H. R. 561

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2019

Mr. BERGMAN (for himself, Ms. KUSTER of New Hampshire, and Mr. DUNN) introduced the following bill; which was referred to the Committee on Veterans’ Affairs

A BILL

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.

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. SHORT TITLE.
4 This Act may be cited as the “Protecting Business
5 Opportunities for Veterans Act of 2019”.
SEC. 2. LIMITATIONS ON SUBCONTRACTS UNDER CONTRACTS WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

(a) In general.—Section 8127 of title 38, United States Code, is amended—
(1) by redesignating subsection (k) as subsection (l); and
(2) by inserting after subsection (j) the following new subsection (k):

“(k) 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. In the case of a contract which is principally for supplies from a regular dealer in such supplies and for which the Administrator of the Small Business Administration has granted a waiver pursuant to subsection (a)(4)(B) of such section, a small business concern owned and controlled by veterans that is awarded such a contract under this section may not expend on subcontractors more than 50 percent of the amount paid to the concern under the contract.

“(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

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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 re-
quirements described in paragraph (1)(A), the small busi-
ness 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 for each of fiscal
years 2020 through 2024, the Inspector General shall sub-
mit 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 sub-
mitted that includes, for the fiscal year covered by the re-
port—

“(i) the number of referred violations and sus-
ppected violations received under subparagraph (B); and

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

(b) APPLICATION.—Subsection (k) of section 8127 of title 38, United States Code, as added by subsection (a), shall apply with respect to a contract entered into after the date of the enactment of this Act.