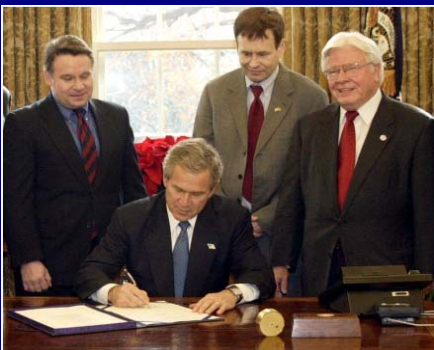


Federal Procurement Assistance Laws for Service-Disabled Veteran-Owned Firms

Congress has enacted two laws to assist small businesses owned and controlled by service disabled veterans (SDVs): the Veterans Benefits Act of 2003 (P.L. 108-183), signed by President Bush on December 16, 2003 and the Veterans Entrepreneurship and Small Business Development Act of 1999 (P.L. 106-50), signed by President Clinton August 17, 1999.

P.L. 108-183 enables SDV-owned firms to receive sole source and restricted competition contracts for goods and services used by the U.S. government. Congress enacted this statute after data collected from more than 60 federal departments and agencies over a period of three years showed that more than half of them reported no procurement dollars expended with SDV-owned companies.

P.L. 106-50 set a 3 percent federal-wide procurement goal for contracts and subcontracts for SDV-owned small firms.



President Bush signs H.R. 2297, the Veterans Benefits Act of 2003, as (l-to-r) House Veterans Affairs Committee Chairman Chris Smith, Ranking Member Lane Evans and Subcommittee on Benefits Chairman Henry Brown look on. (Photo-Morse)



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"America's disabled veterans continue to pay the cost of freedom."

The New Sole Source & Restricted Competition Set-Aside Law For Service-Disabled Veteran-Owned Small Businesses



P.L. 108-183—The Veterans Benefits Act of 2003, Section 308



"America's disabled veterans continue to pay the cost of freedom."



The Veterans Benefits Act of 2003—Sec. 308 (P.L. 108-183)

H.R. 2297

Veterans Benefits Act of 2003 (Engrossed Amendment as Agreed by the Senate and Signed by the President)

SEC. 308. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S. C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

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

- (a) **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) \$5,000,000, 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.

(b) **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 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.

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

(d) **ENFORCEMENT; PENALTIES**— Rules similar to the rules of paragraphs (5) and (6) of section 9(m) shall apply for purposes of this section.

(e) **CONTRACTING OFFICER**— For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 27(f)(5) of the Office of the Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).



“The heaviest burdens in our war on terror fall, as always, on the men and women of our armed forces...” President Bush — September-7-2003

Who is Eligible?

The Small Business Act **definition of service-disabled veteran** (established by P. L. 106-50 in 1999) refers to title 38 USC, Section 101(16):

The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

This definition applies to the new sole source and restricted competition program under P.L. 108-183 and the **three percent (3%)** goal program set by P.L. 106-50, and includes veterans with 0 % and higher VA disability ratings.

Senate and House Agreement Language

To ensure that the new **Sole Source and Restricted Competition Law for Service-Disabled Veteran-Owned Small Business** would not experience implementation delays, Senate and House Veterans Affairs Committee adopted this compromise agreement language accompanying H.R. 2297: *“The Committees intend that a determination of service-connection by the Secretary of Veterans Affairs would be binding on the SBA for purposes of participation in this program. The Committees also urge the SBA and the Office of Federal Procurement Policy to **expeditiously and transparently** implement this program, perform **outreach**, and provide the necessary **resources** to improve results with respect to SBCs owned and operated by service-disabled veterans. The Committees note that in 1999, Public Law 106-50 established a 3 percent government-wide goal for procurement from service-disabled veterans. To date, **all Federal agencies fall far short** of reaching this procurement goal.”*