

Congress of the United States
Washington, DC 20515

March 28, 2013

The Honorable Eric K. Shinseki
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Shinseki:

On March 19, 2013, the Committee on Small Business's Subcommittee on Contracting and Workforce and the Committee on Veterans' Affairs' Subcommittee on Oversight and Investigations held a joint hearing examining disparities between the service-disabled veteran-owned small business contracting programs offered through the Department of Veterans Affairs (VA) and through the Small Business Administration (SBA). During that hearing, the Subcommittees received testimony that suggested that the VA is not in compliance with the Small Business Act.

As you know, 38 U.S.C. § 8127 requires verification of service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs). Statutorily, this responsibility is assigned to the Secretary, and general principles of statutory construction permit the delegation of these responsibilities in so far as they do not contradict any other statutory directives. Thus, VA assigned these functions to the Center for Veterans Enterprise (CVE), which previously served to promote veterans entrepreneurship.

In contrast, Section 15(k) of the Small Business Act creates an Office of Small and Disadvantaged Business Utilization (OSDBU) within the VA, and requires that the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) "shall carry out exclusively the duties enumerated in this Act, and shall, while the Director, not hold any other title, position, or responsibility, except as necessary to carry out responsibilities under" Section 15(k). Verification is not a responsibility of Section 15(k) of the Small Business Act.

However, during the March 19 hearing, Mr. Tom Leney stated that he is both the OSDBU Director and the Director of the CVE. When asked about the conflict with Section 15(k), Mr. Leney responded, "I can do both because the act of verifying veteran-owned small businesses enabled 5,400 veteran-owned small businesses to participate in a program that has distributed more than \$3.8 billion in procurement dollars to veteran-owned small businesses. So I think that this program that the VA has established has created a gold standard. In the federal government, when people know that a firm has been verified by the VA, they can take it to the bank. And the results, this is real money to real vets, and it is a program that benefits veterans. And there are 5,400 firms in this program that get those benefits. So I personally do not have any issue with a conflict of interest because we are helping vets."

Unfortunately, this statement demonstrates a lack of understanding of explicit language of the Small Business Act. Further, it belies the inherent conflict between the advocacy role assigned to the OSDBU and the auditing function now associated with CVE. However, this does not appear to be the only instance in which VA is in conflict with Section 15(k). For example, the OSDBU Director also appears to have a dotted line reporting relationship with the Chief of Staff rather than reporting “directly and exclusively to” yourself or the Deputy Secretary. Likewise, the organizational charts for the OSDBU do not indicate that Director has “supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15” of the Small Business Act.

Consequently, please provide the Committee with information documenting how VA intends to achieve compliance with the Small Business Act. Please address each subsection of Section 15(k) independently. This information should be provided no later than April 24, 2013. If you have any questions regarding this request, please contact Emily Murphy or Corey Cooke with the Committee on Small Business at 202-225-5821 and Eric Hannel and Elby Goodwin with the Committee on Veterans Affairs at 202-225-3527

Thank you in advance for your cooperation.

Sincerely,



Richard Hanna
Chairman
Subcommittee on Contracting
and Workforce
Committee on Small Business



Michael Coffman
Chairman
Subcommittee on Oversight
and Investigations
Committee on Veterans' Affairs

cc: Dr. Ronald Maurer, Director, Congressional Liaison Service, Department of Veterans Affairs