

Service-Disabled Veteran-Owned Small Businesses Simplify Government Purchasing With “Sole Source” Contracts

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New laws enable **Veteran-Owned Small-Businesses** to simplify the process of fulfilling government contracts by enacting a “**sole source**” policy. Manufacturing contracts up to \$5 million and non-manufacturing contracts up to \$3 million can now be **expedited** using a single source.

Why are Veteran-Owned Small-Businesses allowed to sole source?

In December 2003, the President of the United States and Congress enacted **Public Law 108-183**. This law established a preference for the U.S. federal government to contract with **Service-Disabled Veteran-Owned Small Businesses** (SDVOSBs). This law designated that **three percent** of the total value of all prime contract and subcontract awards by the federal government be awarded to SDVOSBs. Under the law, heads of agencies are to provide **significantly more contracting** and subcontracting opportunities to service-disabled veteran-owned small businesses.

Although there are over 2 million service-disabled veterans, only a small portion own small businesses. According to the recent Economic Census data reported under “Characteristics of Business Owners” **1.8% of all businesses**, or approximately 310,557 businesses. This number could increase because of the implementation of this regulation.

A **new procurement program** announced by the U.S. Small Business Administration boosts federal contract opportunities for service-disabled, veteran-owned small businesses. **New regulations** will help to ensure that Americans who served in the United States Armed Forces will continue to have fair and open access to contracting opportunities. As enacted, H.R. 2297, the **Veterans Benefits Act of 2003**: Allows federal agencies to create “**sole-source**” contracts for service-disabled veteran-owned small businesses – up to \$5 million for manufacturing contract awards and up to \$3 million for non-manufacturing contract awards.

What determines if a company can be classified as a Veteran-Owned Small-Business?

The **Small Business Act** defines the terms “veteran,” “service-disabled veteran” and “small business owned and controlled by service-disabled veterans.”

The **Small Business Act** defines the term “**veteran**” to mean a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. The **Small Business Act** also defines the term “**service-disabled veteran**” as one with a disability that is service-connected, as a disability that was incurred or aggravated in line of duty in the active military, naval, or air service.

The **Small Business Act** further defines the term “**owned and controlled by service-disabled veterans**” to mean that is not less than **51%** owned by one or more service-disabled veterans; and the management and daily business operations of which are controlled by one or more service-disabled

veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such a veteran.

SBA has also set forth guidance on the **ownership criteria** of a service-disabled veteran-owned SBC. SBA explains that ownership must be direct and that stock options are given present effect when non-service disabled veterans hold them. This is consistent with SBA's other programs, including the Business Development Program.

What is maximum size of sole source contracts?

The **Veterans Entrepreneurship** and Small **Business Development Act of 1999** established an annual government-wide goal that not less than 3 percent of the total value of all prime contract and subcontract awards for each fiscal year be awarded to small business concerns owned and controlled by service-disabled veterans. The Act additionally stated that **federal procurement** officials and prime contractors shall provide small business concerns owned and controlled by veterans and small business concerns owned and controlled by **service-disabled veterans** with the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including subcontracts.

The Act serves to provide veterans greater visibility by requiring SBA to track and annually publish the percentage of federal procurement awards to veteran and service-disabled veteran businesses. This helps focus **procurement activities** on veterans and service-disabled veterans as a special interest group.

In December 2003, **Congress** passed legislation that established set-asides for service-disabled veterans similar to the set-asides for small disadvantaged businesses. This legislation allows for **sole-source contracts** up to \$3 million (\$5 million for manufacturing), and creates set-asides that limit bidding to businesses owned and controlled by service-disabled veterans if there are **two or more** such businesses qualified to bid on the contract.

Are SDVOBs ready and able to accept my business?

The **Veteran's Benefit Act of 2003** created the **procurement program** for small business concerns owned and **controlled** by service-disabled veterans, commonly referred to as the Service-Disabled Veteran-Owned Small Business (**SDVOSB**) **Procurement Program**.

Under this program, it was anticipated that service-disabled veterans would benefit from the three percent **(3%) goal** set up by Congress. The goal required federal agencies to seek to award three percent (3%) of procurement dollars to companies owned and controlled by service-disabled veterans. Under the program, service-disabled veteran owned businesses are eligible for both set-aside programs and sole source awards under appropriate conditions.

Success under the program, however, to date has been very poor. In **Fiscal Year 2003**, the last date for which accurate data is available, the dollars and percentages going to both veteran owned businesses and service-disabled veteran owned businesses has been very low. For veteran owned businesses, **\$1.3 billion dollars**, which equates to .56% and for service-disabled veterans, \$.29 billion dollars, which equates to .13% were awarded. Because of the very low numbers, which equate to less than one-quarter of the **national goal**, federal agencies are under tremendous pressure to increase awards to both veteran owned small businesses and service-disabled veteran owned small businesses.

With respect to the latter category, the President issued **Executive Order 11360** on October 20, 2004 titled "Providing **Opportunities** for Service-Disabled Veteran Businesses to Increase Their Federal Contracting and Subcontracting."

The Order directed agency heads to:

- Develop a strategy to implement the policies set forth in Section 1 [attainment of the three percent **(3%) goal** for participation by service-disabled businesses];
- Make the agency's strategy publicly **available** and report annually to the Administrator of the Small Business Administration on implementation of the agency's strategy;
- Designate a **senior-level official** who shall be responsible for developing and implementing the agency's strategy;

- Include development and implementation of the agency's strategy and achievements in furtherance of the strategy as **significant elements** in any performance plans of the agency's designated agency's senior-level official, chief acquisition officer, and director of small and disadvantaged **business utilization**; and include in the agency's strategy plans for:
- Reserving agency contracts exclusively for service-disabled veteran owned businesses;
- Encouraging and facilitating **participation** by service-disabled veteran owned businesses in competitions for award for agency contracts;
- Encouraging agency contractors to subcontract with service-disabled veteran owned businesses and actively monitoring and **evaluating agency contractors'** efforts to do so;
- Training agency personnel on applicable law and policies relating to participation of service-disabled veteran owned businesses and federal contracting; and
- Disseminating information to service-disabled veteran owned businesses that would assist these businesses in participating in **awards** of agency contracts.

The **Executive Order** goes on to assign additional duties to the Administrators of the Small Business Administration and the General Services Administration, as well as giving additional responsibilities to the Secretaries of Defense, Veterans Affairs, and Labor.

With increased emphasis from both the executive and the legislative branches of Congress, **it is likely government-contracting agencies will increase their efforts to expand opportunities for service-disabled veterans.**

How does the new regulation help SDVOSBs help you?

A new **federal acquisition rule** enables agencies to promote greater participation by service-disabled, veteran-owned small businesses in the government market place in an effort to provide greater opportunity for service-disabled veterans. Congress set a government-wide goal of **3 percent participation** for service-disabled, veteran-owned small businesses in the government market place, valued at more than \$280 billion, which will **expand opportunities** for service-disabled, veteran-owned small businesses to compete for contracts with federal government agencies.

"For service-disabled veterans who own or want to start a small business, this new law requires federal agencies and departments to give **special consideration** during federal contracting and procurement. In 2002, disabled veteran-owned firms received only 0.13% in federal contracts, even though there is a 3% statutory goal," said Chairman Smith. The **3% contract goal** for Federal agencies applies only to service-disabled veteran-owned businesses. "In addition, veterans, disabled veterans, and their dependents will now be able to use their Veterans **educational benefits** to cover self-employment training and entrepreneurship courses," he said.

The new regulation gives the **green light** to contracting officers waiting to use these new rules to help agencies meet the three percent goal set by Congress.

What types of contracts are eligible?

The federal acquisition rule allows agencies, under certain conditions specified in the rule, to set aside certain contracts for competition among service-disabled, veteran-owned small businesses and to **award sole-source contracts** to the same group.

Service-disabled veteran-owned small businesses are **eligible for sole source contracts** and restricted competitions. All contracts valued at **\$100,000** or more include a clause, which requires the prime contractor to provide the maximum practicable opportunity to service-disabled veteran-owned small businesses to compete for subcontracts.

The new rule will amend sections of the **Code of Federal Regulations**, adding provisions that will allow contracting officers to **restrict contract awards** to service-disabled, veteran-owned small businesses when there is a reasonable expectation that two or more service-disabled veteran-owned, small businesses will submit bids at a **fair market price**. It also allows awards of sole-source contracts to service-disabled, veteran-owned small businesses when there is not a reasonable expectation that two or more service-disabled, veteran-owned firms will submit bids and the anticipated contract price does not exceed \$3 million, with the exception of manufacturing contracts where the **contracting threshold** is \$5 million.

Additional Benefits

The order also requires the SBA to provide service-disabled veteran-owned small businesses **information and assistance** concerning participation in federal contracting; advise and assist heads of agencies in their implementation of the order; and make available to service-disabled veteran businesses training in federal contracting law, procedures and practices that would assist such businesses in **participating** in federal contracting.

CONCLUSION

America honors the extraordinary service rendered to the United States by veterans with disabilities incurred or aggravated in the line of duty during active service with the armed forces. There is a 3% federal **prime contract** and 3% subcontracting goal for all federal agencies to achieve that applies to service-disabled veteran-owned small businesses. The 3 % contract goal for federal agencies applies only to service-disabled veteran-owned businesses and SDVOSBs are able to **sole source** where applicable.

How do I start fulfilling contracts through SDVOSBs?

:::::::::: INSERT LIST OR GUIDE WITH STEPS ON HOW TO WORK WITH MEGAFITNESS ::::::::::