

SERVICE-DISABLED VETERAN OPPORTUNITIES IN SMALL
BUSINESS ACT

SEPTEMBER 19, 2023.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business,
submitted the following

R E P O R T

[To accompany H.R. 3511]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill
(H.R. 3511) to amend the Small Business Act to require training
on increasing contract awards to small business concerns owned
and controlled by service-disabled veterans, and for other purposes,
having considered the same, reports favorably thereon without
amendment and recommends that the bill do pass.

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PURPOSE AND BILL SUMMARY

The purpose of H.R. 3511, the “Service-Disabled Veteran Opportunities in Small Business Act” is to require training on increasing contract awards to small business concerns owned and controlled by service-disabled veterans.

H.R. 3511 amends the Small Business Act to require the Small Business Administration (SBA) to provide training to federal agencies who fail to meet the contracting goal for Service-Disabled Veteran Owned Small Businesses on how to increase awards to those firms.

II. NEED FOR LEGISLATION

Veterans bring unique skills to federal procurement which can benefit procurement agencies. Skills such as leadership, teamwork, and perseverance can help agencies meet their missions.

The Small Business Act (15 U.S.C. 644 (g)(1)(A)(ii)) sets a goal for federal agencies to spend three percent of their procurement with Service-Disabled Veteran Owned Small Businesses (SDVOSBs). According to the SBA’s FY21 Government-Wide Procurement Scorecard, not every federal agency has met this required goal. In fact, in FY21 six agencies failed at awarding three percent of their awards to SDVOSBs and the entire federal government failed to meet its three percent subcontracting goal for SDVOSBs.

Agencies failing to meet the statutorily mandated goals prevent those who protected America from thriving in the procurement space. This legislation will educate agencies on how to best reach SDVOSBs and ensure they have adequate opportunities to compete for government contracts.

III. HEARINGS

In the 118th Congress, the Committee held one hearing examining the issues covered in H.R. 3511 on May 11, 2023, at 2:00 p.m. The Subcommittee on Contracting and Infrastructure held a hearing examining small business contracting and heard from a Service-Disabled Veteran Owned Small Business.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on May 23, 2023, and ordered H.R. 3511 favorably reported to the House of Representatives. During the markup no amendments were offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 3511 to the House of Representatives at 2:54 p.m.

118th Congress House Committee on Small Business Vote Record

Date: 5/23/23
 Convened: 2:54 PM

Bill: H.R. 3511

Adjourned:

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)	✓		
Mr. Stauber (MN-08)	✓		
Mr. Meuser (PA-09)	✓		
Ms. Van Duyne (TX-24)	✓		
Ms. Salazar (FL-27)	✓		
Mr. Mann (KS-01)			
Mr. Ellzey (TX-06)	✓		
Mr. Molinaro (NY-19)	✓		
Mr. Alford (MO-04)	✓		
Mr. Crane (AZ-02)	✓		
Mr. Bean (FL-04)			
Mr. Hunt (TX-38)	✓		
Mr. (La-Low-ta) Lalota (NY-01)	✓		
Chairman Williams (TX-25)	✓		
TOTALS:			

Mr. Chairman _____ Votes _____

Mr. Chairman _____ Off _____, Votes _____

Mr. Chairman on that vote 23 Ayes 0 Nays and _____ Present

Adopted - reported favorably to the House

118th Congress House Committee on Small Business Vote Record

Date:

Bill:

H R 3511

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. M-fume (MD-07)	✓		
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)	✓		
Mr. Mc-Gar-vey (KY-03)	✓		
Ms. Glue-sen-kamp Perez (WA-03)	✓		
Ms. (Skull- ton) Scholten (MI-03)	✓		
Mr. (Tan-a-dar) Thanedar (MI-13)	✓		
Ms. (Chew) Chu (CA-28)	✓		
Ms. Davids (KS-03)	✓		
Mr. Pappas (NH-01)			
Ranking Member Nydia Velazquez (NY-07)	✓		
TOTALS:			

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VI. SECTION-BY-SECTION OF H.R. 3511

Section 1. Short title

This section designates the bill as the “Service-Disabled Veteran Opportunities in Small Business Act.”

Section 2. Training on increasing contract awards to small business concerns owned and controlled by Service-Disabled Veterans

This section amends the Small Business Act to require the SBA to provide training to agencies who fail to meet the statutorily mandated Service-Disabled Veteran Owned Small Business (SDVOSB) contracting goals. The Small Business Act currently sets a government wide goal for agencies to award 3 percent of all contracts to SDVOSB firms.

Subsection (1) In General. The SBA Administrator and the SBA Office of Veterans Business Development will provide training to agency officials at agencies that fail to meet the SDVOSB goal on how to increase the contracts awarded to SDVOSBs.

Subsection (2) Guidance. No later than 180 days the SBA shall provide agencies guidance and best practices on how to increase awards to small business owned by SDVOSB.

Subsection (3) Report. No later than 1 year and annually after, SBA shall provide a fiscal year report that lists agencies that failed to meet the SDVOSB goal, number of trainings SBA provided, and overview of training content.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

H.R. 3511, Service-Disabled Veteran Opportunities in Small Business Act			
As ordered reported by the House Committee on Small Business on May 23, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	1	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 3511 would require the Small Business Administration (SBA) to issue guidance to federal agencies on how to increase the number of contracts awarded to service-disabled veteran-owned small businesses (SDVOSBs). Under current law, the SDVOSB Procurement Program, administered by the SBA, assists federal

agencies in awarding at least 3 percent of the total value of prime contract and subcontract dollars to such small businesses. The bill would direct the SBA to provide training to the agencies that have not met that statutory goal and report annually to the Congress.

Agency contracting goals are set in coordination with the SBA and only a small number of agencies do not meet their individual contracting goals each year. Using information from the SBA, CBO expects it would need one employee over the 2024–2028 period, at a cost of \$170,000 annually, to train agencies that do not meet their goals and fulfill the reporting requirements. On that basis, CBO estimates that implementing H.R. 3511 would cost \$1 million over the 2024–2028 period; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 3511 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. OVERSIGHT FINDINGS & RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 3511 are incorporated into the descriptive portions of this report.

X. PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 3511 is to require an annual report from SBA to Congress with a list of federal agencies who failed to meet their SDVOSB goal, the number of trainings SBA provided to each agency, and an overview of training content.

XI. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 3511 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl.1 of the Constitution of the United States.

XVII. CHANGES IN EXISTING LAW, MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * *

SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) CONTRACTING OFFICER DEFINED.—For purposes of this section, the term “contracting officer” has the meaning given such term in section 2101 of title 41, United States Code.

(b) **CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.**—With respect to a procurement program or preference established under this Act that applies to prime contractors, the Administrator shall—

(1) certify the status of a concern as a small business concern owned and controlled by service-disabled veterans; and

(2) require the periodic recertification of such status.

(c) **SOLE SOURCE CONTRACTS.**—In accordance with this section, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

(2) the anticipated award price of the contract (including options) will not exceed—

(A) \$7,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(B) \$3,000,000, in the case of any other contract opportunity; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(d) **RESTRICTED COMPETITION.**—In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans certified under subsection (b) if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

(e) **RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.**—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

(f) **DATABASE OF VETERAN-OWNED BUSINESSES.**—(1) Subject to paragraphs (2) through (6), the Administrator shall maintain a database of small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, and the veteran owners of such business concerns.

(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Administrator such information as the Administrator may require with respect to the small business concern or the veteran. Application for inclusion in the database shall constitute permission under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act) for the Administrator to obtain from the Secretary of Veterans Affairs such personal information maintained by the Secretary as may be necessary to verify the information contained in the application.

(B) For purposes of this subsection—

(i) the Secretary of Veterans Affairs shall—

(I) verify an individual's status as a veteran or a service-disabled veteran; and

(II) establish a system to permit the Administrator to access, but not alter, the verification of such status; and

(ii) the Administrator shall verify—

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

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

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

(3) Information maintained in the database shall be submitted on a voluntary basis by a veteran described in paragraph (1).

(4) the Administrator shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database.

(5) If the Administrator determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Administrator shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

(6)(A) If a small business concern is not included in the database because the Administrator does not certify the status of the concern as a small business concern owned and controlled by veterans (under section 36A) or a small business concern owned and controlled by service-disabled veterans (under subsection (g) of this section), the concern may appeal the denial of certification to the Office of Hearings and Appeals of the Administration (as established under section 5(i)). The decision of the Office of Hearings and Appeals shall be considered a final agency action.

(B)(i) If an interested party challenges the inclusion in the database of a small business concern owned and controlled by veterans or a small business concern owned and controlled by service-disabled veterans based on the status of the concern as a small business concern or the ownership or control of the concern, the challenge shall be heard by the Office of Hearings and Appeals as described in subparagraph (A). The decision of the Office of Hearings and Appeals shall be considered final agency action.

(ii) In this subparagraph, the term "interested party" means—

(I) the Secretary of Veterans Affairs or the Administrator; or

(II) in the case of a small business concern that is awarded a contract, the applicable contracting officer or another small business concern that submitted an offer for the contract that was awarded to the small business concern that is the subject of a challenge made under clause (i).

(g) CERTIFICATION REQUIREMENT.—Notwithstanding subsection (c), a contracting officer may only award a sole source contract to a small business concern owned and controlled by service-disabled veterans or a contract on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if such a concern is certified by the Administrator as a

small business concern owned and controlled by service-disabled veterans.

(h) ENFORCEMENT; PENALTIES.—

(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (b)); and

(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (b).

(2) EXAMINATIONS.—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (b), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (b).

(3) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section and section 36A.

(i) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out subsection (b) or to be able to certify the status of the concern as a small business concern owned and controlled by veterans under section 36A.

(j) TRAINING ON INCREASING CONTRACT AWARDS TO SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—

(1) IN GENERAL.—*The Administrator, in consultation with the Office of Veterans Business Development, shall provide to covered employees at each Federal agency that has not met the goal established under section 15(g)(1)(A)(ii) training on how to increase the number of contracts awarded to small business concerns owned and controlled by service-disabled veterans.*

(2) GUIDANCE.—*Not later than 180 days after the date of the enactment of this Act, the Administrator, in consultation with the Office of Veterans Business Development, shall issue guidance and best practices on increasing the number of contracts awarded to small businesses owned and controlled by service disabled veterans for Federal agencies to which the goal established under section 15(g)(1)(A)(ii) applies.*

(3) REPORT.—*Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall submit to Congress a report detailing, for the fiscal year covered by the report—*

(A) a list of each Federal agency that failed to meet the goal established under section 15(g)(1)(A)(ii);

(B) the number of trainings provided to each Federal agency described in paragraph (1); and
(C) an overview of the content included in such training sessions.

* * * * *

