



111th Congressional Review

Two Victories for SDVOSB

The 111th Congress and the Obama Administration began its leadership role with promising implications for service-disabled veteran owned small businesses (SDVOSB). The discovery of rampant fraud within the Veteran's Administration contracting program brought considerable national attention to SDVOSB and other federal contracting set-aside groups.

After months of investigation, the Government Accountability Office (GAO) released a report in November 2009 that uncovered misrepresentation in this federal contract set-aside program. Companies not operated by disabled veterans were in the VA's database of SDVOSB. The database, known as Vendor Information Pages (VIP), required that companies 'self-certify' that 51% of the company was owned by a veteran with a service-connected disability. More than 1000 companies falsely claimed to be SDVOSB. At least \$100 million in VA contracts set-aside for disabled vets was awarded to unqualified companies.



The House Small Business Committee, its Subcommittee on Contracting and Technology, the House Committee on Veterans Affairs, its Subcommittee on Economic Opportunity and the VA Subcommittee on Oversight and Investigation each held hearings and testimony by government officials, SDVOSB, VSOs and private business owners.

This attention resulted in the **Veterans Small Business Verification Act, (see Pg. 5)** which was signed into law on October 13, 2010. This legislation requires the VA Secretary to verify veteran and service-connected disabled veteran status before any contract is awarded by the VA.

The **Small Business Act of 2010**, signed into law on September 27, 2010, was also significant legislation passed by the 111th Congress. Parity among set-aside contract groups [8(a), HUBZone, and SDVOSB] is now law.~~



111th Congressional Milestones... ...and 112th Lineup

The 111th House of Representatives investigated widespread fraud within the SDVOSB set-aside contracting program. SDVOSB activity in the 112th Congress may include:

House Committee on Veterans Affairs

Jeff Miller (R-FL) Chairman
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The House Veterans Affairs Committee started the ball rolling when it began investigation of fraud within the SDVOSB program in 2009. GAO was asked to investigate the extent of fraud.

GAO chose ten companies registered as SDVOSB in the Central Contracting Registry (CCR) and found that **NONE** of the randomly chosen companies were eligible SDVOSB. GAO's investigation and the VA's separate IG investigations lead to **increased pressure to end** self-certification for contracts in the VA procurement program.

VA Subcommittee on Economic Opportunity



The Center for Veterans Enterprise (CVE) came under scrutiny in March 2010. With no resources or formal mandate, hearings by this Subcommittee revealed CVE as an information and referrals agency rather than a resource and mentoring Division of the VA. CVE is now a certification office.

Chairman Marlin A. Stutzman (R-IN)

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House Small Business Committee Chairman Sam Graves, (R-MO)

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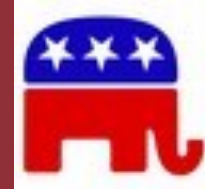
Rep. Nydia Velazquez (D-NY) commented after a November 2009 Hearing: "The committee is going to support the SDVOSB contracting program and hold the individuals accountable that have gamed the system at the expense our nation's SDVOSB." VA would determine eligibility only for contracts with the VA, and SBA will prosecute for misrepresentation **ONLY** if a protest is filed. No punishment for misrepresentation exists and self-certification continues throughout the federal government.

Small Business Subcommittee on Contracting and Technology Chairman (VACANT)

In an interview with Chairman Nye in July 2010, he discussed SDVOSB fraud throughout the federal government: "The SBA says it's the VA's problem; the VA says it's the SBA's problem.. Somebody's got to own it. The buck's got to stop with somebody." Rep. Nye's introduced legislation that was the precursor to the **Veterans Small Business Verification Act, which applies only to contracts within the VA.**~~

With Congress, every time they make a law it's a joke,
and every time they make a joke it's a law."

Will Rogers



Senate Committee on Small Business and Entrepreneurship

On January 27, United States Senator Majority Leader Harry Reid, D-NV., announced Senate Committee assignments for each caucus. Mary L. Landrieu, D-LA., was selected to Chair the Senate Committee on Small Business and Entrepreneurship for the 112th Congress. Senator Landrieu previously chaired this Committee and was instrumental in passing the Small Business Act of 2010.



"I am looking forward to continuing to work with the Members of this Committee in the new Congress. We have taken some extraordinary steps over the last two years to improve access to capital for small businesses, to promote trade and exporting opportunities and to ensure that small businesses receive their fair share of federal contracts, but our work is not finished. We

have built the foundation for small businesses to lead our economic recovery and to create jobs; now it is time for us to strengthen those initiatives so that our nation's job creators can truly succeed in today's competitive global marketplace." See Landrieu's letter on rampant fraud in the SDVOSB program:

<http://tinyurl.com/49p515j>

Members of the Small Business Committee of the 112th Congress include Carl Levin, D-Mich., Tom Harkin, D-Iowa, John Kerry, D-Mass., Joseph Lieberman, ID-Conn., Maria Cantwell, D-Wash., Mark Pryor, D-Ark., Benjamin Cardin, D-Md., Jeanne Shaheen, D-N.H., Kay Hagan, D-N.C., Olympia Snowe, R-Maine, David Vitter, R-La., Jim Risch, R-Idaho, Marco Rubio, R-Fla., Rand Paul, R-Ky., Kelly Ayotte, R-N.H., Mike Enzi, R-Wyo. and Scott Brown, R-Mass.~~



**Senator Mary Landrieu,
(D-LA) Chair**



**Senator Olympia Snowe
(R-ME)
Ranking Member**

Editorial

By Charles "Lynn" Lowder

"We as a group need to vigorously pursue getting the opportunities we've already earned as disabled military veterans."

Taking the Hill

In addressing the current SDVOSB situation, federal and state, my initial and primary orientation comes out of my experience as a Marine infantryman in combat and more precisely from the fact that all other federally defined "socially disadvantaged" groups' status and opportunities are derivative of and should be subordinate to SDVOSBs and VOSBs...those individuals who've taken an oath, stepped across the line and served this nation, often at considerable sacrifice to themselves and to their families.

The Department of Veterans Affairs' "Veterans First Contracting Program" (June 19, 2007) establishes a "Priority for Contracting Preferences" which deals with set-aside preferences for awarding VA contracts to small business, i.e., first to SDVOSBs, next to VOSBs, then 8(a), etc. As a brief aside, this priority of contract award should be applied across the board in every federal department, if military service truly matters. Granted, it would be a major political battle, but it is absolutely the right thing to do.

The template for the SDVOSB program overall begins at the federal level with P.L. 106-50 (Veterans Entrepreneurship Act - enacted in 1999). It established as a goal that "the government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans shall be established at not less than 3 percent of the total value of all prime contract and subcontract awards for each fiscal year."

However, the reality remains that this minimum 3% threshold SDVOSB goal has rarely been met (with no adverse consequences to under-performing

federal departments), with the notable exception of the Department of Veterans Affairs. In contrast, at the federal level other "socially disadvantaged" small business groups such as Small Disadvantaged Businesses (SDBs) and Women Owned Businesses (WOBs) have a higher percentage goal at 5% and in many cases, their goals are exceeded by various federal departments...even by DoD...an astonishing fact in that DoD has never yet met its minimum 3% SDVOSB goal.

Although unacceptable, this is somewhat understandable in that inside the beltway, it's all about politics and votes. These other "socially disadvantaged" groups are much better organized, vocal and insistent than are we SDVOSBs. They also have persistent and effective lobbyists championing their causes. So, we need to be clear that, at the federal level, SDVOSBs have been and continue to be marginalized and given short-shrift.

Our voice and focus, if much at all, has been habitually fragmented and ineffective. As an aside, on the issue of the GAO report regarding past SDVOSB abuses (10 cases)...PLEASE! Let them dig in meaningfully on these other "self-certified" small businesses and see what trends they observe.

We, as a group, should not be timid nor apologetic about anything. We should be much more unified as a group, CVE "verified" in our businesses, legally compliant and pushing hard for a voice and political traction in Washington. As to the American Legion, MOPH, VFW, NaVOBA, DAV...the list is extensive...none of these groups have individually focused upon and advocated effectively to insure the federal government honors, meets and even exceeds its minimum 3% threshold goal for SDVOSBs. They would all be far better off and much more effective if they

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Veterans Small Business Verification Act

(P.L. 111-275, sec. 104)

President Obama signed the Veterans Benefits Act of 2010 in October of 2010. Section 104 of this law expands VA's requirement to verify business status as owned and operated by veterans, service-disabled veterans or eligible surviving spouses. This law is intended to protect veterans, SDVOSB, their families and survivors who have small businesses.

VA maintains the Vendor Information Pages (VIP) database of veteran-owned small businesses and service-disabled veteran-owned small businesses available on www.VetBiz.gov/. The database is managed by VA's Center for Veterans Enterprise. To be included in the VIP database, all small businesses must have owners status verified as a veteran or service-disabled veteran. The small business must also be examined for ownership and control by one or more veterans or service-disabled veterans. This is the essence of the veteran-owned Small Business Verification Program (VOSB).



By applying for VOSB, the veteran agrees that the CVE may access the veteran's personal information in order to verify the veteran or service-disabled status.

If the VA does not have a record of the veteran or service-disabled veteran, the business will not appear in the VIP database.

However, according to the law, this certification only applies to contracts within the VA's procurement program. No other federal agency is bound by these rules. **Most federal government entities continue to rely on the self-certification program—including the SBA—when evaluating qualifications of a potential contractor.**

The CVE's database *should* be consulted by all agencies. In FY 2008, the VA exceeded the government-wide 3% minimum contractual set-aside obligation for SDVOSB by nearly 400%. PL106-50—passed in 1999—mandates that a 3% minimum in contract dollars be set-aside for SDVOSB.

On April 26, 2010, President Obama signed an Executive Order establishing the Interagency Task Force (TF) on Veterans Small Business Development: <http://tinyurl.com/2b7vd5r>

Agency representatives of the TF and the percentage of their agencies' FY 2008 contract dollars spent on SDVOSB: DoD (.85%); Commerce (1.91); Treasury (2.03); the General Services Administration (3.93), Veterans Affairs (11.76), and the Office of Management and Budget (unavailable). A top procurement official from SBA is assigned to the Presidential Task Force in addition to the SBA Administrator. Four representatives of veterans service organizations or associations are also on the TF.

The Interagency Task Force on Veterans Small Business Development convenes its third meeting on Friday, February 25 at the Small Business Administration.~~

Short Takes

Tim Foreman Relieved:

The SDVOSB community was surprised by Foreman's placement on administrative leave while a VA personnel investigation is underway. The investigation stems from a letter Foreman posted on the VA website seeking to clarify whether the agency was justified in bypassing veteran-owned businesses in dozens of instances.

"It's major loss for veterans," said Michael Cherock, President of Powerhouse Design Architects and Engineers, an architectural firm in Pittsburgh, a veteran-owned business. "There was no one in the VA who was more committed to service-disabled veteran-owned businesses."



Tim Foreman

Though he was on the job just 11 months, Foreman earned praise from veterans who own businesses. <http://tinyurl.com/4qbrqz8>

SDVOSB certification requirements drew media attention throughout the United States.

Madison, Wisconsin:

<http://commerce.wi.gov/BD/BD-MBD-DVB.html>

San Diego, California:

<http://bfa.sdsu.edu/prosrvcs/dvbe.htm>

Richmond, Virginia:

<http://blogs.cbh.com/govcon/?p=1075>

Sacramento, California:

<http://blogs.cbh.com/govcon/?p=1075>

Las Vegas, Nevada

<http://tinyurl.com/3ypukqv>

Nashville, TN:

<http://www.tn.gov/businessopp/>

Washington, DC

<http://www.govexec.com/dailyfed/0111/010411rb1.htm>

Most federal OSBDU offices posted links to CVE.

Service-Disabled Veteran-Owned Small Business Size and Status Protests

<http://tinyurl.com/47nctdw>

DoD Officials Commit to SDVOSB — Again

http://www.navywives.com/index2.php?option=com_content&do_pdf=1&id=4309

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combined forces and formed an organizationally-inclusive SDVOSB PAC. As Colin Powell once said, they need to learn how to "gang-up".

No one in this nation has a greater right to be heard and to receive promised opportunities than SDVOSBs.. no one. We need to speak the truth to these politicians and press home our point, i.e., 3%, at a minimum, means 3% AT A MINIMUM, so while we're at it... why just 3% ? Why not 5%, at a minimum, and higher..the same percentage goal as SDBs and WOBs enjoy at the federal level?

Addressing the individual states' situation, most states currently do not have SDVOSB priority laws in place, much less one that mirrors the federal 3% SDVOSB goal. As stated above, each state should enact an SDVOSB program that mirrors the VA Veterans First Contracting Program, along with its veteran priority

NO ONE IN THIS NATION HAS A GREATER RIGHT TO BE HEARD AND TO RECEIVE PROMISED SMALL BUSINESS OPPORTUNITIES THAN SDVOSBs...NO ONE

based contract awarding preference. That likely won't occur for some time, unless and until SDVOSBs develop more political clout at both the federal and state levels. Be aware that in pursuing pro-veteran legislation

Charles "Lynn" Lowder, an attorney living in Chicago, is CEO of Everest, LLC, an SDVOSB. Lowder joined the Marine Corps in 1967 and went to Vietnam as a 2nd Lt. with 1st Force Reconnaissance Company. He subsequently earned a law degree from DePaul, served as a JAG officer and was honorably discharged in 1983. He is decorated with the Silver Star for Valor, Bronze Star with Combat "V", Navy Commendation Medal and Purple Heart.

in your various states, you may well find what we discovered in Illinois. In Illinois, we are currently pressing for a 5% set-aside goal that mirrors the SDB and WOB federal level goals. After all, so we thought...why shouldn't SDVOSBs and VOSBs get at least the same federal 5% goal that these two groups enjoy?



Lo and behold, we discovered that in Illinois, minority and women-owned small businesses already have a 12% set-aside goal and they are vigorously pursuing an increase of that goal to 19%!

We as a group need to vigorously pursue getting the opportunities we've already earned as military veterans. In so doing, please understand that it greatly enhances our position if we've individually passed the highest level of scrutiny for small businesses...the VA CVE verification process. Passing that muster adds considerable credibility to you, your business and to our SDVOSB group, as a whole.

We also need to collectively and persistently engage various veterans' service groups, as well as legislators (state and federal)...encouraging them to take up our cause. Action is overdue and we, as veterans, understand what that means.

In infantry terms, it's time to "Take the Hill! ~~

Interagency Task Force on Veterans Small Business Development**Federal and Veterans' Association Representatives****December 10, 2010**

Marie C. Johns	Deputy Administrator	Small Business Administration
William D. Elmore	Associate Administrator, Office of Veterans Business Development	Small Business Administration
Donald Graves, Jr	Deputy Assistant Secretary	Department of Treasury
Linda Oliver	Acting Director, Office of Small Business Programs	Department of Defense
Raymond Jefferson	Assistant Secretary, Veterans' Employment and Training	Department of Labor
Ford Heard	Acting Executive Director, OSDDBU	Department of Veterans Affairs
Matthew Blum	Associate Administrator, OFPP	Office of Management and Budget
Jiyoung Park	Associate Administrator, Office of Small Business Utilization	General Services Administration
		
Elizabeth O'Herrin	Member	Student Veterans of America
Daniel M. Dellinger	Member	The American Legion
John Garcia	Member	Association of State Directors of Veterans Affairs
James Wilfong	Executive Member	VET-Force



Other Voices

VLM receives emails and comments from members of the national SDVOSB community that provide perspective and a sense of political urgency to SDVOSB. Comments, criticism and suggestions are encouraged.

Email: bluepoint1@comcast.net

Identifying information from these forums is redacted.

Linked in

“Every Veterans organization should be all over Washington right now demanding that last April's Executive-Ordered Task force answer why—after 11 years—we are not afforded the preferred consideration required by law in all governmental departments and agencies.” —

“I would like to point to you all to the mysterious letter that Mr. Foreman wrote to general counsel that abruptly disappeared upon his suspension. I know the letter is real, but what I would like to know is where are the responses to his question? Whatever Mr. Foreman allegedly did doesn't release the VA from their obligation to veteran and other small businesses. As my friends in Missouri would say, “Show Me.” Show me what Mr. Foreman did that caused him to be suspended and show me the responses to those questions in that letter. In the case of the VA, if you throw a rock into a pack of possums, the one that “hssssss” is the one you hit. Please stay informed.” —

“Contracting officers? We need to go back to P.L. 106-50 from 1999...a "goal" that 3% of the value of all federal contracts and subcontracts shall be awarded to SDVOSBs. As we know, the proverbial "devil is in the details." Were I king (President) for a day, I'd call my White House Chief of Staff into the Oval Office and tell him to get it fixed pronto. The Chief of Staff can get a hold of all the federal department heads and say...."Ladies and Gentleman, 3% means 3%. Now, go make it happen". —

“This is a major political matter at a time when it is politically popular to take the moral high ground to supporting our military. The disconnect in this is the all-important follow-through of insuring our military veterans get their defined fair-share of opportunity in this SDVOSB mud-fight.” —



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