

One Hundred Sixteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and twenty*

An Act

To amend title 38, United States Code, to provide for an exception to certain small business contracting requirements applicable to the Department of Veterans Affairs procurement of certain goods and services covered under the Ability One program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Veterans Affairs Contracting Preference Consistency Act of 2020”.

SEC. 2. EXCEPTION TO DEPARTMENT OF VETERANS AFFAIRS SMALL BUSINESS CONTRACTING REQUIREMENT FOR CERTAIN GOODS AND SERVICES COVERED UNDER ABILITY ONE PROGRAM.

(a) IN GENERAL.—Subsection (d) of section 8127 of title 38, United States Code, is amended—

(1) by striking “Except” and inserting “(1) Except”;

(2) by inserting “in paragraph (2) and” before “in subsections (b) and (c)”; and

(3) by adding at the end the following new paragraph:
“(2)(A) Notwithstanding paragraph (1) and except as provided by subparagraph (B) of this paragraph, with respect to the procurement of a covered product or service, a contracting officer of the Department shall procure such product or service from a source designated under chapter 85 of title 41, and in accordance with the regulations prescribed under such chapter.

“(B)(i) Subject to clause (ii), subparagraph (A) shall not apply in the case of a covered product or service for which a contract was—

“(I) awarded under paragraph (1) after December 22, 2006;
and

“(II) in effect on the day before the date of the enactment of the Department of Veterans Affairs Contracting Preference Consistency Act of 2020.

“(ii) Clause (i) shall cease to apply to a covered product or service described in such clause upon a determination of the Secretary that when the current contract for the covered product or service is terminated or expires there is no reasonable expectation that—

“(I) two or more small business concerns owned and controlled by veterans will submit offers as described in paragraph (1); and

“(II) the award can be made at a fair and reasonable price that offers best value to the United States.

“(C) In this paragraph, the term ‘covered product or service’ means—

“(i) a product or service that—

“(I) is included on the procurement list under section 8503(a) of title 41; and

“(II) was included on such procurement list on or before December 22, 2006; or

“(ii) a product or service that—

“(I) is a replacement for a product or service described under clause (i);

“(II) is essentially the same and meeting the same requirement as the product or service being replaced; and

“(III) a contracting officer determines meets the quality standards and delivery schedule of the Department.”.

(b) CONFORMING AMENDMENTS.—Such section is further amended in each of subsections (b) and (c), by striking “For” and inserting “Except as provided in subsection (d)(2), for”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a contract entered into on or after the date of the enactment of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*