veteran; and

13 “(II) establish a system to permit the Ad-
14 ministrator to access, but not alter, such
15 verification; and

16 “(ii) the Administrator shall verify—

17 “(I) the status of a business concern as a
18 small business concern; and

19 “(II) the ownership and control of such
20 business concern.

21 “(C) The Administrator may not certify a concern
22 under subsection (b) or section 36A if the Secretary of
23 Veterans Affairs cannot provide the verification described
24 under subparagraph (B)(i)(I).”;

25 (D) by striking paragraphs (4) and (7);

1 (E) by redesignating paragraphs (5) and
2 (6) as paragraphs (4) and (5), respectively, and
3 redesignating paragraph (8) as paragraph (6);

4 (F) in paragraph (4), as so redesignated,
5 by striking “The Secretary” and inserting “The
6 Administrator”; and

7 (G) in paragraph (6), as so redesignated—

8 (i) in subparagraph (A)—

9 (I) by striking “verify the status
10 of the concern as a small business
11 concern or the ownership or control of
12 the concern” and inserting “certify
13 the status of the concern as a small
14 business concern owned and controlled
15 by veterans (under section 36A) or a
16 small business concern owned and
17 controlled by service-disabled veterans
18 (under section 36(g))”; and

19 (II) by striking “verification”
20 and inserting “certification”;

21 (ii) in subparagraph (B)—

22 (I) in clause (i), by striking
23 “small business concern owned and
24 controlled by veterans with service-
25 connected disabilities” and inserting

1 “small business concern owned and
2 controlled by service-disabled vet-
3 erans”; and

4 (II) in clause (ii)—

5 (aa) by amending subclause

6 (I) to read as follows:

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

9 (bb) in subclause (II), by
10 striking “the contracting officer
11 of the Department” and inserting
12 “the applicable contracting offi-
13 cer”; and

14 (iii) by striking subparagraph (C);

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

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

19 “(k) ANNUAL TRANSFER FOR CERTIFICATION
20 COSTS.—For each fiscal year, the Secretary of Veterans
21 Affairs shall reimburse the Administrator in an amount
22 necessary to cover any cost incurred by the Administrator
23 for certifying small business concerns owned and con-
24 trolled by veterans that do not qualify as small business
25 concerns owned and controlled by service-disabled veterans

1 for the Secretary for purposes of this section and section
2 8128 of this title. The Administrator is authorized to ac-
3 cept such reimbursement. The amount of any such reim-
4 bursement shall be determined jointly by the Secretary
5 and the Administrator and shall be provided from fees col-
6 lected by the Secretary under multiple-award schedule
7 contracts. Any disagreement about the amount shall be
8 resolved by the Director of the Office of Management and
9 Budget.”; and

10 (5) subsection (l) (relating to definitions), as so
11 redesignated, by adding at the end the following:

12 “(4) The term Administrator means the Admin-
13 istrator of the Small Business Administration.”.

14 (b) TRANSFER OF REQUIREMENTS RELATING TO
15 DATABASE TO THE SMALL BUSINESS ACT.—Effective on
16 the transfer date, subsection (f) of section 8127 of title
17 38, United States Code (as amended by subsection (a)),
18 is transferred to section 36 of the Small Business Act (15
19 U.S.C. 657f), inserted so as to appear after subsection (e).

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

22 (1) SMALL BUSINESS ACT.—Section
23 3(q)(2)(C)(i)(III) of the Small Business Act (15
24 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking

1 “section 8127(f) of title 38, United States Code”
2 and inserting “section 36”.

3 (2) TITLE 38.—Section 8128 of title 38, United
4 States Code, is amended by striking “section
5 8127(f) of this title” and inserting “section 36 of
6 the Small Business Act”.

7 **SEC. 4. ADDITIONAL REQUIREMENTS FOR DATABASE.**

8 (a) ADMINISTRATION ACCESS TO DATABASE BEFORE
9 THE TRANSFER DATE.—During the period between the
10 date of the enactment of this Act and the transfer date,
11 the Secretary of Veterans Affairs shall provide the Admin-
12 istrator of the Small Business Administration with access
13 to the contents of the database described under section
14 8127(f) of title 38, United States Code.

15 (b) RULE OF CONSTRUCTION.—Nothing in this Act
16 or the amendments made by this Act may be construed—

17 (1) as prohibiting the Administrator of the
18 Small Business Administration from combining the
19 contents of the database described under section
20 8127(f) of title 38, United States Code, with other
21 databases maintained by the Administration; or

22 (2) as requiring the Administrator to use any
23 system or technology related to the database de-
24 scribed under section 8127(f) of title 38, United
25 States Code, on or after the transfer date to comply

1 with the requirement to maintain a database under
2 subsection (f) of section 36 of the Small Business
3 Act (as transferred pursuant to section 3(b) of this
4 Act).

5 (c) RECOGNITION OF THE ISSUANCE OF JOINT REG-
6 ULATIONS.—The date specified under section 1832(e) of
7 the National Defense Authorization Act for Fiscal Year
8 2017 (15 U.S.C. 632 note) shall be deemed to be October
9 1, 2018.

10 **SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS**
11 **CONCERNS OWNED AND CONTROLLED BY**
12 **SERVICE-DISABLED VETERANS.**

13 (a) PROCUREMENT PROGRAM FOR SMALL BUSINESS
14 CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-
15 ABLED VETERANS.—Section 36 of the Small Business Act
16 (15 U.S.C. 657f) is amended—

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

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

20 (3) by inserting before subsection (e), as so re-
21 designated, the following:

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

1 “(b) CERTIFICATION OF SMALL BUSINESS CON-
2 CERNS OWNED AND CONTROLLED BY SERVICE-DISABLED
3 VETERANS.—With respect to a procurement program or
4 preference established under this Act that applies to prime
5 contractors, the Administrator shall—

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

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

11 (4) in subsection (d), as so redesignated, by
12 striking “and that the award can be made at a fair
13 market price” and inserting “, that the award can
14 be made at a fair market price, and if each concern
15 is certified by the Administrator as a small business
16 concern owned and controlled by service-disabled
17 veterans”;

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

19 “(g) CERTIFICATION REQUIREMENT.—Notwith-
20 standing subsection (c), a contracting officer may only
21 award a sole source contract to a small business concern
22 owned and controlled by service-disabled veterans or a
23 contract on the basis of competition restricted to small
24 business concerns owned and controlled by service-disabled
25 veterans if such a concern is certified by the Administrator

1 as a small business concern owned and controlled by serv-
2 ice-disabled veterans.

3 “(h) ENFORCEMENT; PENALTIES.—

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

7 “(A) the filing, investigation, and disposi-
8 tion by the Administration of any challenge to
9 the eligibility of a small business concern to re-
10 ceive assistance under this section (including a
11 challenge, filed by an interested party, relating
12 to the veracity of a certification made or infor-
13 mation provided to the Administration by a
14 small business concern under subsection (b));
15 and

16 “(B) verification by the Administrator of
17 the accuracy of any certification made or infor-
18 mation provided to the Administration by a
19 small business concern under subsection (b).

20 “(2) EXAMINATIONS.—

21 “(A) EXAMINATION OF APPLICANTS.—The
22 procedures established under paragraph (1)
23 shall provide for a program of examinations by
24 the Administrator of any small business concern
25 making a certification or providing information

1 to the Administrator under subsection (b), to
2 determine the veracity of any statements or in-
3 formation provided as part of such certification
4 or otherwise provided under subsection (b).

5 “(B) EXAMINATION OF CERTIFIED CON-
6 CERNS.—The procedures established under
7 paragraph (1) shall provide for the examination
8 of risk-based samples of small business con-
9 cerns certified under subsection (b), or of any
10 small business concern that the Administrator
11 believes poses a particular risk or with respect
12 to which the Administrator receives specific and
13 credible information alleging that the small
14 business concern no longer meets eligibility re-
15 quirements to be certified as a small business
16 concern owned and controlled by service-dis-
17 abled veterans.

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

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

3 “(B) sections 3729 through 3733 of title
4 31, United States Code; and

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

7 “(i) PROVISION OF DATA.—Upon the request of the
8 Administrator, the head of any Federal department or
9 agency shall promptly provide to the Administrator such
10 information as the Administrator determines to be nec-
11 essary to carry out subsection (b) or to be able to certify
12 the status of the concern as a small business concern
13 owned and controlled by veterans under section 36A.”.

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

17 (1) in subsection (d)(1)—

18 (A) by striking “, a” and inserting “, a
19 ‘small business concern owned and controlled by
20 service-disabled veterans’, a ‘small business con-
21 cern owned and controlled by veterans’, a”;

22 (B) in paragraph (A), by striking “9, 15,
23 or 31” and inserting “8, 9, 15, 31, 36, or
24 36A”; and

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

5 **SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS**
6 **OWNED AND CONTROLLED BY VETERANS.**

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

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

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

15 “(1) certify the status of the concern as a
16 ‘small business concern owned and controlled by vet-
17 erans’; and

18 “(2) require the periodic recertification of such
19 status.

20 “(b) ENFORCEMENT; PENALTIES.—

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

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

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

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

12 “(2) EXAMINATION OF APPLICANTS.—The pro-
13 cedures established under paragraph (1) shall pro-
14 vide for a program of examinations by the Adminis-
15 trator of any small business concern making a cer-
16 tification or providing information to the Adminis-
17 trator under subsection (a), to determine the verac-
18 ity of any statements or information provided as
19 part of such certification or otherwise provided
20 under subsection (a).

21 “(3) PENALTIES.—In addition to the penalties
22 described in section 16(d), any small business con-
23 cern that is determined by the Administrator to have
24 misrepresented the status of that concern as a small

1 business concern owned and controlled by veterans
2 for purposes of subsection (a), shall be subject to—

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

5 “(B) sections 3729 through 3733 of title
6 31, United States Code; and

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

9 **SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**
10 **CERNS OWNED AND CONTROLLED BY SERV-**
11 **ICE-DISABLED VETERANS.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, any small business concern that self-certified
14 as a small business concern owned and controlled by serv-
15 ice-disabled veterans shall—

16 (1) if the concern files a certification applica-
17 tion with the Administrator of the Small Business
18 Administration before the end of the 1-year period
19 beginning on the transfer date, maintain such self-
20 certification until the Administrator makes a deter-
21 mination with respect to such certification; and

22 (2) if the concern does not file such a certifi-
23 cation application before the end of the 1-year pe-
24 riod beginning on the transfer date, lose, at the end
25 of such 1-year period, any self-certification of the

1 concern as a small business concern owned and con-
2 trolled by service-disabled veterans.

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

7 (c) NOTICE.—The Administrator shall notify any
8 small business concern that self-certified as a small busi-
9 ness concern owned and controlled by service-disabled vet-
10 erans about the requirements of this Act, including the
11 transfer date and any extension of such transfer date
12 made pursuant to section 2, and make such notice publicly
13 available, on—

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

15 (2) the date on which an extension described
16 under section 2 is approved.

17 **SEC. 8. TRANSFER OF THE CENTER FOR VERIFICATION**
18 **AND EVALUATION OF THE DEPARTMENT OF**
19 **VETERANS AFFAIRS TO THE SMALL BUSI-**
20 **NESS ADMINISTRATION.**

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

1 (b) TRANSFER OF FUNCTIONS.—All functions that,
2 immediately before the effective date of this section, were
3 functions of the Center for Verification and Evaluation
4 shall—

5 (1) on the date of enactment of this Act, be
6 functions of both the Center for Verification and
7 Evaluation and the Small Business Administration,
8 except that the Small Business Administration shall
9 not have any authority to carry out any verification
10 functions of the Center for Verification and Evalua-
11 tion; and

12 (2) on the transfer date, be functions of the
13 Small Business Administration.

14 (c) TRANSFER OF ASSETS.—So much of the per-
15 sonnel, property, and records employed, used, held, avail-
16 able, or to be made available in connection with a function
17 transferred under this section shall be available to the
18 Small Business Administration at such time or times as
19 the President directs for use in connection with the func-
20 tions transferred.

21 (d) REFERENCES.—Any reference in any other Fed-
22 eral law, Executive order, rule, regulation, or delegation
23 of authority, or any document of or pertaining to a func-
24 tion of the Center for Verification and Evaluation that is

1 transferred under this section is deemed, after the transfer
2 date, to refer to the Small Business Administration.

3 **SEC. 9. REPORT.**

4 Not later than the end of the 1-year period beginning
5 on the date of the enactment of this Act, and every 6
6 months thereafter until the transfer date, the Adminis-
7 trator of the Small Business Administration and Secretary
8 of Veterans Affairs shall jointly issue a report to the Com-
9 mittees on Appropriations, Small Business, and Veterans'
10 Affairs of the House of Representatives and the Commit-
11 tees on Appropriations, Small Business and Entrepreneur-
12 ship, and Veterans' Affairs of the Senate on the planning
13 for the transfer of functions and property required under
14 this Act and the amendments made by this Act on the
15 transfer date. Such report shall include—

16 (1) whether and how the verification database
17 and operations of the Center for Verification and
18 Evaluation of the Department of Veterans Affairs
19 will be incorporated into the existing certification
20 database of the Small Business Administration;

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

23 (A) already verified concerns that will
24 come up for recertification; and

