

Suspend the Rules and Pass the Bill, H.R. 561, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 561

To amend title 38, United States Code, to improve the oversight of contracts awarded by the Secretary of Veterans Affairs to small business concerns owned and controlled by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2019

Mr. BERGMAN (for himself, Ms. KUSTER of New Hampshire, and Mr. DUNN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the oversight of contracts awarded by the Secretary of Veterans Affairs to small business concerns owned and controlled by veterans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Business
5 Opportunities for Veterans Act of 2019”.

1 **SEC. 2. LIMITATIONS ON SUBCONTRACTS UNDER CON-**
2 **TRACTS WITH SMALL BUSINESS CONCERNS**
3 **OWNED AND CONTROLLED BY VETERANS.**

4 (a) IN GENERAL.—Section 8127 of title 38, United
5 States Code, is amended—

6 (1) by redesignating subsection (k) as sub-
7 section (l); and

8 (2) by inserting after subsection (j) the fol-
9 lowing new subsection (k):

10 “(k) LIMITATIONS ON SUBCONTRACTING.—(1)(A)
11 The requirements applicable to a covered small business
12 concern under section 46 of the Small Business Act (15
13 U.S.C. 657s) shall apply with respect to a small business
14 concern owned and controlled by veterans that is awarded
15 a contract under this section.

16 “(B) For purposes of applying the requirements of
17 section 46 of the Small Business Act (15 U.S.C. 657s)
18 pursuant to subparagraph (A), the term ‘similarly situated
19 entity’ used in such section 46 includes a subcontractor
20 for a small business concern owned and controlled by vet-
21 erans described in such subparagraph (A).

22 “(2) The Secretary may award a contract under this
23 section only after the Secretary obtains from the offeror
24 a certification that the offeror will comply with the re-
25 quirements described in paragraph (1)(A) if awarded the
26 contract. Such certification shall—

1 “(A) specify the exact performance require-
2 ments applicable under such paragraph; and

3 “(B) explicitly acknowledge that the certifi-
4 cation is subject to section 1001 of title 18.

5 “(3)(A) The Director of Small and Disadvantaged
6 Business Utilization for the Department, established pur-
7 suant to section 15(k) of the Small Business Act (15
8 U.S.C. 644(k)), and the Chief Acquisition Officer of the
9 Department, established pursuant to section 1702 of title
10 41, shall jointly implement a process using the systems
11 described in section 16(g)(2) of the Small Business Act
12 (15 U.S.C. 645(g)(2)), and any other relevant systems
13 available, to monitor compliance with this subsection.

14 “(B) The Director of Small and Disadvantaged Busi-
15 ness Utilization and the Chief Acquisition Officer shall
16 jointly refer any violations or suspected violations of this
17 subsection to the Inspector General of the Department.

18 “(C) If the Secretary determines, in consultation with
19 the Inspector General of the Department, that a small
20 business concern that is awarded a contract under this
21 section did not act in good faith with respect to the re-
22 quirements described in paragraph (1)(A), the small busi-
23 ness concern shall be subject to any or all of the following
24 consequences—

1 “(i) referral to the Debarment and Suspension
2 Committee of the Department;

3 “(ii) a fine under section 16(g)(1) of the Small
4 Business Act (15 U.S.C. 645(g)(1)); and

5 “(iii) prosecution for violating section 1001 of
6 title 18.

7 “(D) Not later than November 30 for each of fiscal
8 years 2021 through 2025, the Inspector General shall sub-
9 mit to the Committees on Veterans’ Affairs of the Senate
10 and House of Representatives a report for the fiscal year
11 preceding the fiscal year during which the report is sub-
12 mitted that includes, for the fiscal year covered by the re-
13 port—

14 “(i) the number of referred violations and sus-
15 pected violations received under subparagraph (B);
16 and

17 “(ii) the disposition of such referred violations,
18 including the number of small business concerns sus-
19 pended or debarred from Federal contracting or re-
20 ferred to the Attorney General for prosecution.”.

21 (b) APPLICATION.—Subsection (k) of section 8127 of
22 title 38, United States Code, as added by subsection (a),
23 shall apply with respect to a contract entered into after
24 the date of the enactment of this Act.