

STATEMENT OF  
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BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
U.S. HOUSE OF REPRESENTATIVES

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Good afternoon, Chairman Bergman, Ranking Member Kuster, and distinguished members of the Subcommittee. On behalf of the members of the National Veteran Small Business Coalition and all veteran (VOSB) and service-disabled veteran-owned small businesses (SDVOSB) trying to do business with the Department of Veterans Affairs (VA), I sincerely appreciate the opportunity to discuss the proposed pieces of legislation as invited. The National Veteran Small Business Coalition (NVSBC) is the nation's largest non-profit trade association representing veteran and service-disabled veteran-owned small business in the federal marketplace as prime and subcontractors.

I would like to first address HR3497 and HR 4245 dealing with Veterans Electronic Health Records. We believe HR 3497 to allow veterans to use a portable medical records storage system is good news for veterans as it allows easier access to their own personal health records. HR 4245 appears to address Congress' concerns regarding the contract the VA Secretary announced last fall which he intends to award to Cerner to modernization of VA's electronic patient health care record systems. Our concern with this contract is VA has taken a very minimalistic approach to providing subcontracting opportunities for small business, including veteran and service-disabled veteran-owned small business. VA only required the awardee to meet the "minimum goals" of 17% to small business, 5% to SDVOSBs and 7% to VOSBs. Information technology contracts such as this, generally provide many opportunities for prime contractors to subcontract to small business including VOSBs and SDVOSBs. For example, the FY 2018 subcontracting goals established by the U.S. Small Business Administration (SBA) for other agencies include the following:

Department of Defense	33%
Department of Energy	42%
Department of Homeland Security	40%

Also, over the past 10 years VA has NEVER once achieved its subcontracting goal negotiated with SBA. Given VA's poor track record and the lower goals accepted for this contract we implore this committee to include in HR 4245 a provision requiring the Secretary of Veterans Affairs to report to Congress on a quarterly basis the accomplishments against the small business subcontracting goals to include subcontract awards to VOSBs and SDVOSBs.

Next, I would like to address the draft bill regarding VA employees found to have knowingly misused VA purchase cards. The NVSBC is fully supportive of this draft. Abuses of purchase cards has been widespread. This trend will only continue with the recent raising of the limitations on purchases using the cards from \$3,500.00 to \$10,000.00. We have found that many times these issues arise due to poorly written polices and training on the part of VA acquisition leadership, not because VA employees are dishonest people.

The last draft bill you asked me to discuss directs the Secretary of VA to carry out the Medical Surgical Prime Vendor (MSPV) program using multiple prime vendors. Before addressing the specifics of the draft bill I want to share with you our observations having lived the current prime vendor program for the past two years and numerous meetings with both Veterans Health Administration (VHA) and Strategic Acquisition Center (SAC) leadership. The current program is being driven for contracting expediency, not based on clinical input to improve veteran patient care. There is little to no clinical input in our opinion. VHA and the SAC appear to work on conflicting time frames. There is no strategic plan. Determining who is in charge is impossible. The rules of engagement change on a weekly basis as to acquisition strategies to be used. Frankly we wonder how often VHA and SAC actually communicate needs/requirements and solutions. Also, there appears to be much more communication with the large business community than communication with the VOSB/SDVOSB community. Communication with the VOSB/SDVOSB community is after the fact when we are told what will happen as opposed to having an opportunity to make recommendations to improve the process. VA seems to forget, as veterans and users of the VA health care system we have a personal and vested interest in its success. Also, there is little data available as to products, quantities or delivery requirements VA intends to purchase.

The NVSBC, in representing all VOSBs/SDVOSBs trying to do work with VA would be remise if we didn't again point out the anti- veteran small business positions expressed by VA's senior acquisition official during this Committee's Veterans First Contracting Program Roundtable held on October 11<sup>th</sup>, 2017. That official has publically stated numerous times that VOSBs and SDVOSBs add no value, cost more and are administratively burdensome to work with. He further stated his position that VA should not pay a penny more to buy from a VOSB or SDVOSB. This culture as well as the policies implemented by VA limit the opportunities for VOSBs and SDVOSBs to work at VA and fly in the face of the VETS First Contracting Program as well as the U.S. Supreme Court decision in Kingdomware. Bottom line; there is a toxic culture in VA, particularly in VA Central Office to working with the veteran small business community.

In the fall of 2017 when we learned the SAC intended, under MSPV 2.0, to award one contract for the MSPV 2.0 program we were appalled. Particularly when we learned the contract would require the MSPV 2.0 contractor to also determine the formulary of products and to also purchase all products to be included on the formulary. We asked what part VOSBs and SDVOSBs would play in MSPV 2.0 and were told they would be subcontractors to the MSPV 2.0 prime. When asked how VETS First would apply to MSPV 2.0 we were told it doesn't as VOSBs and SDVOSBS would be "subcontractors". When we asked what type of small business subcontracting plan would be required we were told "don't know yet". When we addressed the fact that in the past 10 years VA has NEVER achieved its subcontracting goals we were told "just trust us"! In addition, relegating VOSBs and SDVOSBs to subcontractors allows VA to avoid the issue of a waiver of the SBA "Non-Manufacturer Rule ". VA has established a policy of requiring HCA approval prior to any contracting officer requesting a waiver from SBA. WE believe this policy to be in direct violation of the Small Business Act. We also know of and appreciate this

Committee's concern over this overly burdensome requirement which we believe is another attempt by VA to circumvent VETS First.

We support the Committee's position that VA cannot have just one prime vendor. Our experience in the private sector is commercial hospital systems are members of a number of "Group Purchasing Organizations (GPOs). This allows for flexibility of products as well as guarantees product availability while at the same time taking advantage of volume discounts. Commercial hospital systems have learned they need flexibility which doesn't come from a one supplier solution. We believe VA needs to develop a similar concept. As I stated previously, VA's plan seems to be driven for the benefit of the contracting process, not the needs of veteran's healthcare needs. We also do not understand why VA does not use the VA Federal Supply Schedule (FSS) contracts as a starting point for formulary products. FSS contracts by definition are considered "fair and reasonable" prices. VA, as well as the large and small business community has put tremendous effort into the success of the FSS program. We do not understand why VA appears to be abandoning FSS?

We fully support the draft bill provisions that the prime vendor should not be the decider of the formulary nor of the suppliers of the products. We strongly suggest this Committee direct VHA and SAC leadership to define requirements, develop a process for clinical input and develop a strategic plan for moving forward with MSPV 2.0. The plan must include how VA intends to provide opportunities for VOSBs and SDVOSBs as required by VETS First. This plan should then be shared with industry, large business and small business for comments and suggestions. We believe this will provide better outcomes for all parties.

During this Committee's roundtable on the VETS First program on October 11th, 2017, Chairman Bergman invited participants to provide recommendations to the Committee for improving VETS First at VA. NVSBC provided 8 specific recommendations in a letter to this Committee dated October 17, 2017. These recommendations are still relevant today and I would encourage the Committee to consider the recommendations moving forward. I have provided a copy of our letter with my testimony. We are also available to meet and discuss any of the recommendations with any member of the Committee.

I also want to bring to the Committee's attention a solution to the micro-purchase program NVSBC has been developing for the past year. VA, buy their own statistics spends approximately \$4 billion per year under micro-purchases using purchase cards. In the future this amount will sky rocket as the micro-purchase threshold in VA is being raised from \$3,500 to \$10,000. VA policy exempts micro-purchases from the VETS First program. This is in spite of the U.S. Supreme Court decision in Kingdomware where the court determined all "contract actions" are subject to VETS First. Micro-purchases meet the Federal Acquisition Regulations (FAR) definition of a "contract action".

Over the past year, NVSBC has met with VA leaders from VHA, SAC, and the Office of Small Business Programs (OSDBU) to discuss how to provide more micro-purchase opportunities to the VOSB and SDVOSB community. These discussions have led NVSBC to develop in conjunction with an NVSBC member, Veratics of Indian Beach, FL, an electronic ordering platform, similar to Amazon, called "Go VETS". Our vision is all VA verified VOSBs and SDVOSBs who can provide products to VA under the micro-purchase threshold will upload their products on the platform. VA purchasing personnel will then have a "one stop, easy button" to purchase products, using their purchase cards, from verified VOSBs and SDVOSBs. We are starting in the medical products area as it represents the greatest spend and VA is currently buying many of these products from the 4 current Medical Surgical Prime Vendors, and many

times at inflated costs. As we fine tune the platform other product lines will be added from verified VOSBs and SDVOSBs. As you can imagine we have overcome many obstacles to get to this point, but we are optimistic we can have "Go VETS" operational in 90 days. We are also encouraged by the fact that many VA officials with whom we have discussed this platform over the past year are warming to the idea and see its value. We are happy to demo "Go VETS" to the Committee as well as provide updates on our progress. We are very excited by the potential to provide many more opportunities to VOSBs and SDVOSBs.

Mr. Chairman, Ranking Member, and Members of the Committee, this concludes my statement. Thank you for the opportunity to testify before the Committee today. I am happy to respond to any questions or comments you may have.