

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 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. 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 3% of federal contract award dollars to SDVOSBs each fiscal year. 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 non-disabled 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 percent, 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. §125.11 "Service disabled veteran."

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 July of 2022, the Bureau of Labor Statistics (BLS) reported that the civilian labor force included nearly 8.7 million veterans (i.e., veterans who were either employed or unemployed and available for work), and of those, 237,000 were unemployed.⁵ This translates into an unemployment rate of 2.7%, compared to 3.7% for the non-veteran civilian population.

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.⁶ According to the latest available data from two Census Bureau datasets on veteran business ownership, over 331,000 employer firms owned by veterans existed in 2018⁷ and 1.4 million out of nearly 26.5 million non-employer firms (self-employed proprietors) were owned by veterans in 2017.⁸ Based on these numbers, approximately 5.7% of employer firms and 5.3% of non-employer firms were owned by veterans in these years.⁹ **Table 1** presents these data. Meanwhile, veterans comprised approximately 5% of the overall civilian labor force aged 18 to 64 years in 2019, which was on par with their share of business owners.¹⁰

⁵ 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>.

⁶ 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.

⁷ 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: 2019,” at https://data.census.gov/cedsci/table?g=0100000US&d=ECNSVY%20Annual%20Business%20Survey%20Annual%20Business%20Survey&tid=ABSCS2019.AB1900CSA01&nkd=ETH_GROUP~001,RACE_GROUP~00,SEX~001,VET_GROUP~002.

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

⁸ 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: 2018,” at https://data.census.gov/cedsci/table?q=NES-D&g=0100000US&y=2018&tid=ABSNESD2018.AB1800NESD01&nkd=ETH_GROUP~001,RACE_GROUP~00,SEX~001,VET_GROUP~001%3A002.

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).

⁹ 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).

¹⁰ U.S. Census Bureau, 2019 American Community Survey, 5-Year Estimates, Table S2101, “Veteran Status,” at <https://data.census.gov/cedsci/table?t=Veterans&tid=ACST5Y2019.S2101>.

Table I. Veteran Business Ownership by Employer and Non-Employer Firm Type, 2017-2018

Business Ownership	Employer Firms	Non-Employer Firms
Veteran-Owned	331,000	1,400,000
Percentage Veteran-Owned	5.7%	5.3%
Total (any ownership)	5,800,000	26,500,000

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: 2019”; 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: 2018.”

Notes: Employer firm data are for 2018. Non-employer firm data are for 2017.

Veteran-Owned Contractors and Federal Contract Awards

The number of VOSBs interested in contracting with the government is reflected in the number of registrations with an SBA’s Dynamic Small Business Search database, where contracting officers may review contract bidder information. As of July 5, 2022, this database included 43,544 firms registered as active, veteran-owned firms interested in doing business with federal agencies.¹¹ Although this group of firms might not necessarily represent all potential VOSB contractors, it does account for 2.5% of total estimated (employer and non-employer) veteran-owned firms.

Federal agencies have awarded at least \$100 billion to small business contractors each fiscal year since FY2016.¹² Veteran-owned firms (including non-small firms) received nearly \$36 billion in federal contract awards in FY2021, with VOSBs receiving more than \$31 billion.¹³ About 44% of these award dollars, or \$25 billion, went to SDVOSBs.¹⁴

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 close to 45% of contract dollars to VOSBs and 40% to SDVOSBs in FY2021.¹⁵ VA awards accounted for nearly 27% of contract dollars to VOSBs and 33% to SDVOSBs in FY2021.¹⁶ The Department of Homeland Security was the next most significant contracting agency for both types of firms, accounting for 5% of contract dollars to VOSBs and 4% to SDVOSBs.¹⁷

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. FY2021

¹¹ U.S. Small Business Administration (SBA), “Dynamic Small Business Search,” at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm, accessed 7/5/2022.

¹² SBA, “Small Business Procurement Scorecard Overview,” at <https://www.sba.gov/document/support-small-business-procurement-scorecard-overview>. According to the most recently available Small Business Procurement Scorecard, small business eligible contracts totaled \$559.981 billion in FY2020 and \$145.8 billion was awarded to small businesses (\$142.4 billion without required double counting for qualified disaster areas).

¹³ U.S. General Services Administration (GSA), “Sam.Gov Data Bank, Ad Hoc report,” June 17, 2022 [2021], at <https://sam.gov/reports/awards/adhoc>.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

data show that more than \$18.4 billion (59%) was awarded to VOSBs in full and open competition, with nearly \$13.6 billion of this total awarded to SDVOSBs.¹⁸ **Table 2** presents the percentages of federal contract award dollars made through set-asides, sole-source awards, other preferences, and open competition.

Table 2. Contract Award Amounts to Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses, FY2021

Business Ownership	Amount of Federal Contract Award Dollars	Percentage Awarded with Set-Aside ^a	Percentage Awarded as Sole Source Contract ^b	Percentage Awarded with Another Small Business Preference ^c	Percentage Awarded in Open Competition
Veteran-owned small business (VOSB)	\$31.2 billion	21%	1%	19%	59%
Service-disabled veteran-owned small business (SDVOSB)	\$24.8 billion	27%	1%	17%	55%

Source: U.S. General Services Administration (GSA), “Sam.Gov Data Bank, Ad Hoc report,” June 17, 2022 [FY2021], at <https://sam.gov/reports/awards/adhoc>.

Notes: Table data on SDVOSB contract awards may not match FY2021 Small Business Procurement Scorecard data. The Federal Procurement Data System (FPDS) is the source of contract award data from the GSA database and reflects the point in time when extracted.

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

Veteran-Owned Firms by Location

The following maps show the number of VOSBs by state, and their proportion relative to non-veteran owned firms, using U.S. Census Bureau survey data. The first map, shown in **Figure 1**, shows the number and percentage of employer firms¹⁹ owned by veterans in each state, along with the location of SBA Veteran Business Outreach Centers²⁰ where VOSBs can access veteran-specific business counseling and assistance. Employer firms have paid employees, and so exclude self-employed veterans and sole proprietorships that do not have a payroll.

¹⁸ Ibid.

¹⁹ Employer firms are nonfarm businesses that have paid employees and annual receipts of at least \$1,000.

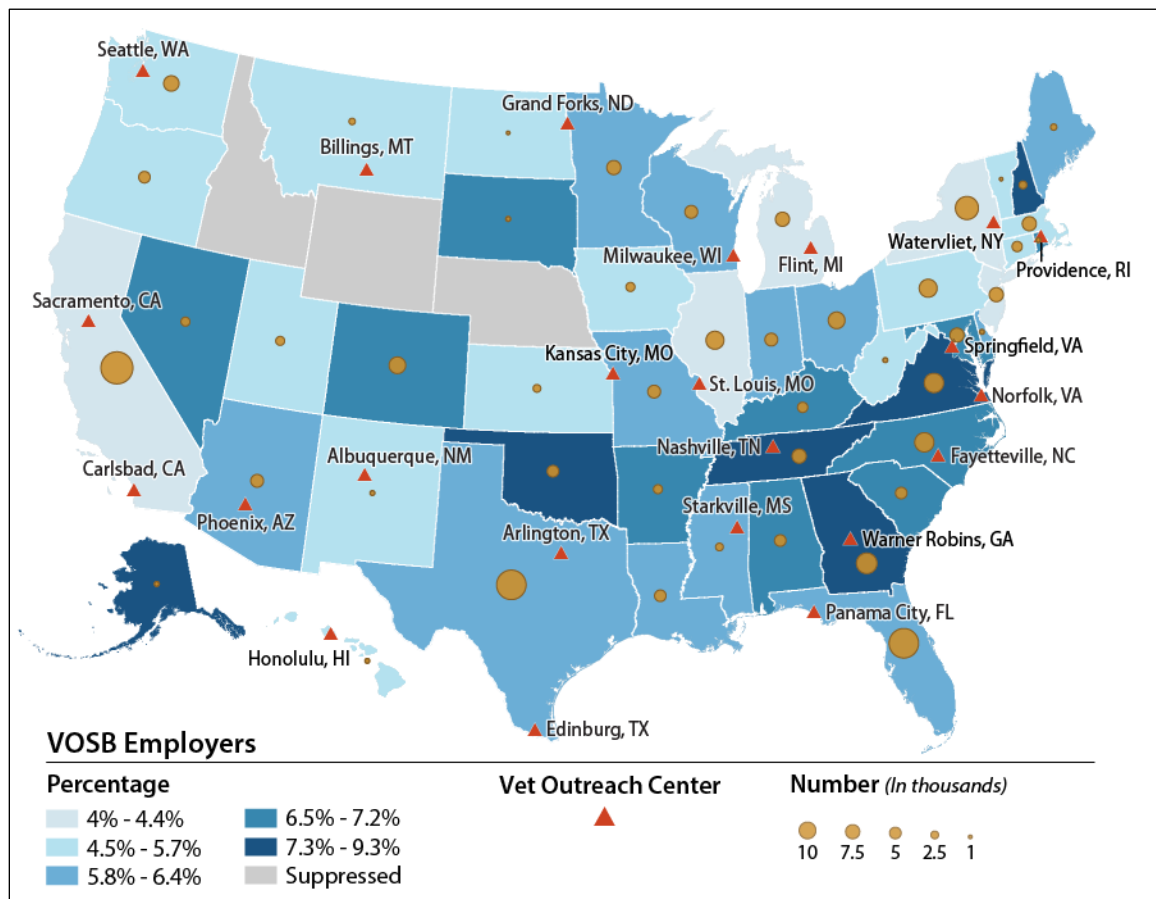
²⁰ States without a Veteran Business Outreach Center include those with high counts or shares of VOSBs, such as Alaska and New Hampshire. New centers may be established through SBA grant funding opportunities, which are periodically offered to provide “initial” funding to eligible entities. According to Notices of Funding Opportunity, initial funding may be awarded for up to a five-year period, potentially followed by “renewal” funding, which is available through separate funding opportunities.

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 Alaska (8.1%) Georgia (8.1%), New Hampshire (9.3%), Oklahoma (7.7%), Tennessee (7.7%), and Virginia (8.8%).

Figure 2 shows the number and percentage of all (employer and non-employer) firms owned by veterans in each state, along with the location of SBA Veteran Outreach Centers. Several of the same observations about the geography of employer VOSBs apply to the second map in **Figure 2**. However, when adding in the non-employer²¹ VOSBs to the data, the states with the highest percentages of VOSBs (relative to the number of employer firms in the state) become Alaska (9.8%), Georgia (7.0%), and Virginia (8.4%).

Figure 1. Map of Employer Veteran-Owned Small Businesses

2018 Counts and Percentages of Employer Firms by State



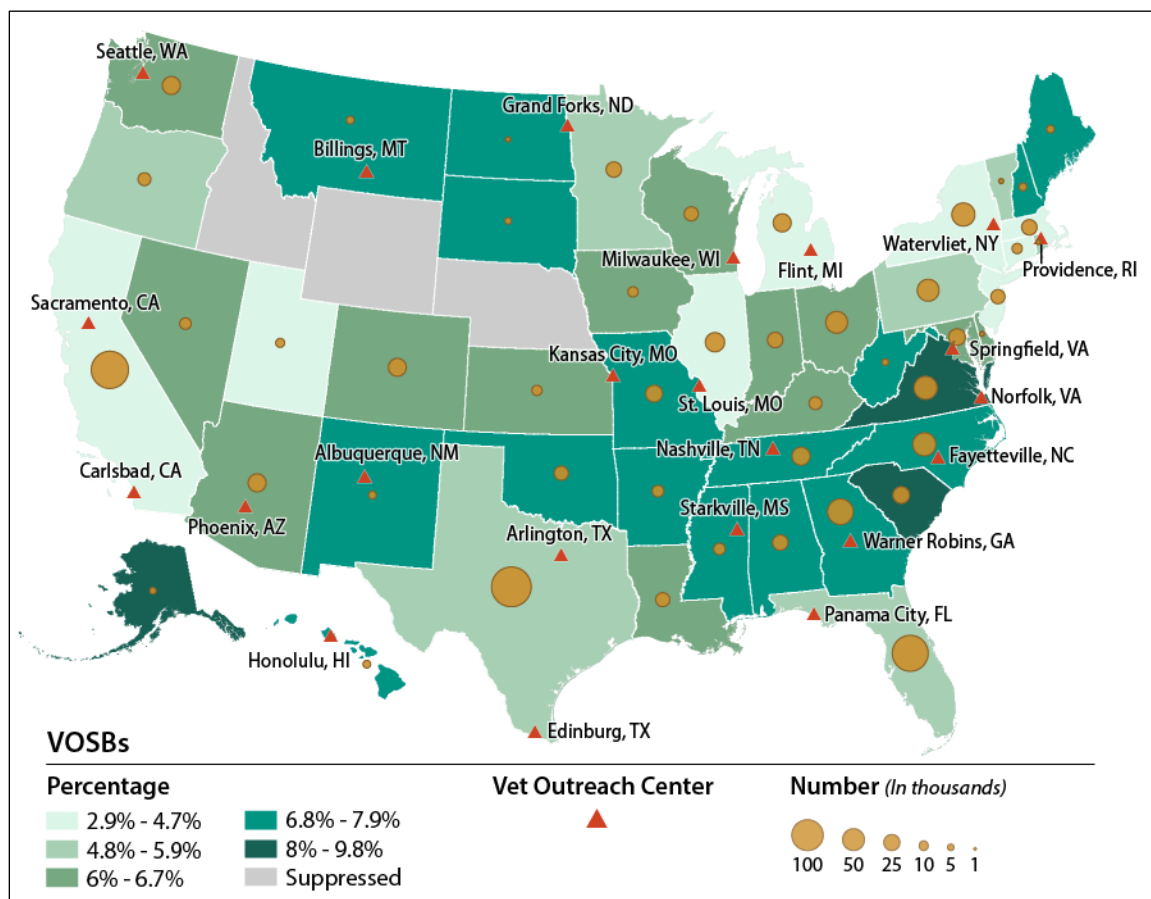
Source: U.S. Census Bureau, “Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran Status for the U.S., States, and Metro Areas: 2019.”

Note: Data were suppressed by the Census Bureau for three states (Wyoming, Nebraska, Idaho) because the estimates do not meet publication standards due to high sampling variability, poor response quality, or other concerns about the estimate quality.

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 2. Map of All Veteran-Owned Small Businesses

2018 Counts and Percentages of Firms 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: 2019” and “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: 2018.”

Notes: The Census Bureau suppressed data for three states (Wyoming, Nebraska, Idaho) 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 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 percent, 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.²²

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. 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 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

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

²² 13 C.F.R. §125.11.

²³ 13 C.F.R. §125.12. One exception is eligibility for the surviving spouse of a deceased service-disabled veteran small business owner.

²⁴ 13 C.F.R. §125.12.

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*, by Robert Jay Dilger and Anthony A. Cilluffo.

SDVOSB Program

The SDVOSB program is the only government-wide procurement preference program for small businesses owned by service-disabled veterans.³⁰ The program allows federal contracting officers to set aside federal contracts for SDVOSBs in order to reach the statutory 3% 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 have a reasonable expectation of receiving offers from at least two responsible SDVOSBs that are competitive in terms of market prices, quality, and delivery of the goods or services being purchased.³¹ This 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.³²

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 Act³³ and the SBA's implementing regulations;³⁴ 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.³⁵

In cases where a veteran has a permanent and severe disability, a veteran's spouse or permanent caregiver may qualify as an eligible SDVOSB owner.³⁶ In addition, some eligible SDVOSBs may be owned and controlled by a deceased veteran's surviving spouse.³⁷ Apart from these instances, the program eligibility status of a veteran does not transfer to a veteran's spouse.

³⁰ For additional information and analysis regarding the SDVOSB program, see CRS Report R46906, *Service-Disabled Veteran-Owned Small Business Procurement Program*, by Robert Jay Dilger and R. Corinne Blackford.

³¹ 13 C.F.R. §125.22(b)(1).

³² 13 C.F.R. §125.23.

³³ 15 U.S.C. §632(q).

³⁴ 13 C.F.R. §125. 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."

³⁵ 38 U.S.C. §101(2) and 13 C.F.R. §125.11.

³⁶ 48 C.F.R. §802.101. The veteran must have had a 100% service-connected disability rating.

³⁷ 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 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 3 years following the date of the

Presently, SDVOSBs may self-certify as eligible for the program rather than obtaining certification. When an SDVOSB submits an offer, it must represent to the contracting officer that it is an eligible SDVOSB.³⁸ Beginning on January 1, 2023, business owners will have to submit an application to SBA for certification as an SDVOSB.³⁹ An SDVOSB owner must file an application for certification with the SBA “before the end of the 1-year period beginning” on January 1, 2023, in order to retain its program eligibility.⁴⁰

SDVOSB Program Contracting Goal

The SDVOSB program aims to help federal agencies reach a government-wide goal of awarding not less than 3% of the total value of all prime contract and subcontract awards for each fiscal year to SDVOSBs. Section 502 of P.L. 106-50 established this goal. 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 3% 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 FY2012.⁴¹ Federal agencies have continued to meet the 3% goal since then.

In FY2021, federal agencies made 4.4% of eligible awards⁴² to SDVOSBs. In the same year, approximately 28% of all SDVOSB contracts were awarded when an SDVOSB preference was used (1% by an SDVOSB sole source award and 27% by an SDVOSB set-aside award), 17% were awarded through another small business preference program, and 55% were awarded using full and open competition.⁴³ The contract award amounts for each fiscal year, 2015-2020, are shown below in **Table 4**.

Table 4. Service-Disabled Veteran-Owned Small Business Contract Awards, FY2015-FY2020
(\$ in billions)

Fiscal Year	Amount of Federal Contract Award Dollars	Percentage of Small Business Eligible Awards (goal of 3%)
2021	\$25.0	4.41%
2020	\$23.7	4.23%
2019	\$21.8	4.34%
2018	\$20.6	4.27%
2017	\$17.9	4.05%
2016	\$16.3	3.98%

death of the veteran.

³⁸ 48 C.F.R. §19.1403.

³⁹ Section 862(e) of P.L. 116-283, William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021.

⁴⁰ Ibid.

⁴¹ GSA, “Sam.Gov Data Bank, Ad Hoc report,” at <https://sam.gov/reports/awards/adhoc>.

⁴² “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 (non-appropriated funds), those not covered by the Federal Acquisition Regulation, and those not reported in the Federal Procurement Data System (e.g., contracts valued 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.

⁴³ GSA, “Sam.Gov Data Bank, Ad Hoc report,” June 17, 2022 [FY2021], at <https://sam.gov/reports/awards/adhoc>.

Fiscal Year	Amount of Federal Contract Award Dollars	Percentage of Small Business Eligible Awards (goal of 3%)
2015	\$13.8	3.93%

Source: U.S. General Services Administration (GSA), “Sam.Gov Data Bank, Static: Small Business Goaling Report [FY2005-FY2021],” at <https://sam.gov/reports/awards/static>.

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 are currently 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 2009 Government Accountability Office (GAO) report concluded that the SBA’s reliance on bid protests to investigate allegations of SDVOSB program fraud resulted in millions of dollars being awarded to ineligible firms.⁴⁴ More recently, 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.⁴⁵

Section 862 of P.L. 116-283 (NDAA 2021) requires the SBA to establish a government-wide SDVOSB certification and periodic recertification process by January 1, 2023. This transition will require 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.⁴⁶ While VA will continue to determine whether an individual qualifies as a veteran or service-disabled veteran, SBA will certify firm eligibility for the SDVOSB program.⁴⁷ On July 6, 2022, the SBA published a proposed rule in the *Federal Register* to establish the certification process for VOSBs and SDVOSBs. SBA proposes to implement the Veterans Certification Program in new regulations at 13 C.F.R. Part 128.⁴⁸

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

⁴⁴ U.S. Government Accountability Office (GAO), *Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts*, GAO-10-108, October 23, 2009, p. 21, at <https://www.gao.gov/products/gao-10-108> (hereinafter GAO, *Service-Disabled Veteran-Owned Small Business Program*).

⁴⁵ 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.

⁴⁶ The SBA will assume 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, *FY2023 Congressional Justification and FY2021 Annual Performance Report*, pp. 4-5.

⁴⁷ Section 862 of P.L. 116-283.

⁴⁸ *Ibid.*

aside contracts for SDVOSBs and VOSBs where the Rule of Two is met,⁴⁹ granting priority consideration to SDVOSBs.⁵⁰ Both SDVOSBs and VOSBs receive priority consideration before any other type of small business.⁵¹ The complete order of priority is as follows: (1) SDVOSB, (2) VOSB, (3) 8(a) or HUBZone small business,⁵² and (4) other small businesses with preference of some kind. The prioritization of certain types of small business concerns is not a feature of the 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 non-competitive 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

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 requires firms to obtain "verification" of their status as an SDVOSB in order to compete for set-asides and sole source contracts. Business owners create Vendor Information Page (VIP) accounts and upload required documents in order to apply for verification. The VA's Center for Verification and Evaluation (CVE) verifies SDVOSBs and VOSBs. When conducting SDVOSB set-asides, contracting officers must ensure that VOSBs are registered and verified as eligible in the VA's VIP database at the time they submit offers and prior to contract award, and that VOSBs affirmatively represent their small business status.⁵⁸

⁴⁹ 38 U.S.C. §8127(d).

⁵⁰ 48 C.F.R. §819.7004.

⁵¹ Ibid.

⁵² 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*, by Robert Jay Dilger and R. Corinne Blackford.

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. §125.

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

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 48 C.F.R. §819.7005.

Until 2023, the VA verification process will continue for SDVOSBs as well as VOSBs. For SDVOSBs, the 2021 NDAA’s creation of a certification requirement at the SBA for SDVOSBs seeking sole source and set-aside contracts across the federal government goes into effect on January 1, 2023.⁵⁹ If an SDVOSB does not file a certification application with the SBA before the end of one year beginning on January 1, 2023, it will lose its program eligibility.⁶⁰

Veterans First Program Contracting Goal

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 is 17%. In recent years, the VA has awarded a higher percentage to VOSBs than the goal. For example, according to the VA’s FY2023 Budget Submission, the agency awarded 25.7% of its *total* procurement to VOSBs in FY2021, 22.7% in FY2020, and 25.7% in 2019.⁶¹ **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.

In FY2021, 17.2% of VA’s new contract awards used a VOSB or SDVOSB set-aside.⁶² The agency’s target amount was 10%, which it maintained in FY2022 and FY2023.

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. In FY2021, only the DOD awarded 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 those awarded to SDVOSBs.⁶³

Table 5.VA Contract Award Amounts FY2019-FY2021

Fiscal Year	Small Business Eligible Dollars	Percentage of Agency Contract Award Dollars to VOSBs	Percentage of Agency Contract Award Dollars to SDVOSBs
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-FY2021],” at <https://sam.gov/reports/awards/static>.

Notes: The source of the small business eligible dollar amounts and the percentage of award dollars to SDVOSBs is the Small Business Goaling Reports, 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.

⁵⁹ Section 862 of P.L. 116-283.

⁶⁰ Ibid.

⁶¹ VA, *FY2023 Budget Submission: Supplemental Information and Appendices, Volume 1 of 4*, March 2022, p. 125. 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 by the SBA to create annual agency Procurement Scorecards.

⁶² Ibid.

⁶³ GSA, “Sam.Gov Data Bank, Ad Hoc report,” June 17, 2022 [2021], at <https://sam.gov/reports/awards/adhoc>.

Program Oversight

Implementation of the VA's Veterans First program, like the government-wide contracting preference programs, has raised questions about fraud management and federal agencies' approaches to mitigating the risk of making contract awards to ineligible businesses. In 2011, a VA Inspector General (IG) audit found that the VA had awarded \$46.5 million in contracts intended for VOSB and SDVOSB to 32 ineligible businesses.⁶⁴ Based on these findings, the IG projected that, at the time, the VA was annually awarding ineligible businesses "a minimum of 1,400 VOSB and SDVOSB sole-source and set-aside contracts valued at \$500 million."⁶⁵ In 2018, a GAO report documented the challenges facing VA contracting officers implementing Veterans First policies, including confusion about determining whether there is a reasonable expectation that two or more VOSBs or SDVOSBs will submit offers and that an award can be made at a fair and reasonable price.⁶⁶ Further, GAO found that the VA's VIP database of VOSBs and SDVOSBs is not designed for market research or the identification of capable firms, even though the VA requires that its contracting officers use it to conduct market research, and to identify VOSBs/SDVOSBs capable of performing work.⁶⁷ GAO notes that the VA has made Veterans First policy training mandatory.⁶⁸ Nevertheless, VA's acquisition management (beyond the Veterans First program) has remained a GAO-designated "high risk area" since 2019, in part because of inadequate training, lack of reliable data systems, and "limited contract oversight and incomplete contract file documentation."⁶⁹

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 SCORE⁷⁰). 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 delivered through higher education partners; the Veteran Federal Procurement Entrepreneurship Training Program (VFPETP), which is provided through a public-private partnership known as

⁶⁴ VA, Office of the Inspector General, *Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs*, July 25, 2011, p. 3.

⁶⁵ Ibid.

⁶⁶ GAO, Report to Congressional Requesters, *Veterans First Program: VA Needs to Address Implementation Challenges and Strengthen Oversight of Subcontracting Limitations*, GAO-18-648, September 2018, pp. 24-32.

⁶⁷ Ibid.

⁶⁸ GAO, "VA Acquisition Management," at <https://www.gao.gov/highrisk/va-acquisition-management>.

⁶⁹ 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 is available at <https://www.gao.gov/high-risk-list>.

⁷⁰ Formerly known as the Service Corps of Retired Executives.

the Veteran Institute for Procurement (VIP); and programing for women veterans, female military spouses/partners, and Native American, Alaska Native, and Native Hawaiian entrepreneurs.⁷¹

The SBA implements Boots to Business (B2B) within the DOD's Transition Assistance Program (TAP) for service members as they prepare to leave military service.⁷² 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 service members (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.⁷³ 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.⁷⁴

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.⁷⁵ 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.⁷⁶ To date, VIP has trained 2,049 veteran-owned and service-disabled veteran owned businesses across all 50 states, Washington, DC, Puerto Rico, and Guam, and VIP graduates have received \$16.9 billion in federal prime contract awards since 2010.⁷⁷

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

⁷¹ SBA, Office of Veterans Business Development, "Veteran-Owned Businesses," at <https://www.sba.gov/business-guide/grow-your-business/veteran-owned-businesses>.

⁷² <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.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ 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>.

⁷⁶ "VIP Fast Facts," at <https://nationalvip.org/wp-content/uploads/2022/05/2022-VIP-Fast-Facts-1.pdf>.

⁷⁷ Ibid.

venture.”⁷⁸ 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.⁷⁹

ONABEN

ONABEN serves veterans as well as active duty service members 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.⁸⁰ Services are available that cover “all stages of a business life cycle, from start-up business plan completion to succession planning for established businesses.”⁸¹

Other Federal Contracting Assistance

The Defense Logistics Agency administers Procurement Technical Assistance Centers (PTACs) hosted by local organizations throughout the country, including those that specialize in service to federally recognized Indian tribes and Alaska Native entities. PTACs offer assistance to businesses to help them understand the federal acquisition system and compete for government contracts. PTAC Procurement Specialists provide no-cost consulting to business owners which may involve helping them obtain registrations and certifications, prepare offers, and identify federal government contracting opportunities. PTACs may offer workshops and other events, including those tailored for VOSBs and SDVOSBs.⁸² In the case of VOSBs and SDVOSBs seeking to participate in the Veterans First or SDVOSB programs, PTACs may help business owners navigate use of the federal System for Award Management (SAM) and the VA’s verification process (required by Veterans First).

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,⁸³ Bunker Labs supports VOSBs and veteran spouses through start-up education, business mentoring, and building connections.⁸⁴ The National Veteran 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

⁷⁸ Institute for Veterans and Military Families at Syracuse University, “About IVMF,” at <https://ivmf.syracuse.edu/programs/entrepreneurship/start-up/ebv/>.

⁷⁹ Ibid.

⁸⁰ ONABEN, “Beyond the Boots: A Veteran and Service Member Initiative,” at <https://onaben.org/what-we-do/signature-programs/>.

⁸¹ Ibid.

⁸² See <https://www.dla.mil/SmallBusiness/PTAP/PTAC/> for additional information on the locations of PTACs and links to their individual websites.

⁸³ Veteran Women’s Enterprise Center, “About Us,” available at <https://veteranwomenssec.org/about/about-us>.

⁸⁴ Bunker Labs, “Our Programs,” available at <https://bunkerlabs.org/programs/>.

enhanced access to opportunities” to work with federal agencies and other government contractors.⁸⁵

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.⁸⁶

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.⁸⁷ In addition, the Task Force recommended legislation establishing a 10 percent subcontracting procurement goal and preference for VOSBs.⁸⁸ Both recommendations were assigned a “high priority” in the Task Force’s report.⁸⁹

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 2003.⁹⁰ 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.”⁹¹ This development may have resulted in part because, after September 11, 2001, government leaders emphasized support for the significant surge in new service members, especially those disabled during their service.

Continued congressional interest in promoting opportunities for VOSBs is demonstrated by recently introduced and enacted legislation. P.L. 116-315 in the 116th Congress expanded VA’s

⁸⁵ National Veteran Small Business Coalition, “Mission,” available at <https://nvsbc.org/mission/>.

⁸⁶ 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.

⁸⁷ 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.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ P.L. 108-183

⁹¹ 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.

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. 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%.

As younger generations of veterans are not starting businesses at the same rates as those from earlier periods,⁹² 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 service members as a parallel policy to federal hiring preferences for veterans. Veterans' hiring preference provides special consideration for qualified former service members pursuing civilian employment with the federal government; it gives qualified veterans certain advantages in the assessment and selection procedures in the federal hiring process.⁹³ 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."⁹⁴ 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 service members 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 non-veteran civilian population⁹⁵ and the estimated numbers of firms currently owned by veterans⁹⁶ could suggest that non-disabled veterans are not a group that economically requires contracting preferences.

⁹² 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.

⁹³ For more information, see CRS Report R44652, *Federal Government Employment: Veterans' Preference in Competitive Examination*, by Benjamin Collins.

⁹⁴ Ibid.

⁹⁵ 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/empstat.t05.htm>.

⁹⁶ U.S. Census Bureau, "Nonemployer Statistics by Demographics series (NES-D): Owner Characteristics of

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. In FY2021, the federal government awarded 5.4% of its small business eligible contracts to VOSBs, or approximately \$30 billion.⁹⁷ In previous fiscal years, the government awarded 5.3% (FY2020), 5.5% (FY2019), and 5.6% (FY2018) of contracts to VOSBs.

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.⁹⁸ 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.⁹⁹ 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.

Nonemployer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States, and Metro Areas: 2018,” at https://data.census.gov/cedsci/table?q=NES-D&g=0100000US&y=2018&tid=ABSNESSD2018.AB1800NESD01&nkd=ETH_GROUP~001,RACE_GROUP~00,SEX~001,VET_GROUP~001%3A002. 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).

⁹⁷ GSA, “Data Bank, Static Reports, Small Business Goaling Reports,” at <https://sam.gov/reports/awards/static>.

⁹⁸ Federal procurement policy permitting the use of noncompetitive procedures is codified at 41 U.S.C. §3304.

⁹⁹ 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).¹⁰⁰

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."¹⁰¹ 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.

¹⁰⁰ 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.

¹⁰¹ *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 1, 8 (2016).

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