



Examining SDVOSB Certification

Enacting a single system for certifying service-disabled veteran-owned businesses remains a work in progress.

By Neeld Wilson, PG, M.SAME

Currently, the Small Business Administration (SBA) permits companies to represent as a service-disabled veteran-owned small business (SDVOSB) to win set-aside contracts without verifying their service or disability, unless protested. These contracts are meant for verifiable veterans with service-connected disabilities. Regretfully, fraud has been too common in the process.

There are currently two separate SDVOSB verification programs: SBA's system of self-representation and the Veterans First Verification Program of the Department of Veterans Affairs (VA). Only VA is awarding contracts to verified veterans. All other agencies use SBA's program, including across the Department

of Defense. The VA process is four-stages and requires proof of service or disability. It is thorough and extensive.

The *National Defense Authorization Act for Fiscal Year 2017* consolidated the statutory definitions of veteran-owned and disabled veteran-owned companies, however, calling for SBA, not VA, to issue regulations implementing the statutory definition. The law requires VA to use SBA's regulations, and expressly prohibits it from adopting regulations governing ownership and control of SDVOSBs.

In response, VA issued a final rule, effective Oct. 1, 2018 that altered its regulations governing its verification program. The rule, "VA Veteran-Owned Small Business Verification Guidelines," will provide uniformity to the regulations governing VA's ownership and control requirements, and reconcile the differences between the VA and SBA regulations with respect to VOSB and SDVOSB joint ventures. VA will retain authority to ensure that every VOSB/SDVOSB applicant complies with SBA ownership and control requirements prior to any granting of VA-verified status or including the applicant in the Vendor Information Pages.

SBA issued a companion rule, that went into effect Oct. 1, 2018. Notably, the two rules do not transfer the verification process.

ACTIVE LEGISLATION

On July 17, 2019, the House Small Business Committee passed H.R. 1615, *Verification Alignment and Service-Disabled Business Adjustment Act*, introduced by Rep. Trent Kelly (R-Miss.) and Rep. Crow (D-Colo.). This bill is intended to reduce confusion around procurement requirements for SDVOSBs and VOSBs by clarifying responsibility

regarding status and eligibility for set-asides. Specifically, the bill proposes to transfer responsibility of maintaining a database of fully certified SDVOSBs and VOSBs from VA to SBA. It also clarifies that VA is responsible for verifying the business owner's status as a veteran or service-disabled veteran, and that SBA is responsible for determining the company's status as a small business concern.

Still, although it has been passed in the Small Business Committee, H.R. 1615 has not been passed by the House Committee on Veterans Affairs, nor has it been presented to House floor for vote.

Additionally this summer, the Small Business Committee passed H.R. 3537, *Veteran Entrepreneurship Training Act of 2019*, introduced by Rep. Brad Schneider (D-Ill.) and Rep. Ross Spano (R-Fla.). The legislation would codify SBA's Boots to Business Program for five years to help transitioning servicemembers and their spouses launch and grow small businesses. It would be very important that H.R. 3537 compliment H.R. 1615, or the program may end up helping non-veterans.

ENSURING OPPORTUNITY

Starting a business is financially, mentally, and physically challenging. Self-representing is denying benefits to thousands of veterans who have served their country honorably. When one member of Congress was informed recently in detail about the process for self-representing, the response was shock.

In October 2004, President George W. Bush issued *Executive Order 13360*, Providing Opportunities for Service Disabled Veteran Businesses to Increase Their Federal Contracting and Subcontracting. Congress established a 3 percent contracting goal for SDVOSBs.

Many veterans started businesses trusting that these set-asides would be made to verifiable companies.

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Neeld Wilson, PG, M.SAME, is Owner, Gator Engineering & Aquifer Restoration Inc.; neeld@gateengineer.com.

Industry-Government Engagement

In 2016, SAME sent out a request for white papers seeking nationwide contracting concerns. I penned my frustration and my experiences as a SDVOSB. My paper was selected from the call, and the SAME Charleston Post sponsored the issue as my firm was a member of the Post. An IGE Workshop was held as part of the Charleston Post Industry Day in August 2017.

Together, the Post and SAME National Office convened a panel with the VA and SBA as well as the U.S. Army Corps of Engineers and veteran business owners. An audience of more than 150 people participated, providing valuable information to agency leaders. From there, the matter moved quickly. A joint working group was formed between VA and SBA to discuss and eventually agree to eliminate self-representation. The issue continues to work through the legislative process.