

Testimony

of

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To

Committee on Veterans Affairs

U.S. House of Representatives

One Hundred Eighth Congress

334 Cannon House Office Building

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**SERVICE DISABLED VETERAN PARTICIPATION IN
GOVERNMENT PROCUREMENTS AND THE IMPACT OF SECTION 502
OF PUBLIC LAW 106-50.**

In the four (4) years since the enactment of P.L. 106-50, the impact of section 502 has been negligible.

When the Federal Acquisition Regulatory Council (FAR Council) first reviewed section 502, in 2000, they misinterpreted the legislation and declared that there was no separate service disabled veteran owned business procurement goal of 3% for federal government agencies and prime contractors to meet. It required a furious and pointed response from the House and Senate Small Business Committees to reverse the FAR's flawed interpretation so that the intent of the U.S. Congress would be realized by the federal government.

Subsequently, the agency community of acquisition and contracting officials has demonstrated a casual disinterest in the legislative direction to assist service disabled veterans to maintain their rehabilitation thru self-employment as federal prime or subcontractors.

The first release of data pertinent to agency procurement, the "SUMMARY OF ACTIONS AND DOLLARS REPORTED ON SF279 AND SF281 BY AGENCY" (report), issued by the FEDERAL PROCUREMENT DATA SYSTEM, reports minimal progress to the 3% legislated goal for disabled veteran participation. A telephone sample by ASDV of the method of calculation of that report reveals no assurance of accuracy of dollars, actions or appropriate categorization. Inevitably, this erroneous information misleads the U.S. Congress and subverts the intent of P.L. 106-50.

Additionally, the U.S. Small Business Administration, charged by legislation with the role of advocacy, has not integrated SDVBs into the numerous special assistance efforts of that agency.

Outreach materials, standard publications and routine announcements consistently fail to mention support and assistance for SDVBs.

This lack of effort and outreach has implied to the procurement community that there is no commitment by the Federal Government to assist service-disabled veterans seeking to maintain their rehabilitation by self-employment as owners and operators of small businesses.

This perceived lack of commitment has been reinforced to us several times by off the record comments of procurement officials such as: “SECTION 502 IS JUST A GOAL – IF THE CONGRESS HAD BEEN SERIOUS ABOUT HELPING SDVB, THEY WOULD HAVE LEGISLATED MANDATORY REQUIREMENTS, NOT UNACCOUNTABLE BEST EFFORTS.”

While ASDV firmly believes that the Congress is serious about SDVBs, the notion gleaned by procurement officials contrasts sharply with the legislative intent of P.L. 106-50.

The commitment of the private sector prime contractors (PRIMES) is even more abysmal SDVB requests to participate as subcontractors (SUBS) have been met with negative responses.

As a routine course, PRIMES initially profess ignorance and protest that procurement officials never mention SDVB participation. This is followed by subsequent protestations that they are exempted from participation by variously invoked parsing of regulatory language, special procurement official dispensation or that they are performing contracts that are not subject to regulation.

As an example; multi-billion dollar contracts by PRIMES of the U.S. Department of Veterans Affairs (USDVA) have PRIMES asserting that USDVA exempts them from offering subcontract opportunities because of their position in a sequence of procurement actions. The U.S. Department of Defense allows PRIMES to write their own plans for subcontracting, which do not require participation by SDVB.

There are no clear villains in the failure to assist the SDVB of our nation, rather there is a need for more specific direction from the U.S. Congress, even at the risk of cries of “Congressional Micromanagement” by the Federal Bureaucracy.

It is imperative that the Committee on Veterans Affairs take the initiative in establishing the legislative actions that will permit our nation’s disabled in service and prisoner of war veterans to participate more fully in the economic system they sacrificed to preserve.

The vocational rehabilitation provisions of 38 USC Chapters 37 and 31 were previously enacted for the purpose of assisting those service disabled veterans that wished to pursue “self-employment” as a means to independent living.

It is respectfully requested THAT THOSE PROVISIONS BE AMENDED AND EXPANDED TO PROVIDE AUTHORIZED, DIRECTED, SPECIFIC AND MANDATORY PARTICIPATION BY SERVICE DISABLED AND PRISONER OF WAR VETERANS IN ALL FEDERAL PROCUREMENTS” whether thru inclusion in the various set aside provisions of the Small Business Act of 1953 as amended, or in newly included Sections of that Act.

Only the active application of this Committee’s authority will ensure that self-employment is an available rehabilitation alternative for those that sacrificed for the security and prosperity of our nation.