AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1615
OFFERED BY MR. KELLY OF MISSISSIPPI

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
2 (a) SHORT TITLE.—This Act may be cited as the
3 “Verification Alignment and Service-disabled Business
4 Adjustment Act” or the “VA–SBA Act”.
5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:
   Sec. 1. Short title; table of contents.
   Sec. 2. Transfer date.
   Sec. 3. Amendment to and transfer of veteran-owned and service-disabled vet-
      eran-owned business database.
   Sec. 4. Additional requirements for database.
   Sec. 5. Procurement program for small business concerns owned and controlled
      by service-disabled veterans.
   Sec. 6. Certification for small business concerns owned and controlled by vet-
      erans.
   Sec. 7. Status of self-certified small business concerns owned and controlled by
      service-disabled veterans.
   Sec. 8. Transfer of the Center for Verification and Evaluation of the Depart-
      ment of Veterans Affairs to the Small Business Administra-
   Sec. 9. Report.

7 SEC. 2. TRANSFER DATE.
8 For purposes of this Act, the term “transfer date”
9 means the date that is 2 years after the date of enactment
10 of this Act, except that such date may be extended an un-
11 limited number of times by a period of not more than 6
months if the Administrator of the Small Business Admin-
istration and the Secretary of Veterans Affairs jointly
issue a notice to Congress and the Law Revision Counsel
of the House of Representatives containing—

(1) a certification that such extension is nec-
essary;

(2) the rationale for and the length of such ex-
tension; and

(3) a plan to comply with the requirements of
this Act within the timeframe of the extension.

SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-
OWNED AND SERVICE-DISABLED VETERAN-
OWNED BUSINESS DATABASE.

(a) AMENDMENT OF VETERAN-OWNED AND SERV-
ICE-DISABLED VETERAN-OWNED BUSINESS DATA-
BASE.—Effective on the transfer date, section 8127 of
title 38, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “the Secretary” and insert-
ing “the Administrator”; and

(B) by striking “subsection (f)” and insert-
ing “section 36 of the Small Business Act”;

(2) in subsection (f)—

(A) by striking “the Secretary” each place
such term appears, other than in the last place
such term appears under paragraph (2)(A), and inserting "the Administrator";
(B) in paragraph (1), by striking "small business concerns owned and controlled by veterans with service-connected disabilities" each place such term appears and inserting "small business concerns owned and controlled by service-disabled veterans"
(C) in paragraph (2)—
(i) in subparagraph (A), by striking "to access" and inserting "to obtain from the Secretary of Veterans Affairs"; and
(ii) by striking subparagraph (B) and inserting the following:
"(B) For purposes of this subsection—
"(i) the Secretary of Veterans Affairs shall—
"(I) verify an individual's status as a veteran or a service-disabled veteran; and
"(II) establish a system to permit the Administrator to access, but not alter, such verification; and
(ii) the Administrator shall verify—
"(I) the status of a business concern as a small business concern; and
“(II) the ownership and control of
such business concern.
“(C) The Administrator may not certify a con-
cern under section 36(b) or section 36A if the Sec-
retary of Veterans Affairs cannot provide the
verification described under subparagraph
(B)(i)(I).”;
(D) by striking paragraphs (4) and (7);
(E) by redesignating paragraphs (5) and
(6) as paragraphs (4) and (5), respectively, and
redesignating paragraph (8) as paragraph (6);
(F) in paragraph (4), as so redesignated,
by striking “The Secretary” and inserting “The
Administrator”; and
(G) in paragraph (6), as so redesignated—
(i) in subparagraph (A)—
(I) by striking “verify the status
of the concern as a small business
concern or the ownership or control of
the concern” and inserting “certify
the status of the concern as a small
business concern owned and controlled
by veterans (under section 36A) or a
small business concern owned and
controlled by service-disabled veterans
(under section 36(g))"; and

(II) by striking “verification”
and inserting “certification”;
(ii) in subparagraph (B)—
(I) in clause (i), by striking
“small business concern owned and
controlled by veterans with service-
connected disabilities” and inserting
“small business concern owned and
controlled by service-disabled vet-
erans”; and

(II) in clause (ii)—
(aa) by amending subclause
(I) to read as follows:
“(I) the Secretary of Veterans Affairs or
the Administrator; or”; and

(bb) in subclause (II), by
striking “the contracting officer
of the Department” and inserting
“the applicable contracting offi-
cer”; and

(iii) by striking subparagraph (C);
(3) by redesignating subsection (k) (relating to
definitions) as subsection (l);
(4) by inserting after subsection (j) (relating to annual reports) the following:

"(k) ANNUAL TRANSFER FOR CERTIFICATION COSTS.—For each fiscal year, the Secretary of Veterans Affairs shall reimburse the Administrator in an amount necessary to cover any cost incurred by the Administrator for certifying small business concerns owned and controlled by veterans that do not qualify as small business concerns owned and controlled by service-disabled veterans for the Secretary for purposes of this section and section 8128. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget."

and

(5) in subsection (k) (relating to definitions), as so redesignated, by adding at the end the following:

"(4) The term 'Administrator' means the Administrator of the Small Business Administration."

(b) TRANSFER OF REQUIREMENTS RELATING TO DATABASE TO THE SMALL BUSINESS ACT.—Effective on the transfer date, subsection (f) of section 8127 of title
38, United States Code (as amended by subsection (a)),
is transferred to section 36 of the Small Business Act (15
U.S.C. 657f), inserted so as to appear after subsection (e).
(c) CONFORMING AMENDMENTS.—The following
amendments shall take effect on the transfer date:

   (1) SMALL BUSINESS ACT.—Section
3(q)(2)(C)(i)(III) of the Small Business Act (15
U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking
“section 8127(f) of title 38, United States Code”
and inserting “section 36”.

   (2) TITLE 38.—Section 8128 of title 38, United
States Code, is amended by striking “section
8127(f) of this title” and inserting “section 36 of
the Small Business Act”.

SEC. 4. ADDITIONAL REQUIREMENTS FOR DATABASE.

(a) ADMINISTRATION ACCESS TO DATABASE BEFORE
THE TRANSFER DATE.—During the period between the
date of the enactment of this Act and the transfer date,
the Secretary of Veterans Affairs shall provide the Admin-
istrator of the Small Business Administration with access
to the contents of the database described under section
8127(f) of title 38, United States Code.

(b) RULE OF CONSTRUCTION.—Nothing in this Act
or the amendments made by this Act may be construed—
(1) as prohibiting the Administrator of the
Small Business Administration from combining the
contents of the database described under section
8127(f) of title 38, United States Code, with other
databases maintained by the Administration; or
(2) as requiring the Administrator to use any
system or technology related to the database de-
scribed under section 8127(f) of title 38, United
States Code on or after the transfer date to comply
with the requirement to maintain a database under
subsection (f) of section 36 of the Small Business
Act (as transferred pursuant to section 3(b) of this
Act).

(e) RECOGNITION OF THE ISSUANCE OF JOINT REG-
ULATIONS.—The date specified under section 1832(e) of
the National Defense Authorization Act for Fiscal Year
2017 (15 U.S.C. 632 note) shall be deemed to be October
1, 2018.

SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS
CONCERNS OWNED AND CONTROLLED BY
SERVICE-DISABLED VETERANS.

(a) PROCUREMENT PROGRAM FOR SMALL BUSINESS
CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-
ABLED VETERANS.—Section 36 of the Small Business Act
(15 U.S.C. 657f) is amended—
(1) by striking subsections (d) and (e);
(2) by redesignating subsections (a), (b), and (e) as subsections (c), (d), and (e) respectively;
(3) by inserting before subsection (c), as so redesignated, the following:

"(a) CONTRACTING OFFICER DEFINED.—For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 2101 of title 41, United States Code.

(b) CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—With respect to a procurement program or preference established under this Act that applies to prime contractors, the Administrator shall—

"(1) certify the status of the concern as a ‘small business concern owned and controlled by service-disabled veterans’; and

"(2) require the periodic recertification of such status.”;

(4) in subsection (d), as so redesignated, by striking “and that the award can be made at a fair market price” and inserting “, that the award can be made at a fair market price, and if each concern is certified by the Administrator as a small business
concern owned and controlled by service-disabled veterans”; and

(5) by adding at the end the following:

“(g) Certification Requirement.—Notwithstanding subsection (c), a contracting officer may only award a sole source contract to a small business concern owned and controlled by service-disabled veterans or a contract on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if such a concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans.

“(h) Enforcement; Penalties.—

“(1) Verification of Eligibility.—In carrying out this section, the Administrator shall establish procedures relating to—

“(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (b)); and
"(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (b).

"(2) EXAMINATIONS.—

"(A) EXAMINATION OF APPLICANTS.—The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (b), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (b).

"(B) EXAMINATION OF CERTIFIED CONCERNS.—The procedures established under paragraph (1) shall provide for the examination of risk-based samples of small business concerns certified under subsection (b), or of any small business concern that the Administrator believes poses a particular risk or with respect to which the Administrator receives specific and credible information alleging that the small business concern no longer meets eligibility requirements to be certified as a small business
concern owned and controlled by service-disabled veterans.

"(3) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by service-disabled veterans for purposes of subsection (b), shall be subject to—

"(A) section 1001 of title 18, United States Code;

"(B) sections 3729 through 3733 of title 31, United States Code; and

"(C) section 8127(g) of title 38, United States Code.

"(i) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out subsection (b) or to be able to certify the status of the concern as a small business concern owned and controlled by veterans under section 36A."

(b) PENALTIES FOR MISREPRESENTATION.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—
(1) in subsection (d)(1)—

(A) by striking "‘, a" and inserting ‘, a’ small business concern owned and controlled by service-disabled veterans’; a ‘small business concern owned and controlled by veterans’, a’; and

(B) in paragraph (A), by striking "9, 15, or 31" and inserting "8, 9, 15, 31, 36, or 36A"; and

(2) in subsection (e), by striking "‘, a" and inserting ‘, a’ small business concern owned and controlled by service-disabled veterans’, a ‘small business concern owned and controlled by veterans’, a’.

SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

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

"SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

(a) IN GENERAL.—With respect to the program established under section 8127 of title 38, United States Code, the Administrator shall—

(1) certify the status of the concern as a ‘small business concern owned and controlled by veterans’; and
“(2) require the periodic recertification of such
status.

“(b) ENFORCEMENT; PENALTIES.—

“(1) VERIFICATION OF ELIGIBILITY.—In car-
rying out this section, the Administrator shall estab-
lish procedures relating to—

“(A) the filing, investigation, and disposi-
tion by the Administration of any challenge to
the eligibility of a small business concern to re-
cieve assistance under this section (including a
challenge, filed by an interested party, relating
to the veracity of a certification made or infor-
mation provided to the Administration by a
small business concern under subsection (a));
and

“(B) verification by the Administrator of
the accuracy of any certification made or infor-
mation provided to the Administration by a
small business concern under subsection (a).

“(2) EXAMINATION OF APPLICANTS.—The pro-
cedures established under paragraph (1) shall pro-
vide for a program of examinations by the Adminis-
trator of any small business concern making a cer-
tification or providing information to the Adminis-
trator under subsection (a), to determine the verac-
ity of any statements or information provided as part of such certification or otherwise provided under subsection (a).

"(3) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by veterans for purposes of subsection (a), shall be subject to—

"(A) section 1001 of title 18, United States Code;

"(B) sections 3729 through 3733 of title 31, United States Code; and

"(C) section 8127(g) of title 38, United States Code."

SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any small business concern that self-certified as a small business concern owned and controlled by service-disabled veterans shall—

(1) if the concern files a certification application with the Administrator of the Small Business Administration before the end of the 1-year period
beginning on the transfer date, maintain such self-
certification until the Administrator makes a deter-
mination with respect to such certification; and

   (2) if the concern does not file such a certifi-
cation application before the end of the 1-year pe-
period beginning on the transfer date, lose, at the end
of such 1-year period, any self-certification of the
concern as a small business concern owned and con-
trolled by service-disabled veterans.

   (b) NON-APPLICABILITY TO DEPARTMENT OF VET-
ERANS AFFAIRS.—Subsection (a) shall not apply to par-
ticipation in contracts (including subcontracts) with the
Department of Veterans Affairs.

   (e) NOTICE.—The Administrator shall notify any
small business concern that self-certified as a small busi-
ness concern owned and controlled by service-disabled vet-
erans about the requirements of this Act, including the
transfer date and any extension of such transfer date
made pursuant to section 2, and make such notice publicly
available, on—

   (1) the date of the enactment of this Act; and

   (2) the date on which an extension described
under section 2 is approved.
SEC. 8. TRANSFER OF THE CENTER FOR VERIFICATION
AND EVALUATION OF THE DEPARTMENT OF
VETERANS AFFAIRS TO THE SMALL BUSI-
NESS ADMINISTRATION.

(a) ABOLISHMENT.—The Center for Verification and
Evaluation of the Department of Veterans Affairs defined
under section 74.1 of title 38, Code of Federal Regula-
tions, is abolished effective on the transfer date.

(b) TRANSFER OF FUNCTIONS.—All functions that,
immediately before the effective date of this section, were
functions of the Center for Verification and Evaluation
shall—

(1) on the date of enactment of this Act, be
functions of both the Center for Verification and
Evaluation and the Small Business Administration,
except that the Small Business Administration shall
not have any authority to carry out any verification
functions of the Center for Verification and Evalu-
ation; and

(2) on the transfer date, be functions of the
Small Business Administration.

(c) TRANSFER OF ASSETS.—So much of the per-
sonnel, property, records, and unexpended balances of ap-
propriations, allocations, and other funds employed, used,
held, available, or to be made available in connection with
a function transferred under this section shall be available
1 to the Small Business Administration at such time or
times as the President directs for use in connection with
the functions transferred.
(d) REFERENCES.—Any reference in any other Fed-
eral law, Executive order, rule, regulation, or delegation
of authority, or any document of or pertaining to a func-
tion of the Center for Verification and Evaluation that is
transferred under this section is deemed, after the transfer
date, to refer to the Small Business Administration.
10 SEC. 9. REPORT.
11 Not later than the end of the 1-year period beginning
on the date of the enactment of this Act, and every 6
months thereafter until the transfer date, the Adminis-
trator of the Small Business Administration and Secretary
of Veterans Affairs shall jointly issue a report to the Com-
mittees on Appropriations, Small Business, and Veterans’
Affairs of the House of Representatives and the Commit-
tees on Appropriations, Small Business and Entrepreneur-
ship, and Veterans’ Affairs of the Senate on the planning
for the transfer of functions and property required under
this Act and the amendments made by this Act on the
transfer date. Such report shall include—
(1) whether and how the verification database
and operations of the Center for Verification and
Evaluation of the Department of Veterans Affairs
will be incorporated into the existing certification
database of the Small Business Administration;

(2) projections for the numbers and timing, in
terms of fiscal year, of—

(A) already verified concerns that will
come up for recertification; and

(B) self-certified concerns that are ex-
pected to apply for certification;

(3) an explanation of how outreach to veteran
service organizations, the service-disabled veteran-
owned and veteran-owned small business community,
and other stakeholders will be conducted; and

(4) other pertinent information determined by
the Administrator and the Secretary.