

116TH CONGRESS
1ST SESSION

H. R. 561

To amend title 38, United States Code, to improve the oversight of contracts awarded by the Secretary of Veterans Affairs to small business concerns owned and controlled by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2019

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

A BILL

To amend title 38, United States Code, to improve the oversight of contracts awarded by the Secretary of Veterans Affairs to small business concerns owned and controlled by veterans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Business
5 Opportunities for Veterans Act of 2019”.

1 **SEC. 2. LIMITATIONS ON SUBCONTRACTS UNDER CON-**
 2 **TRACTS WITH SMALL BUSINESS CONCERNS**
 3 **OWNED AND CONTROLLED BY VETERANS.**

4 (a) IN GENERAL.—Section 8127 of title 38, United
 5 States Code, is amended—

6 (1) by redesignating subsection (k) as sub-
 7 section (l); and

8 (2) by inserting after subsection (j) the fol-
 9 lowing new subsection (k):

10 “(k) LIMITATIONS ON SUBCONTRACTING.—(1)(A)
 11 The requirements applicable to a covered small business
 12 concern under section 46 of the Small Business Act (15
 13 U.S.C. 657s) shall apply with respect to a small business
 14 concern owned and controlled by veterans that is awarded
 15 a contract under this section. In the case of a contract
 16 which is principally for supplies from a regular dealer in
 17 such supplies and for which the Administrator of the
 18 Small Business Administration has granted a waiver pur-
 19 suant to subsection (a)(4)(B) of such section, a small busi-
 20 ness concern owned and controlled by veterans that is
 21 awarded such a contract under this section may not ex-
 22 pend on subcontractors more than 50 percent of the
 23 amount paid to the concern under the contract.

24 “(B) For purposes of applying the requirements of
 25 section 46 of the Small Business Act (15 U.S.C. 657s)
 26 pursuant to subparagraph (A), the term ‘similarly situated

1 entity’ used in such section 46 includes a subcontractor
2 for a small business concern owned and controlled by vet-
3 erans described in such subparagraph (A).

4 “(2) The Secretary may award a contract under this
5 section only after the Secretary obtains from the offeror
6 a certification that the offeror will comply with the re-
7 quirements described in paragraph (1)(A) if awarded the
8 contract. Such certification shall—

9 “(A) specify the exact performance require-
10 ments applicable under such paragraph; and

11 “(B) explicitly acknowledge that the certifi-
12 cation is subject to section 1001 of title 18.

13 “(3)(A) The Director of Small and Disadvantaged
14 Business Utilization for the Department, established pur-
15 suant to section 15(k) of the Small Business Act (15
16 U.S.C. 644(k)), and the Chief Acquisition Officer of the
17 Department, established pursuant to section 1702 of title
18 41, shall jointly implement a process using the systems
19 described in section 16(g)(2) of the Small Business Act
20 (15 U.S.C. 645(g)(2)), and any other relevant systems
21 available, to monitor compliance with this subsection.

22 “(B) The Director of Small and Disadvantaged Busi-
23 ness Utilization and the Chief Acquisition Officer shall
24 jointly refer any violations or suspected violations of this
25 subsection to the Inspector General of the Department.

1 “(C) If the Secretary determines, in consultation with
2 the Inspector General of the Department, that a small
3 business concern that is awarded a contract under this
4 section did not act in good faith with respect to the re-
5 quirements described in paragraph (1)(A), the small busi-
6 ness concern shall be subject to any or all of the following
7 consequences—

8 “(i) referral to the Debarment and Suspension
9 Committee of the Department;

10 “(ii) a fine under section 16(g)(1) of the Small
11 Business Act (15 U.S.C. 645(g)(1)); and

12 “(iii) prosecution for violating section 1001 of
13 title 18.

14 “(D) Not later than November 30 for each of fiscal
15 years 2020 through 2024, the Inspector General shall sub-
16 mit to the Committees on Veterans’ Affairs of the Senate
17 and House of Representatives a report for the fiscal year
18 preceding the fiscal year during which the report is sub-
19 mitted that includes, for the fiscal year covered by the re-
20 port—

21 “(i) the number of referred violations and sus-
22 pected violations received under subparagraph (B);
23 and

24 “(ii) the disposition of such referred violations,
25 including the number of small business concerns sus-

1 pended or debarred from Federal contracting or re-
2 ferred to the Attorney General for prosecution.”.

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

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