

Federal Contracting by Veteran-Owned Small Businesses: An Overview and Analysis of Contemporary Issues

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Since the passage of P.L. 93-237 in 1974, which instructed the Small Business Administration (SBA) to give “special consideration to veterans of the Armed Forces of the United States and their survivors or dependents,” the agency has taken a lead in federal efforts to support veteran-owned small businesses (VOSBs) and veterans who want to become business owners. This statute led to outreach and technical assistance services tailored to VOSBs. Later legislation created the Service-Disabled Veteran-Owned Small Business (SDVOSB) contracting program. That program, for eligible service-disabled veteran-owned small businesses (SDVOSBs), is among the small handful of federal small business contracting programs that provide contracting preferences to certain types of small businesses (e.g., the 8(a) Business Development Program and HUBZone programs).

Congress authorized a government-wide procurement goal of awarding at least 3% of federal contract award dollars to SDVOSBs each fiscal year through the Veterans Entrepreneurship and Small Business Development Act of 1999. The Veterans Benefits Act of 2003 authorized contracting officers at federal agencies to limit competition for contracts for SDVOSBs under certain circumstances, in order to help the government reach its 3% goal. Since then, the goal was increased to 5% by P.L. 118-31, the National Defense Authorization Act for Fiscal Year 2024. No government-wide procurement goal or preferences for nondisabled veteran-owned small businesses (VOSBs) exist, although the Department of Veterans Affairs (VA) administers a unique program limited to its agency, known as Veterans First.

Economic data from the U.S. Bureau of Labor Statistics and U.S. Census Bureau indicate that veterans generally have lower unemployment relative to the general population and also tend to be well represented among businesses owners and the self-employed. However, some data suggest that younger veterans are not undertaking entrepreneurship at the same rates as prior cohorts, which could signal fewer veteran business owners in the future. Veterans comprised approximately 5% of the overall civilian labor force aged 18 to 64 years in 2019, comparable to their share of business owners.

Congress may consider enhancing contracting opportunities for VOSBs not only to encourage veterans’ entrepreneurship, but to support veterans more broadly. For instance, nondisabled veterans interested in employment via business ownership currently receive no federal benefit comparable to federal agency hiring preferences. One option for congressional consideration includes creation of a government-wide VOSB procurement goal beyond the agency-specific program at the VA. Alternatively, congress may determine that veterans’ relative economic circumstances do not justify contracting preferences or that an additional small business contracting preference program would impede small businesses currently eligible for preferences, or burden agencies implementing existing preference programs.

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Introduction

Congress's interest in promoting small business contracting dates back to the end of World War II and the outbreak of the Korean War, when war-induced shortages of materials, coupled with an inability to obtain defense contracts or financial assistance, threatened thousands of small businesses.¹ In 1953, Congress passed, and President Dwight D. Eisenhower signed into law, the Small Business Act (P.L. 83-163), authorizing the U.S. Small Business Administration (SBA). The Small Business Act specifies that it is Congress's declared policy to promote the interests of small businesses to "preserve free competitive enterprise."² Since 1953, Congress has imposed requirements on the federal procurement process to help small businesses receive a fair proportion of federal contracts and subcontracts, primarily by establishing federal procurement goals and various contracting preferences—including restricted competitions (set-asides) and sole source awards—for small businesses.³

Several federal small business contracting programs (e.g., the 8(a) Business Development Program and HUBZone programs) provide contracting preferences to small businesses, including service-disabled veteran-owned small businesses (SDVOSBs).⁴ The federal government has a government-wide procurement goal of awarding at least 5% of federal contract award dollars to SDVOSBs each fiscal year.⁵ Contracting officers at federal agencies may limit competition for contracts for SDVOSBs under certain circumstances in order to help the government reach its goal. Although no government-wide procurement goal for nondisabled veteran-owned small businesses (VOSBs) exists, the Department of Veterans Affairs (VA) administers a unique program limited to its agency known as the Veterans First program, which provides contracting preferences to VOSBs.

This report provides information on the existing landscape of federal programs supporting VOSB contractors, including SDVOSBs. It covers the procurement goals, regulations, and contract award priorities that apply to these businesses and offers an overview of the available data on these firms. It discusses the oversight issues affecting the SDVOSB contracting program and the VA's contracting program. The final sections of the report discuss issues of congressional interest, including considerations for the expansion of procurement preferences to VOSBs.

¹ U.S. Congress, Senate Select Committee on Small Business, *Small Business Administration*, committee print, 83rd Cong., 1st sess., August 10, 1953 (Washington, DC: GPO, 1953), p. iii; and U.S. Congress, House Committee on Banking and Currency, *Small Business Act of 1953*, report to accompany H.R. 5141, 83rd Cong., 1st sess., May 28, 1953, H.Rept. 83-494 (Washington, DC: GPO, 1953). For further information related to small business contracting, see CRS Report R45576, *An Overview of Small Business Contracting*, by Robert Jay Dilger and R. Corinne Blackford.

² For more information about P.L. 83-163, the Small Business Act of 1953 (as amended), see <https://www.govinfo.gov/content/pkg/COMPS-1834/pdf/COMPS-1834.pdf>; and 15 U.S.C. §631(a).

³ *Set-aside* is a commonly used term to refer to a contract competition in which only small businesses, or specific types of small businesses, may compete. Set-asides can be total or partial, depending on whether the entire procurement, or just a segment of it, is restricted. *Sole source* awards are noncompetitive procurements made after soliciting and negotiating with one source.

⁴ A service-disabled veteran is defined as an individual who possesses either a valid disability rating letter issued by the Department of Veterans Affairs, establishing a service-connected rating between 0% and 100%, or a valid disability determination from the Department of Defense or is registered in the Beneficiary Identification and Records Locator Subsystem maintained by Department of Veterans Affairs' Veterans Benefits Administration as a service-disabled veteran. Reservists or members of the National Guard disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify. 13 C.F.R. §128.200(b).

⁵ This goal was increased from 3% to 5% by P.L. 118-31, the National Defense Authorization Act for Fiscal Year 2024.

Veteran Workers, Business Owners, and Contractors

Economic data from the U.S. Bureau of Labor Statistics and the U.S. Census Bureau indicate that veterans generally have lower unemployment than the general population and tend to be well represented among businesses owners and the self-employed. In February 2024, the Bureau of Labor Statistics (BLS) reported an unemployment rate of 2.9%, compared to 4.1% for the nonveteran civilian population.⁶

Veterans also tend to be well represented among businesses owners and the self-employed, although some data suggest that younger veterans are not undertaking entrepreneurship at the same rates as prior cohorts.⁷ According to Census Bureau datasets on veteran business ownership, over 300,000 employer firms owned by veterans existed in 2020⁸ and 1.3 million out of more than 27 million non-employer firms (self-employed proprietors) were owned by veterans.⁹ Based on these numbers, approximately 5% of employer firms and 4.8% of non-employer firms were owned by veterans.¹⁰ **Table 1** presents these data.

Table 1. Veteran Business Ownership by Employer and Non-Employer Firm Type, 2020-2021

Business Ownership	Employer Firms	Non-Employer Firms
Veteran-Owned	304,000	1,300,000
Percentage Veteran-Owned	5.0%	4.8%
Total (any ownership)	6,100,000	27,200,000

Sources: U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2021”; U.S. Census Bureau, “Nonemployer Statistics by Demographics series (NES-D): Statistics for Employer and Nonemployer Firms by Industry, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, and Metro Areas: 2020.”

Notes: Employer firm data are for 2021. Non-employer firm data are for 2020. The Annual Business Survey uses the collection year (the year the survey was collected) in the survey name rather than the reference year (the year the survey collects data on). The 2021 ABS, for example, covers reference year 2020 (see “Annual Business Survey Methodology” at Census.gov). The Nonemployer Statistics by Demographics series utilizes various administrative records and the Census Bureau data sources that include data from the Department of Veterans Affairs (see “Nonemployer Statistics by Demographics Methodology” at Census.gov).

⁶ U.S. Department of Labor, Bureau of Labor Statistics, “Table A-5. Employment Status of the Civilian Population 18 Years and over by Veteran Status, Period of Service, and Sex, Not Seasonally Adjusted,” at <https://www.bls.gov/news.release/empsit.t05.htm>.

⁷ Sidra Montgomery et al. *Millennial Veteran Entrepreneurship: Research on the Next Generation of Veteran Entrepreneurs*, U.S. Small Business Administration (SBA), Office of Advocacy June 2021.

⁸ U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2021.”

Employer firms are nonfarm businesses that have paid employees and annual receipts of at least \$1,000.

⁹ U.S. Census Bureau, “Nonemployer Statistics by Demographics series (NES-D): Owner Characteristics of Nonemployer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, and Metro Areas: 2020.”

Non-employer firms are businesses with no paid employment or payroll, annual receipts of \$1,000 or more (\$1 million or more in the construction industries), and filing IRS tax forms for sole proprietorships (Form 1040, Schedule C), partnerships (Form 1065), or corporations (the Form 1120 series).

¹⁰ Firms in the following industries were excluded from the survey: Crop and Animal Production (NAICS 111 and 112); Rail Transportation (NAICS 482); Postal Service (NAICS 491); Monetary Authorities-Central Bank (NAICS 521); Funds, Trusts, and Other Financial Vehicles (NAICS 525); Religious, Grantmaking, Civic, Professional, and Similar Organizations (NAICS 813); Private Households (NAICS 814); Public Administration (NAICS 92).

Veteran-Owned Contractors and Federal Contract Awards

The number of VOSBs interested in contracting with the government is reflected in the number of registrations in the Federal Procurement Data System database at SAM.gov.¹¹ As of March 19, 2024, this database included over 61,000 veteran-owned firms and 36,500 firms registered as active, service-disabled veteran-owned firms interested in doing business with federal agencies.¹²

Federal agencies have awarded around \$150 billion annually to small business contractors in recent fiscal years.¹³ VOSBs received more than \$33 billion in contract awards in FY2022.¹⁴ About \$27 billion went to SDVOSBs.¹⁵

The Department of Defense (DOD) and VA are by far the largest sources of federal contract dollars for both VOSBs and SDVOSBs. DOD awards accounted for over 42% of contract dollars to VOSBs and 39% to SDVOSBs in FY2022.¹⁶ VA awards accounted for nearly 28% of contract dollars to VOSBs and 34% to SDVOSBs in FY2022.¹⁷ The Department of Homeland Security was the next most significant contracting agency for both types of firms, accounting for about 7% (\$2.4 billion) of contract dollars to VOSBs and 4% (\$1.5 billion) to SDVOSBs.¹⁸

Even though agencies may set-aside contracts for SDVOSBs, and the VA may do so for VOSBs as well, not all contracts awarded to these types of firms involve competition restrictions. Both VOSBs and SDVOSBs also receive federal contracts under full and open competition. FY2022 data show that nearly \$15 billion (55%) was awarded to SDVOSBs in full and open competition, rather than through a set-aside or sole-source award.¹⁹ **Table 2** presents the percentages of SDVOSB contract award dollars made through set-asides, sole-source awards, and open competition.

¹¹ The Entity Search tool at SAM.gov, selecting for an Entity Status entry of “Active Registration” and Socio-Economic Status entry of “Service Disabled Veteran Owned Business” or “Veteran Owned Business.”

¹² SAM.gov Entity Search, accessed March 19, 2024.

¹³ GSA, “Federal Procurement Data System Report,” at <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/small-business-reports>. \$144 billion was awarded to small businesses in FY2020, \$149 billion in FY2021, and nearly \$155 billion in FY2022.

¹⁴ U.S. General Services Administration (GSA), “Small Business Goaling Report,” FY2022, at <https://sam.gov/reports/awards/static>.

¹⁵ Ibid.

¹⁶ Ibid. DOD awarded over \$14 billion to VOSBs in FY2022, out of a total of \$33.3 billion to those firms, and \$10.5 billion to SDVOSBs, out of \$27 billion.

¹⁷ Ibid. VA awarded more than \$9 billion to VOSBs, out of a total of \$33.3 billion to those firms, and \$9.2 billion to SDVOSBs, out of \$27 billion.

¹⁸ GSA, “Federal Procurement Data System Report,” at <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/small-business-reports>.

¹⁹ Ibid.

Table 2. Contract Awards to Service-Disabled Veteran-Owned Small Businesses by Type of Contracting Preference, FY2022

Amount of Federal Contract Award Dollars	Percentage Awarded with Set-Aside ^a	Percentage Awarded as Sole Source Contract ^b	Percentage Awarded with Small Business Preference ^c	Percentage Awarded in Open Competition
\$27.1 billion	26%	4%	12%	55%

Source: GSA, “Federal Procurement Data System Report,” FY2022, at <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/small-business-reports>.

Notes: Table data may not match FY2022 Small Business Procurement Scorecard data. The Federal Procurement Data System report from the GSA reflects data on all prime contract awards made each year per Section 15(h)(3)(A)(ii) of the Small Business Act, without the contract exclusions SBA makes when preparing the Scorecard. Percentages do not sum to 100 because awards may have been made through other preferences.

- a. Percentage Awarded with Set-Aside refers to set-aside available for the type of business ownership indicated (Small Business set-aside or SDVOSB set-aside) and does not include any other type of set-aside available (e.g., small business set-aside, 8(a) set-aside, women-owned small business set-aside, etc.).
- b. Percentage Awarded as Sole Source Contract refers to sole source contracts available for the type of business ownership indicated (Small Business contract or SDVOSB contract).
- c. Percentage Awarded with Small Business Preference refers to contracts made with a small business preference unrelated to veteran status (i.e., competitions restricted to small businesses in general).

Veteran-Owned Firms by Location

The following maps show the number of VOSBs by state, and their proportion relative to nonveteran owned firms, using U.S. Census Bureau survey data. The first map, shown in **Figure 1**, shows the number and percentage of employer firms²⁰ owned by veterans in each state. Employer firms have paid employees, and so exclude self-employed veterans and sole proprietorships that do not have a payroll.

States with the largest numbers of VOSBs include those with the largest populations and number of businesses in general, such as California, Florida, New York, and Texas. States with the highest percentages of employer VOSBs (relative to the number of employer firms in the state) include West Virginia (10.8%), Virginia (8.0%), Alabama (7.5%), South Carolina (7.3%), and New Hampshire (9.3%).

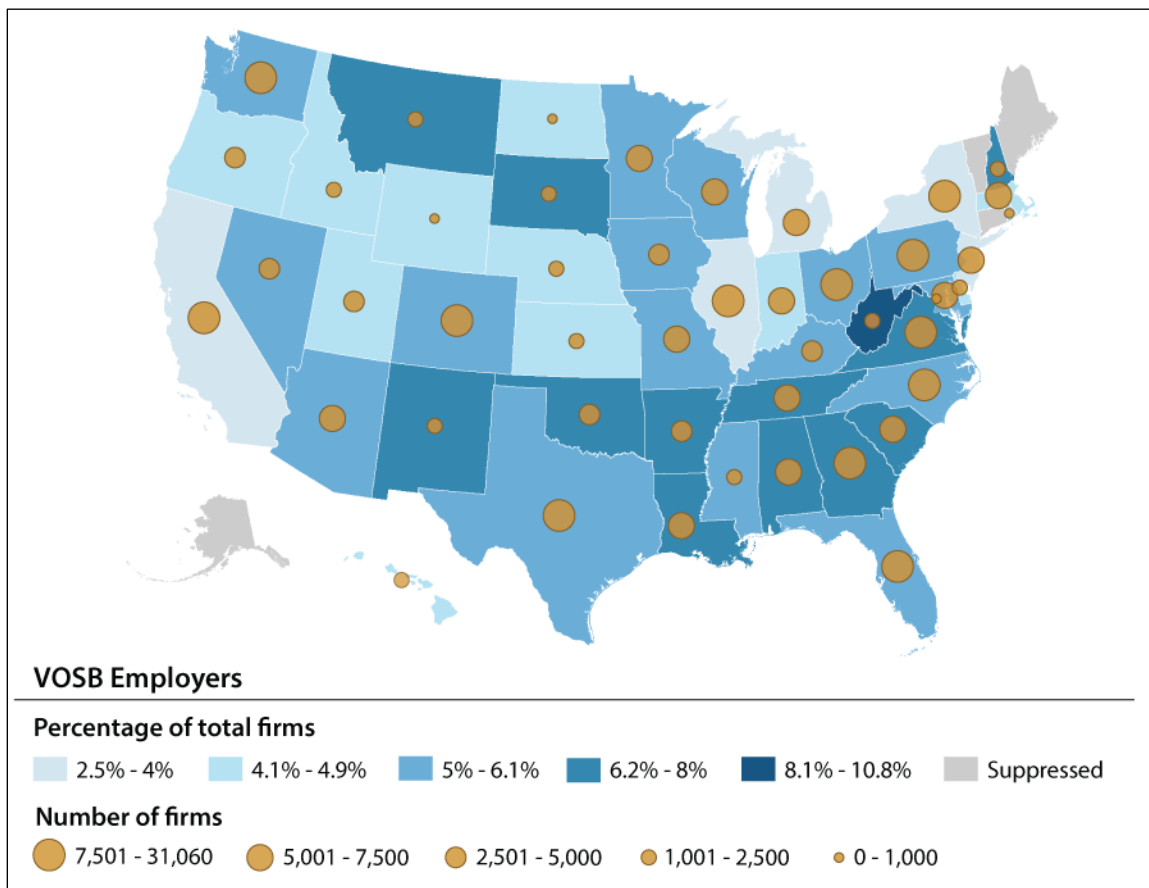
Figure 2 shows the number and percentage of all (employer and non-employer) firms owned by veterans in each state. Several of the same observations about the geography of employer VOSBs apply to **Figure 2**. However, when adding the non-employer²¹ VOSBs to the data to obtain a total of all VOSBs, the states with the highest percentages of VOSBs become West Virginia (7.9%), South Dakota (7.7%), South Carolina (7.7%), and Virginia (7.4%).

²⁰ Employer firms are nonfarm businesses that have paid employees and annual receipts of at least \$1,000.

²¹ Non-employer firms are businesses with no paid employment or payroll, annual receipts of \$1,000 or more (\$1 million or more in the construction industries), and filing IRS tax forms for sole proprietorships (Form 1040, Schedule C), partnerships (Form 1065), or corporations (the Form 1120 series).

Figure 1. Map of Employer Veteran-Owned Small Businesses

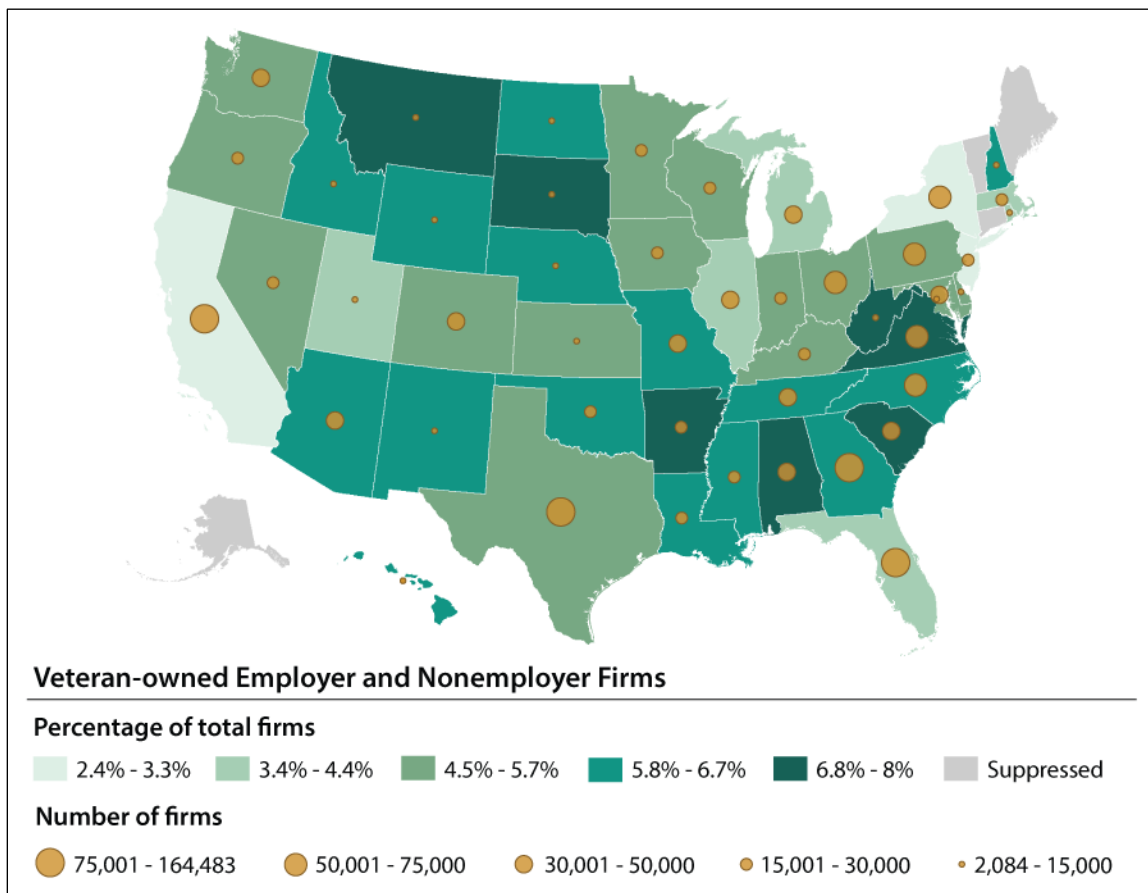
2021 Counts and Percentages of Employer Firms by State



Source: U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2021.”

Note: Data were suppressed by the Census Bureau for four states (Alaska, Connecticut, Maine, Vermont) because the estimates do not meet publication standards due to high sampling variability, poor response quality, or other concerns about the estimate quality.

Figure 2. Map of All Veteran-Owned Businesses
2020 and 2021 Counts and Percentages of All VOSBs by State



Sources: U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2021”; and “Nonemployer Statistics by Demographics series (NES-D): Statistics for Employer and Nonemployer Firms by Industry, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, and Metro Areas: 2020.”

Notes: The Census Bureau suppressed data for four states (Alaska, Connecticut, Maine, Vermont) because the estimates do not meet publication standards due to high sampling variability, poor response quality, or other concerns about the estimate quality.

Policy Context

Among the federal small business contracting programs (e.g., the 8(a) Business Development Program and HUBZone programs) that provide contracting preferences to small businesses, the preference for small businesses owned by veterans is specifically for those who are service-disabled. A service-disabled veteran is defined as

a veteran who is registered in the Beneficiary Identification and Records Locator Subsystem or successor system, maintained by Department of Veterans Affairs’ Veterans Benefits Administration as a service-disabled veteran.²²

²² 13 C.F.R. §128.102 and 38 U.S.C. 101(2). Reservists or members of the National Guard called to federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as veterans.

The Veterans Entrepreneurship and Small Business Development Act of 1999, P.L. 106-50, created the federal government's 3% government-wide annual procurement goal for SDVOSBs. The goal was increased to 5% by P.L. 118-31, the National Defense Authorization Act (NDAA) for Fiscal Year 2024. Federal contracting officers may limit competition for contracts for SDVOSBs under specified circumstances in order to help the government reach its goal by creating a "set-aside" for SDVOSBs. Eligible SDVOSBs must be at least 51% owned and controlled by a service-disabled veteran.²³ VOSB status alone is insufficient to qualify for the government-wide SDVOSB program.²⁴

The Federal Acquisition Regulation (FAR) states that agency contracting officers must set aside "any acquisition over the simplified acquisition threshold²⁵ for small business participation,"²⁶ and "shall first consider" socioeconomic contracting programs such as the SDVOSB contracting program before opting to use a general small business set-aside.²⁷

Although no government-wide procurement goal for VOSBs exists, the VA maintains a program limited to its agency, which reflects its "long-standing commitment to contracting with veteran-owned small businesses."²⁸ The Veterans First Contracting Program was established by P.L. 109-461 in 2006.

In addition, the SBA offers various technical assistance programs designed to promote veteran entrepreneurship, as well as counseling and technical assistance that is also available to all small businesses interested in competing for government contracts.²⁹

Table 3, below, provides a timeline of key legislative actions related to veterans contracting.

Table 3. Key Legislation Chronology

Year	Legislation
1974	P.L. 93-237, amending the Small Business Act, directing the SBA to give special consideration to veterans
1999	P.L. 106-50, the Veterans Entrepreneurship and Small Business Development Act of 1999, creating an annual 3% SDVOSB procurement goal
2003	P.L. 108-183, the Veterans Benefits Act of 2003, authorizing preferences for SDVOSBs
2006	P.L. 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, establishing the VA's Veterans First program
2021	P.L. 116-315, Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, gave the VA authority to provide contracting preferences to contractors that employ veterans on a full-time basis
2021	P.L. 116-283, the National Defense Authorization Act for Fiscal Year 2021, required the creation of a government-wide SDVOSB certification process

²³ 13 C.F.R. §128.200(b)(2). One exception is eligibility for the surviving spouse of a deceased service-disabled veteran small business owner (See 13 C.F.R. §128.202(i)).

²⁴ 13 C.F.R. §128.101.

²⁵ 48 C.F.R. §2.101(b). Generally, the simplified acquisition threshold is \$250,000 though under certain circumstances it may increase.

²⁶ 48 C.F.R. §19.502-2(b).

²⁷ 48 C.F.R. §19.203(c).

²⁸ U.S. Department of Veterans Affairs (VA), at <https://www.va.gov/OSDBU/entrepreneur/vetsFirst.asp>.

²⁹ For additional information and analysis of SBA's management and training programs for veterans, see CRS Report R42695, *SBA Veterans Assistance Programs: An Analysis of Contemporary Issues*.

Year	Legislation
2023	P.L. 118-31, the National Defense Authorization Act for Fiscal Year 2024, increased the SDVOSB contracting goal to 5% and eliminated the ability of agencies to count contract awards to self-certified SDVOSB towards their SDVOSB procurement goals.

SDVOSB Program

The SDVOSB program is the only government-wide procurement preference program for small businesses owned by service-disabled veterans. The program allows federal contracting officers to set aside federal contracts for SDVOSBs in order to reach the statutory 5% contracting goal. Under specified circumstances, contracting officers may also award sole-source contracts without competition to an SDVOSB.

When considering a set-aside to an SDVOB, an agency's contracting officer must "(1) Have a reasonable expectation that at least two responsible SDVOSBs will submit offers and (2) Determine that the award can be made at fair market price."³⁰ This general requirement within various contracting programs is known as the Rule of Two. If at least two SDVOSBs are not expected to submit offers, the contracting officer may award a sole source contract to an SDVOSB as long as the responsible contractor is able to perform the contract; the award can be made at a "fair and reasonable price"; and the anticipated award price of the contract, including option periods, will not exceed \$4 million, or \$7 million in the case of a manufacturing contract.³¹

SDVOSB Program Eligibility

SDVOSBs are eligible for contract set asides and sole-source contract awards when they meet the following business size and ownership criteria: they must be small, as defined in Section 3(q) of the Small Business Act³² and the SBA's implementing regulations;³³ be at least 51% unconditionally and directly owned and controlled by one or more service-disabled veterans; have one or more service-disabled veterans manage day-to-day operations and make long-term decisions; and be owned by one or more eligible veterans that have a service-connected disability as determined by the VA.³⁴

In cases where a veteran has a permanent and severe disability, a veteran's spouse may qualify as an eligible SDVOSB owner.³⁵ In addition, some eligible SDVOSBs may be owned and controlled by a deceased veteran's surviving spouse.³⁶ Apart from these instances, the program eligibility status of a veteran does not transfer to a veteran's spouse.

³⁰ 13 C.F.R. §128.404(c)(1).

³¹ 13 C.F.R. §128.405.

³² 15 U.S.C. §632(q).

³³ 13 C.F.R. §128. Per 13 C.F.R. §121.406(b), a business may "qualify as a small business to provide manufactured products as a nonmanufacturer under specified conditions, but that firm must use a small business manufacturer as its supplier. Per 13 C.F.R. §121.1202(a), waivers of this rule "will be granted when there are no small business manufacturers or processors available for that class of products."

³⁴ 13 C.F.R. §128.200(b); 13 C.F.R. §128.202-§128.203.

³⁵ 13 C.F.R. 128.202(i); 48 C.F.R. §802.101. The veteran must have had a 100% service-connected disability rating.

³⁶ 48 C.F.R. §802.101; 15 U.S.C. §632(q). The veteran must have died as a direct result of a service-connected disability. Surviving spouse means "an individual who has been listed in the Department of Veterans Affairs' (VA) Veterans Benefits Administration (VBA) database of veterans and family members." The surviving spouse is treated as (continued...)

Section 862 of the FY2021 NDAA (P.L. 116-283) required the creation of a government-wide SDVOSB certification process, and the end of SDVOSB self-certification.³⁷ Prior to the SBA certification requirement, there was no government-wide SDVOSB certification program,³⁸ and firms seeking SDVOSB contract set-asides or sole-source awards with agencies other than the VA only needed to self-certify their status; to be eligible for VA contracts, VOSBs and SDVOSBs had to be verified by the VA's Center for Verification and Evaluation, per 38 U.S.C. §8127.³⁹ The SBA certification system's establishment involved the transfer of the VA's Center for Verification and Evaluation, although the VA continues to determine whether an individual qualifies as a veteran or service-disabled veteran.⁴⁰

SDVOSB Program Contracting Goal

The SDVOSB program aims to help federal agencies reach a government-wide goal of awarding not less than 5% of the total value of all prime contract and subcontract awards for each fiscal year to SDVOSBs.⁴¹ Section 502 of P.L. 106-50 established an original goal of 3%. The Veterans Benefits Act of 2003 (P.L. 108-183) authorizes federal agencies to use set-asides and sole source awards to help them meet the goal. The dollar amount of SDVOSB contract awards has increased each year since FY2003, and the 3% goal was met for the first time in FY2012.⁴² Federal agencies have continued to meet the 3% goal since then.

In FY2023, federal agencies made 5.07% of eligible awards⁴³ to SDVOSBs. The contract award amounts for each fiscal year, 2015-2023, are shown below in **Table 4**.

if the spouse were the deceased veteran for the purpose of maintaining the status of the small business concern as a service-disabled veteran-owned small business, but only for a certain period of time, until the surviving spouse remarries, relinquishes ownership interest, or until 10 years after the date of the veteran's death. "In the case of a surviving spouse of a veteran with a service-connected disability rated as less than 100 percent disabling who does not die as a result of a service-connected disability," the spouse no longer qualifies after three years following the date of the death of the veteran.

³⁷ SBA regulations around VOSB and SDVOSB certification are available at 13 C.F.R. §128.300-§128.310. The SBA was required to establish a new SDVOSB certification process by January 1, 2023, but provided a one-year grace period to businesses so that SDVOSBs were allowed to continue to self-certify during the period ending January 1, 2024. Some firms effectively have a longer grace period before needing SBA certification. According to the final rule implementing the new process, firms that had been "verified" by the VA's former certification system for VOSBs prior to January 1, 2023, could be deemed "certified by SBA during the time that remains in the firm's three-year term of [program] eligibility." Small Business Administration, "Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business-Certification," 87 *Federal Register* 73400, November 29, 2022.

³⁸ Small Business Administration, "Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business-Certification," 87 *Federal Register* 73400, November 29, 2022.

³⁹ Ibid. Requirements for SDVOSB certification and the certification process are codified at 15 U.S.C. §657f.

⁴⁰ Small Business Administration, "Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business-Certification," 87 *Federal Register* 73400, November 29, 2022.

⁴¹ In order for agencies to count a contract with a SDVOSB toward their annual procurement goal, the award must be made to a certified SDVOSB (per Section 864 of the National Defense Authorization Act for Fiscal Year 2024 (P.L. 118-31)). Subcontract awards by prime contractors to SDVOSBs must also be made to certified firms in order for them to be counted toward agency SDVOSB subcontracting goals. SBA issued a direct final rule implementing these requirements that is effective August 5, 2024. Small Business Administration, "Eliminating Self-Certification for Service-Disabled Veteran-Owned Small Businesses," 89 *Federal Register* 48266, June 6, 2024.

⁴² GSA, "Sam.Gov Data Bank, Ad Hoc report," at <https://sam.gov/reports/awards/adhoc>.

⁴³ "Eligible awards" refers to a small business eligible baseline, which "excludes certain contracts that the SBA has determined do not realistically reflect the potential for small business participation in federal procurement." Excluded contracts include those funded mainly by agency-generated sources (nonappropriated funds), those not covered by the Federal Acquisition Regulation, and those not reported in the Federal Procurement Data System (e.g., contracts valued (continued...))

Table 4. Service-Disabled Veteran-Owned Small Business Contract Awards, FY2015-FY2023

(\$ in billions)

Fiscal Year	Amount of Federal Contract Award Dollars	Percentage of Small Business Eligible Awards	Percentage of Subcontract Awards
2023	\$31.9	5.07%	2.63%
2022	\$27.0	4.45%	2.16%
2021	\$25.0	4.41%	2.14%
2020	\$23.7	4.23%	2.14%
2019	\$21.8	4.34%	1.95%
2018	\$20.6	4.27%	2.10%
2017	\$17.9	4.05%	1.90%
2016	\$16.3	3.98%	1.60%
2015	\$13.8	3.93%	1.80%

Source: Small Business Administration (SBA), “Small Business Procurement Scorecard [FY2015-FY2023],” at <https://www.sba.gov/document/support-small-business-procurement-scorecard-overview>.

Notes: The small business eligible baseline excludes certain contracts that the U.S. Small Business Administration (SBA) has determined do not realistically reflect the potential for small business participation in federal procurement (such as those awarded to mandatory and directed sources), contracts funded predominately from agency-generated sources (i.e., nonappropriated funds), contracts not covered by the Federal Acquisition Regulations, acquisitions on behalf of foreign governments, and contracts not reported in the GSA’s Federal Procurement Data System—Next Generation (such as government procurement card purchases and contracts valued less than \$10,000). Achievements include DOE M&O first-tier subcontracts, and double-credit for local-area set-asides, Puerto Rico, and territory awards.

SDVOSB Program Oversight

In part because SDVOSBs were, for a time, self-certified, oversight concerns have included the potential for agencies to award contracts intended for SDVOSBs to businesses that do not meet SDVOSB eligibility requirements. A 2020 DOD Inspector General audit found that contracting activities had awarded 27 contracts valued at \$827.8 million to 16 contractors that were not eligible for classification as SDVOSBs.⁴⁴

Section 862 of P.L. 116-283 (NDAA 2021) required the SBA to establish a government-wide SDVOSB certification and periodic recertification process by January 1, 2023. This transition will required VA to (1) abolish its Center for Verification and Evaluation and transfer the center’s functions to SBA, and (2) relinquish maintenance of its database of SDVOSBs to SBA and provide compensation to SBA for taking on this function.⁴⁵ While VA continues to determine whether an individual qualifies as a veteran or service-disabled veteran, SBA now certifies firm

at less than \$10,000). For more information, see CRS Report R45576, *An Overview of Small Business Contracting*, by Robert Jay Dilger and R. Corinne Blackford.

⁴⁴ U.S. Department of Defense, Office of the Inspector General, *Audit of DoD Service-Disabled Veteran-Owned Small Business Contract Awards*, February 18, 2020, p. 7.

⁴⁵ The SBA assumed ownership of the Center for Verification and Evaluation (CVE). Once transferred to the SBA, this function will integrate the process of all small business certification programs. The SBA budget request includes \$20 million to manage this transition and maintain the program. U.S. Small Business Administration, *FY 2023 Congressional Justification and FY 2021 Annual Performance Report*, pp. 4-5.

eligibility for contracting preferences.⁴⁶ SBA has implemented the Veterans Certification Program in regulations at 13 C.F.R. Part 128.⁴⁷

Veterans First Program

The VA has established its own SDVOSB and VOSB contracting preferences, known as the Veterans First program. According to this program's regulations, VA contracting officers must set aside contracts for SDVOSBs and VOSBs where the Rule of Two is met,⁴⁸ granting priority consideration to SDVOSBs.⁴⁹ Both SDVOSBs and VOSBs receive priority consideration before any other type of small business.⁵⁰ The complete order of priority is as follows: (1) SDVOSB, (2) VOSB, (3) 8(a) or HUBZone small business,⁵¹ and (4) other small businesses with preference of some kind, "with due deference to the priority for awarding to women-owned small businesses."⁵² The prioritization of certain types of small business concerns is not a feature of government-wide small business contract preference programs and is unique to the VA.

In addition to setting aside contracts for SDVOSBs and VOSBs, contracting officers may also award contracts on a sole source basis through noncompetitive procedures, as long as the contract award will not exceed \$5 million (including options) and the award can be made at a fair and reasonable price; again prioritizing SDVOSBs first, officers can only make sole source awards to a VOSB if no responsible SDVOSB has been identified.⁵³ The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. A determination that only one SDVOSB concern is available to meet the requirement is not required.⁵⁴

Veterans First Program Eligibility

SDVOSB eligibility requirements under the Veteran First program mirror those for the government-wide SDVOSB program, which is governed by SBA regulations.⁵⁵ Surviving spouses are eligible for the program and are defined in the same way as the SBA's government-wide SDVOSB program defines them.⁵⁶

⁴⁶ Section 862 of P.L. 116-283; Small Business Administration, "Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business-Certification," 87 *Federal Register* 73400, November 29, 2022.

⁴⁷ *Ibid.*

⁴⁸ 38 U.S.C. §8127(d).

⁴⁹ 38 U.S.C. 8127(h); 48 C.F.R. §819.7005.

⁵⁰ 48 C.F.R. §819.7005.

⁵¹ The 8(a) and HUBZone programs are government-wide contracting preference programs that fall under the banner of socioeconomic contracting programs for small businesses. There are government-wide procurement goals associated with both programs. For additional information, see CRS Report R45576, *An Overview of Small Business Contracting*.

⁵² 48 C.F.R. §819.7005. The VA proposed to amend the hierarchy of small business preferences to explicitly mention of WOSBs, in the agency "Proposed Legislation Summary" as part of its *FY2025 Budget Submission*. The change would mean referencing the WOSB program as part of the third tier in the hierarchy, and stating that preferences in that tier have parity.

⁵³ 48 C.F.R. §819.7007 and 48 C.F.R. §819.7008; 38 U.S.C. §8127(c).

⁵⁴ 48 C.F.R. §819.7007.

⁵⁵ 13 C.F.R. §128.

⁵⁶ 48 C.F.R. §819.7005; 48 C.F.R. §802.101 "Surviving spouse."

VOSBs are eligible under the Veterans First program when at least 51% of the business is owned by one or more veterans and both management and daily business operations are controlled by one or more veterans.⁵⁷

Unlike the government-wide SDVOSB contracting program, the VA's Veterans First program has long required firms to obtain "verification" of their status as an SDVOSB in order to compete for set-asides and sole source contracts. Prior to the creation of an SBA certification process, the VA's Center for Verification and Evaluation verified SDVOSBs and VOSBs for the Veterans First program.⁵⁸ SBA established a new certification process as required by the NDAA 2021, and implementing regulations are available at 13 C.F.R. §128.300-§128.310.

Veterans First Program Contracting Goals

Since implementing the Veterans Benefits, Health Care, and Information Technology Act of 2006 (P.L. 109-461), the VA has set a VOSB contracting goal annually for the percentage of its total procurement that it awards to VOSBs. The VA's FY2023 VOSB goal was 17% and the agency reports that it attained 19.6%.⁵⁹ The agency awarded 17.3% of its *total* procurement to VOSBs in FY2022 and 17.2% in FY2021.⁶⁰

All federal agencies contract with veteran-owned businesses but the share of federal procurement dollars flowing through VA is substantial because of its VOSB and SDVOSB programs. Only the DOD awards more contract dollars to veteran-owned businesses than the VA, which awarded more than a quarter of estimated VOSB federal government contract dollars, and a third of SDVOSB contract dollars (see "Veteran-Owned Contractors and Federal Contract Awards").⁶¹

Table 5 presents the percentages of "small business eligible" contract dollars awarded to VOSBs and SDVOSBs, used by the GSA for its annual Small Business Goaling Reports and by SBA for its Small Business Procurement Scorecards.

⁵⁷ 48 C.F.R. §2.101 "Veteran owned small business concern"; per 38 U.S.C. §101(2), "The term veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable."

⁵⁸ Small Business Administration, "Veteran-Owned Small Business and Service-Disabled Veteran-Owned Small Business-Certification," 87 *Federal Register* 73400, November 29, 2022.

⁵⁹ The agency aimed to award 10% of new contracts to VOSBs using a set-aside preference and did so for 16%. VA, *FY 2025 Budget Submission: Supplemental Information and Appendices, Volume 1 of 4*, March 2024, p. 132. Note that the figures provided by the VA in its budget submission refer to percentages of total procurement, rather than "small business eligible contracts," which are used in Small Business Goaling Reports and by the SBA to create annual agency Procurement Scorecards.

⁶⁰ VA, *FY 2024 Budget Submission: Supplemental Information and Appendices, Volume 1 of 4*, March 2023, Supplemental Information, p. 18. Note that the figures provided by the VA in its budget submission refer to percentages of total procurement, rather than "small business eligible contracts," which are used in Small Business Goaling Reports and by the SBA to create annual agency Procurement Scorecards.

⁶¹ U.S. General Services Administration (GSA), "Small Business Goaling Report," FY2022, at <https://sam.gov/reports/awards/static>.

Table 5.VA Contract Award Amounts FY2019-FY2023

Fiscal Year	Small Business Eligible Dollars	Percentage of Agency Contract Award Dollars to VOSBs	Percentage of Agency Contract Award Dollars to SDVOSBs
2023	\$62.6 billion	17%	16.7%
2022	\$56.2 billion	16.5%	16.3%
2021	\$34.6 billion	24.2%	23.8%
2020	\$36.9 billion	20.4%	20.2%
2019	\$27.5 billion	23.7%	23.4%

Sources: U.S. General Services Administration, “Sam.Gov Data Bank, Static: Small Business Goaling Report [FY2019-FY2023],” at <https://sam.gov/reports/awards/static>.

Notes: The data for the Small Business Goaling Reports is from SAM.gov dynamic database. Updates to contract data, including new contract actions, modifications, and corrections are made on a regular basis and such updates could result in changes to contract data on actions for current and/or prior fiscal years. Table data may not match SBA Small Business Procurement Scorecard data.

Program Oversight

Implementation of the VA’s Veterans First program, like government-wide contracting programs, has raised questions about management and federal agencies’ approaches to mitigating risk associated with contracting. VA’s acquisition management (beyond the Veterans First program) has remained a GAO-designated “high risk area” since 2019, partly because “VA has among the highest obligations and number of contract actions in the federal government.”⁶² In response to GAO recommendations, the agency issued an initial “action plan to address acquisition management challenges” in March 2021 and updated it in September 2022; it also “continues to make progress in building capacity,” such as by implementing training and developing guidance for contracting staff, and developing a “knowledge portal” with tools for acquisition personnel.⁶³

Veteran Contracting Support Programs

A network of SBA programs, public-private partnerships, and nongovernmental organizations supports veteran entrepreneurs, including federal contractors. Although SDVOSBs are the only VOSBs eligible for federal government-wide contracting preferences, the SBA, along with other federal agencies and nonfederal entities, collaborate to serve the entire VOSB community.

SBA Programs

The SBA provides management and technical assistance services to veterans through its Veterans Business Outreach Centers (VBOCs) and various management and technical assistance training partners (e.g., Small Business Development Centers, Women’s Business Centers, and SCORE⁶⁴). The SBA’s Office of Veterans Business Development (OVBD) supports the following veteran-specific entrepreneurship training programs: the Boots to Business and Boots to Business Reboot programs; the Service-Disabled Veteran Entrepreneurship Training Program (SDVETP), which is

⁶² GAO’s “High Risk” list, updated at the start of each new Congress, includes programs and operations that are vulnerable to waste, fraud, abuse, or mismanagement, or in need of transformation. The current list with explanations of why an area is deemed high risk is available at <https://www.gao.gov/high-risk-list>.

⁶³ Ibid.

⁶⁴ Formerly known as the Service Corps of Retired Executives.

delivered through higher education partners; the Veteran Federal Procurement Entrepreneurship Training Program (VFPETP), which is provided through a public-private partnership known as the Veteran Institute for Procurement (VIP); and programing for women veterans, female military spouses/partners, and Native American, Alaska Native, and Native Hawaiian entrepreneurs.⁶⁵

The SBA implements Boots to Business (B2B) within the DOD's Transition Assistance Program (TAP) for servicemembers as they prepare to leave military service.⁶⁶ The SBA collaborates with various resource partners, the DOD, other federal agencies, and local military installations to provide this introductory training on how to start a business. Transitioning active-duty servicemembers (including National Guard and Reserve members) and their spouses are eligible to participate in the program; the curriculum focuses on business ownership and other self-employment opportunities, including learning how to access start-up capital resources, technical assistance, and contracting opportunities.⁶⁷ Boots to Business Reboot (B2BR) extends the Boots to Business program to veterans "of all eras" (beyond actively transitioning servicemembers), National Guard and Reserve members, and military spouses.⁶⁸

Select SBA Partnerships Supporting VOSB Programming

"VIP" Partnership

The Veteran Institute for Procurement (VIP) was founded in 2009 as a regional initiative in Maryland. Funded by the Montgomery County Chamber of Commerce Foundation, VIP is also underwritten by corporate sponsorships from Lockheed Martin and JPMorgan Chase & Co., and receives grants from SBA and the state of Maryland.⁶⁹ During the program, "veteran-owned company executives receive 27 hours of instruction on how to accelerate their federal government contracting business skills," from experts from both industry and government.⁷⁰ VIP has trained thousands of veteran-owned and service-disabled veteran-owned businesses across all 50 states, Washington, DC, Puerto Rico, and Guam, and VIP graduates have received billions in federal prime contract awards.⁷¹

Entrepreneurship Bootcamp for Veterans

Founded at Syracuse University in 2007, the Entrepreneurship Bootcamp for Veterans (EBV) program has since expanded to additional universities across the country. EBV offers online and in-person instruction in three phases, followed by 12 months of ongoing support that helps VOSBs with all of the steps associated with "creating and sustaining an entrepreneurial

⁶⁵ SBA, Office of Veterans Business Development, "Veteran-owned businesses," at <https://www.sba.gov/business-guide/grow-your-business/veteran-owned-businesses>.

⁶⁶ <https://www.dodtap.mil/dodtap/app/home>. There are "mandatory components of TAP that are applicable for all service members who have at least 180 continuous days or more on active duty"; including members of the National Guard and Reserve.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Veteran Institute for Procurement, "National Center for VIP," available at <https://nationalvip.org/about/>; Veteran Institute for Procurement, "VIP Fast Facts," at <https://nationalvip.org/wp-content/uploads/2022/05/2022-VIP-Fast-Facts-1.pdf>.

⁷⁰ "VIP Fast Facts," at <https://nationalvip.org/wp-content/uploads/2022/05/2022-VIP-Fast-Facts-1.pdf>.

⁷¹ Ibid.

venture.”⁷² Post-9/11 veterans with an honorable discharge are eligible to apply, and the program is offered to participants free of charge, including travel and lodging.⁷³

ONABEN

ONABEN serves veterans as well as active duty servicemembers in underserved Tribal and Rural communities. Program offerings cover financial literacy and asset management, start-up planning and succession planning for established businesses, business expansion, and procurement and government contracting assistance.⁷⁴ Services are available that cover “all stages of a business life cycle, from start-up business plan completion to succession planning for established businesses.”⁷⁵

Other Federal Contracting Assistance

DOD’s Under Secretary of Defense for Acquisition and Sustainment oversees the APEX Accelerators program for contractors. Formerly known as Procurement Technical Assistance Centers (PTACs), APEX Accelerators help small businesses “determine whether they are ready for government opportunities,” complete necessary registration processes, network with procurement staff and other contractors, “navigate solicitations,” and even “resolve [contract] performance issues.”⁷⁶ The program “focuses on building a [*sic*] strong, sustainable, and resilient U.S. supply chains by assisting a wide range of businesses that pursue and perform under contracts with the DoD, other federal agencies, state and local governments and with government prime contractors.”⁷⁷

Manufacturing Extension Partnership National Network Centers (MEP Centers) also assist small business contractors, specifically in the manufacturing sector. MEP Centers are located in all 50 states and Puerto Rico. MEP is based at the National Institute of Standards and Technology (NIST), which provides funding for the MEP National Network.⁷⁸

Nonprofit Organizations and Programs

Another element of the support system for VOSBs is the network of nonprofit organizations supporting VOSBs and veteran contractors. Some organizations specialize in hands-on support to individual business owners while others convene VOSBs to build up veteran business communities or do both. Examples of these organizations include The Veteran Women’s Enterprise Center (VWEC), Bunker Labs, and the National Veteran Small Business Coalition. While VWEC is an organization providing resources to women veteran clients and women military spouses, based in Dallas, TX,⁷⁹ Bunker Labs supports VOSBs and veteran spouses through start-up education, business mentoring, and building connections.⁸⁰ The National Veteran

⁷² Institute for Veterans and Military Families at Syracuse University, “About IVMF,” at <https://ivmf.syracuse.edu/programs/entrepreneurship/start-up/ebv/>.

⁷³ Ibid.

⁷⁴ ONABEN, “Beyond the Boots: A Veteran and Service Member Initiative,” at <https://onaben.org/what-we-do/signature-programs/>.

⁷⁵ Ibid.

⁷⁶ APEX Accelerators, “What We Do,” <https://www.apexaccelerators.us/#/about-us>.

⁷⁷ Ibid.

⁷⁸ U.S. Department of Commerce, National Institute of Standards and Technology, Manufacturing Extension Partnership (MEP), “About NIST MEP,” accessed March 11, 2024.

⁷⁹ Veteran Women’s Enterprise Center, “About Us,” available at <https://veteranwomenssec.org/about/about-us>.

⁸⁰ Bunker Labs, “Our Programs,” available at <https://bunkerlabs.org/programs/>.

Small Business Coalition is mainly a networking and advocacy organization for veteran small business entrepreneurs in the federal market, “to ensure they are procurement ready and have enhanced access to opportunities” to work with federal agencies and other government contractors.⁸¹

Congressional Issues

Both legislative and executive action on veteran entrepreneurship has created programming and supportive services through the SBA. Since the enactment of P.L. 93-237 in 1974, instructing the SBA to give “special consideration to veterans of the Armed Forces of the United States and their survivors or dependents,” the agency has led federal efforts to support VOSBs and veterans who want to become business owners. This statute spurred outreach and technical assistance services tailored for VOSBs but no contracting program. Advocates for SDVOSBs argued, unsuccessfully, to make SDVOSBs eligible for the SBA’s 8(a) contracting program.⁸²

Years later, in its 1998 report to the SBA, the Veterans Affairs Task Force for Entrepreneurship recommended a government-wide goal of awarding 10% of agency procurement for VOSBs and SDVOSBs collectively.⁸³ In addition, the Task Force recommended legislation establishing a 10% subcontracting procurement goal and preference for VOSBs.⁸⁴ Both recommendations were assigned a “high priority” in the Task Force’s report.⁸⁵

Following the Task Force’s findings, Congress authorized the existing government-wide SDVOSB procurement goal of 3% of federal contract award dollars, through the Veterans Entrepreneurship and Small Business Development Act of 1999.

Federal procurement preferences followed the creation of the SDVOSB procurement goal, through the development of the SDVOSB program in 2003.⁸⁶ That year, congress authorized SDVOSB contracting preferences to enable the government to reach its 3% SDVOSB procurement goal, and the House Committee on Veterans’ Affairs highlighted the following statements, drafted by the Congressional Commission on Servicemembers and Veterans Transition Assistance: “As a matter of fundamental fairness, Congress should accord veterans a full opportunity to participate in the economic system that their service sustains”; and, “Disabled-veteran entrepreneurs require additional assistance because these business owners encounter costs and impediments that are not factors for their non-disabled competitors.”⁸⁷ This development may have resulted in part because, after September 11, 2001, government leaders emphasized support for the significant surge in new servicemembers, especially those disabled during their service.

⁸¹ National Veteran Small Business Coalition, “Mission,” available at <https://nvsbc.org/mission/>.

⁸² U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Education, Training, Employment and Housing and House Committee on Small Business, Subcommittee on Government Procurement, SBA Programs to Assist Veterans in Readjusting to Civilian Life, joint hearing, 104th Cong., 2nd sess., July 31, 1996, SBC Serial No. 104-91 and VAC Serial No. 104-28, pp. 4-15.

⁸³ U.S. Congress, House Committee on Small Business, Veterans Entrepreneurship and Small Business Development Act of 1999, hearing on H.R. 1568, 106th Cong. 1st sess., H.Rept. 106-20, June 23, 1999, p. 172.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ P.L. 108-183

⁸⁷ U.S. Congress, House Committee on Veterans’ Affairs, Veterans Entrepreneurship and Benefits Improvement Act of 2003, report to accompany H.R. 1460, 108th Cong., 1st sess., June 5, 2003, H.Rept. 108-142, part 1 (Washington, DC: GPO, 2003), p. 6.

More recently, P.L. 116-315 in the 116th Congress expanded VA's authority, to provide contracting preference to contractors that employ veterans on a full-time basis, with the preference based on the percentage of the contractor's full-time employees that are veterans. H.R. 3065, introduced in the 117th Congress, would increase the sole source limit for SDVOSBs to \$10 million for manufacturing contracts and \$8 million for other contracts.

Continued congressional interest in promoting opportunities for VOSBs is demonstrated by recently introduced and enacted legislation. Proposed amendments to the Infrastructure Investment and Jobs Act (P.L. 117-58) would have increased the government-wide procurement goal for SDVOSBs to 5%, a goal revision legislated through P.L. 118-31, the National Defense Authorization Act for Fiscal Year 2024.

As younger generations of veterans are not starting businesses at the same rates as those from earlier periods,⁸⁸ Congress may wish to consider incentives and policies that promote veteran business ownership further, such as by revisiting the above proposed legislation or the recommendations of the 1998 Task Force.

Options for Congressional Consideration

Congress might consider federal contracting preferences that bolster opportunities for VOSBs through an additional government-wide contracting program. Options could include revisiting the 10% VOSB procurement goal recommendation or developing some other VOSB contracting goal, for the government as a whole or for select agencies beyond the VA.

One rationale for creating additional VOSB contracting preferences is to provide a more substantial entrepreneurial path for separating servicemembers as a parallel policy to federal hiring preferences for veterans. Veterans' hiring preference provides special consideration for qualified former servicemembers pursuing civilian employment with the federal government; it gives qualified veterans certain advantages in the assessment and selection procedures in the federal hiring process.⁸⁹ Under this preference program, even "veterans who do not have a service-connected disability can qualify for preference on the basis of serving during a qualified time period or in a qualified military campaign."⁹⁰ Veterans completing post-military service training for employment via business ownership currently have no federal benefit that is comparable to the federal hiring preference. Still, entrepreneurship is deemed a pathway for returning servicemembers worthy of federal support, as evidenced by programs such as B2B, VIP, and EBV.

Despite the potential congressional interest in a procurement goal for VOSBs, some might argue that an additional preference is unwarranted. Economic data show that, generally, veterans have relatively secure economic status. As mentioned, veterans tend to have relatively low unemployment in addition to being well represented among business owners and the self-employed. Estimated veteran unemployment below the rate for the nonveteran civilian

⁸⁸ Millennial veterans are less likely to be entrepreneurs than their nonveteran peers and Vietnam veterans are continuing to age out of the workforce. See Sidra Montgomery, Zoe Jacobson, Breanna Wakar, and Scott Cody, *Millennial Veteran Entrepreneurship: Research on the Next Generation of Veteran Entrepreneurs*, Office of Advocacy, U.S. Small Business Administration, June 2021.

⁸⁹ For more information, see CRS Report R44652, *Federal Government Employment: Veterans' Preference in Competitive Examination*, by Benjamin Collins.

⁹⁰ Ibid.

population⁹¹ and the estimated numbers of firms owned by veterans⁹² could suggest that nondisabled veterans are not a group that economically requires contracting preferences.

Considerations for Expanded Veteran Contracting Preferences

Were Congress to establish a goal for contracting with VOSBs, it could be accompanied by the creation of a preference program for VOSBs similar to the program established by the Veterans Benefits Act of 2003 for SDVOSBs. VOSB contracting rates in recent years may be of interest when considering potential VOSB contracting goals. These data are not currently reported in the GSA Small Business Goaling Reports or SBA Procurement Scorecards because there is no VOSB goal; however, it may be requested from the Federal Procurement Data System.

Some or all of the authorities that VA contracting officers may use to help the department meet its SDVOSB annual contracting goal, such as noncompetitive procedures, set-asides, and sole source contracts, could be incorporated into legislation regarding VOSBs.⁹³ One option would be to provide contracting officers the authority to set aside and offer sole-source awards to VOSBs. Providing that authority proved important for the attainment of the SDVOSB procurement goal. The Veterans Benefits Act of 2003 authorized contracting officers to award a sole source contract to SDVOSBs but limited this authority to contracts of up to \$5 million for manufacturing firms and \$3 million for non-manufacturing firms.

Procurement Stakeholder Considerations

Resistance to the establishment of an additional federal procurement goal could come from several stakeholders: other types of small businesses currently eligible for contracting preferences, federal agencies themselves, and those concerned about potential impacts on procurement costs to the government. While small businesses that already receive contracting preferences might perceive an additional federal procurement goal as threatening to contract competition, agencies responsible for procurement might raise the implementation challenges of dividing contracting dollars into more small business categories. General cost concerns may arise despite that there exists a fair and reasonable price requirement for contracting agencies, to prevent adverse effects of contracting preferences to agencies letting contracts.⁹⁴ Moreover, the example of the Veterans Benefits Act of 2003 indicates that legislation can further stipulate that set-asides and sole-source awards may only be made if the contract award can be made at a fair and reasonable price.

⁹¹ U.S. Department of Labor, Bureau of Labor Statistics, “Table A-5. Employment status of the civilian population 18 years and over by veteran status, period of service, and sex, not seasonally adjusted,” at <https://www.bls.gov/news.release/empsit.t05.htm>.

⁹² U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2021”; U.S. Census Bureau, “Nonemployer Statistics by Demographics series (NES-D): Statistics for Employer and Nonemployer Firms by Industry, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, and Metro Areas: 2020.” Employer firms are nonfarm businesses that have paid employees and annual receipts of at least \$1,000. Non-employer firms are businesses with no paid employment or payroll, annual receipts of \$1,000 or more (\$1 million or more in the construction industries), and filing IRS tax forms for sole proprietorships (Form 1040, Schedule C), partnerships (Form 1065), or corporations (the Form 1120 series).

⁹³ Federal procurement policy permitting the use of noncompetitive procedures is codified at 41 U.S.C. §3304.

⁹⁴ 48 C.F.R. §15.404-1. The Federal Acquisition Streamlining Act (FASA) of 1994 required additional directives around the types of information used to assess price reasonableness. Section 1206 of P.L. 103-355 requires the FAR to “contain provisions concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement ... is fair and reasonable when certified cost or pricing data are not required to be submitted because the price of the procurement ... is not expected to exceed the applicable threshold amount” (Section 1206 of P.L. 103-355).

Legal Considerations

One consideration for Congress, when considering new contracting goals and preferences, might be to specify if contracting authority extends to all types of federal contracts, including orders placed under GSA's Federal Supply Schedule (FSS).⁹⁵

Any future legislation on contracting preferences for VOSBs could benefit from consideration of the Supreme Court's ruling in *Kingdomware Technologies, Inc. v. United States* (2016). Prior to the Kingdomware decision, VA, like other federal agencies, maintained that it could legally make purchases using the FSS without creating set-asides for VOSBs, even when a contracting officer could reasonably expect bids from at least two VOSBs at a fair market price (i.e., when the contracting "Rule of Two" is satisfied). The court held that the text of the Veterans Benefits, Health Care, and Information Technology Act of 2006 requires the VA "to apply the Rule of Two to all contracting determinations and to award contracts to veteran-owned small businesses," and "does not allow the Department to evade the Rule of Two on the ground it has already met its contracting goals or on the ground that the Department has placed an order through the FSS."⁹⁶ This decision applied only to the VA and its contracting practices and resulted in the agency's discontinued use of the FSS without considering set-asides for VOSBs.

Conclusion

Since 1953, Congress has imposed requirements on the federal procurement process to help small businesses receive a fair proportion of federal contracts and subcontracts, primarily by establishing federal procurement goals and various contracting preferences.

Currently, the federal government has several small business procurement programs, including one for SDVOSBs that is designed to help federal agencies achieve the government-wide 3% SDVOSB procurement goal.

Advocates for expanding support to veteran-owned small business more generally have suggested establishing a government-wide VOSB procurement goal and providing federal agencies the authority to set aside and award sole source contracts to VOSBs. Advocates might argue that the federal government should (1) provide more VOSB contracting opportunities in recognition of veterans' service to the nation; (2) encourage business ownership among younger generations of veterans; and (3) provide veterans interested in employment via business ownership a type of benefit comparable to the veteran federal hiring preference.

Opponents of adding a government-wide VOSB procurement goal and related set-aside and sole source contracting authorities could argue that (1) veterans do not need contracting preferences because their economic circumstances are at least as good as, if not better than, the circumstances of the general civilian population; and (2) creating another small business preference program could threaten small businesses currently eligible for preferences and burden agencies implementing preference programs.

⁹⁵ These schedules are lists of goods and services provided by General Services Administration-selected vendors at varying prices and are also known as multiple award schedules (MAS). They provide convenience to agencies procuring commonly required products or services.

⁹⁶ *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 1, 8 (2016).

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