



DEPARTMENT OF VETERANS AFFAIRS
EXECUTIVE DIRECTOR OF SMALL AND VETERAN BUSINESS PROGRAMS
WASHINGTON, DC 20420

August 24, 2012

Dear Veteran Small Business Owner:

As the Executive Director of Small and Veteran Business Programs for the Department of Veterans Affairs, I want to alert you to changes in the process for Verification of eligibility for the Veterans First Program and inclusion in the [Vendor Information Pages \(VIP\)](#). If you want to avoid a lengthy and frustrating process that ends in failure, please read this letter before proceeding.

While we seek to expand the number of eligible businesses included in the Veterans First program, we also seek to ensure that only eligible firms receive this opportunity. The process for verifying firms has become more rigorous since February 2011. The fact that you were verified previous to March 2011 is not a good indicator that you will be verified now. In 2012, to date, more than 60% of applications have been denied. Our analysis of those denials indicates that over 90% were a result of misunderstanding of the [Regulation 38 CFR 74](#). [Regulation 38 CFR 74](#) has been in place for a long period of time, and the regulatory requirements have been tried, tested, and validated. While we have initiated a rule change process, the current regulation remains in place, and must be complied with in full in order to be verified.

If you want to avoid being denied eligibility, I urge you to take advantage of our [Verification Assistance Program](#). In order to eliminate failure due to misunderstanding or ignorance, we established a [Verification Assistance Program](#). Our goal is to increase understanding and awareness of the specific reasons for noncompliance, in an effort to increase the success rate of applicants.

If you want to be verified on the first try and avoid a very long wait in the Request for Reconsideration process, I urge you to do the following:

1. Review Verification Assistance Briefs: These [briefs](#) have been designed to clarify rules associated with [Regulation 38 CFR 74](#). The briefs are based on an analysis of issues that cause the majority of denials. Over 80% of denials are due to issues addressed in the [Veteran Assistance Briefs](#).
2. Use Verification Self-Assessment Tool: This [tool](#) enables you do a comprehensive review of the entire regulation, and check your business model against requirements of [38 CFR 74](#).

3. Seek Verification Counseling: The [Verification Counseling Program](#) has been developed to provide training and assistance to applicants who have trouble understanding [Regulation 38 CFR 74](#) after using the [briefs](#) and the [assessment tool](#). The counselors receive the same training as the Verification examiners. They can answer questions and guide you through the [Self-Assessment Tool](#).

If you take advantage of these tools, found at the [VetBiz.gov](#) web site, and the attached Initial Verification Guide, you will gain a much higher expectation of success.

While we have established a “second chance” for those who fail to comply with our Request for Reconsideration program, it currently takes in excess of 180 days to process a Request for Reconsideration. Our current average processing time for an initial determination is less than 90 days. Don’t put yourself in the long line. Succeed the first time.

The bottom line: **Preparation Pays Off!**

Thank you for your service and your desire to continue to serve Veterans.

Sincerely,

/s/Thomas J. Leney

Attachment

This Guide is intended to assist Applicants to comply with the regulatory requirements in 38 CFR Part 74 in order to apply for Verification. Whenever this Guideline appears inconsistent with 38 CFR Part 74 *VA Veteran-Owned Small Business Verification Guidelines*, the language in 38 CFR Part 74 applies.

- Experience since the Verification Program started in mid-2008 shows that some Applicants do not fully understand how to submit a complete application that demonstrates that their company complies with the regulatory definition of a Veteran-Owned Small Business (VOSB) or a Service-Disabled Veteran-Owned Small Business (SDVOSB).
- Further complicating the submission process is the implementation of Public Law (P.L.) 111-275, section 104, the Veterans Small Business Verification Act (Verification Act). This law requires that in order to appear in the [Vendor Information Pages \(VIP\)](#) database, a VOSB (or SDVOSB) must be verified.
- Additionally, at the time of application, Veterans must submit copies to the Department of Veterans Affairs (VA) of all of the business documents that 38 CFR Part 74 previously required only to be kept on file at the primary place of business.

The core requirements for a company to become verified are:

- *The Veteran* owner(s) have direct, unconditional ownership of at least 51 percent of the company (38 CFR 74.3) and have full decision making authority (38 CFR 74.4 (g));
- *The Veteran* manages the company on both a strategic policy and a day-to-day basis (38 CFR 74.4);
- *The Veteran* holds the highest officer position (38 CFR 74.4(c)(2));
- *The Veteran* should be the highest compensated employee unless there is a logical explanation otherwise, submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business (38 CFR 74.4 (g) (3)); and
- *The Veteran* has the managerial experience of the extent and complexity needed to manage the company.

The Applicant bears the burden of proof of adequately establishing its claimed status.

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OVERVIEW OF THE PROCESS

The Verification Process consists of the following steps:

1. The Veteran applies to have a company verified by entering ownership information into VIP and signs VA Form 0877 electronically in the VIP registration section. A list of required business and financial documents by business type may be accessed at <http://www.va.gov/osdbu/docs/vipDocumentRationalMatrix.pdf>. VIP database permits owners to directly upload all required documents when registering or updating the profile. Note: there is a 5MB per attachment limit).
2. Once all the owners have completed their electronic signatures, VA confirms the Veteran status of each Veteran owner in VA's Beneficiary Identification Records Locator Subsystem (BIRLS) database. The Veteran status of most Applicants is confirmed on the first query and the application then moves on to the Examination phase. In some cases, the applicant's Veteran status is not verifiable, and a letter is sent to the Applicant explaining how the Veteran can get the BIRLS record corrected. In this case, Applicants may submit a DD-214 and/or DoD determination of service-connected disability to demonstrate Veteran status and, if applicable, a disability rating letter issued by VA, establishing a service connected rating between 0 and 100 percent or a Department of Defense determination of service connected disability to keep the application moving forward, but are encouraged to reconcile BIRLS for eligibility issues.
3. After an Applicant's Veteran status is confirmed, the documents that were submitted are reviewed to ascertain if they are correct and viable for examination. When that has been determined, the examination begins and the 90 day clock for Verification begins. Veteran ownership and control is verified by examining information databases and business and financial documents submitted by the Applicant. The examination process is electronically integrated to the VIP registration process. After comparing the documentation to the criteria in 38 CFR § 74, the Examiner makes a recommendation of approve, deny or further examination. The application then moves on to the Evaluation stage.

Note: The clock does not official start until all required/requested documents have been submitted. If additional documents are required/requested the clock stops until all documents are received. Applicants will have 30 days to submit requested documents and will receive notifications at the 20 days and 10 days points. At the 30 days, applications will be removed.

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4. The Evaluation stage is completed by a Federal employee. The Examination report is reviewed and cross checked against the supporting documentation. The Quality Reviewer confirms or overrides the recommendation, or finds that further examination is needed to resolve issues that are not clear. In some cases, ownership and control issues remain after the examination is completed. This is handled in two ways: additional documents are requested, or a site visit is scheduled in an effort to validate ownership and control. In these instances, a site visit is scheduled with the Applicant, in which an Examiner will visit the Applicant's place of business to conduct interviews and additional reviews. In some of these instances an Applicant will not be notified of a scheduled site visit.
5. The final stage of the process is the Determination stage. In this stage, the Federal employee determines if the application is approved or denied and the appropriate letter is issued. This letter is scanned and sent via VIP profile to the email address contained in the VIP profile. If the application is approved, the logo is turned on and the company will then appear in VIP.

In order to guard against fraud, abuse, and errors, it is important to adhere to the regulations and guidelines when preparing an application. Applicants must conform to the requirements of 38 CFR Part 74 in order to be verified.

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COMPONENTS OF SUCCESS

1. Organize before applying for Verification: Finalize the business structure and ownership documents before applying for Verification.

- Corporations, Limited Liability Corporations and Partnerships are typically registered with the state in which they are organized.
- Depending on their structure, most registered businesses will have agreements that govern how the company is operated, e.g. partnership agreements, stockholder agreements, operating agreements, corporate bylaws, etc.
- Sole Proprietorships that do not need to register with their state may still need a business license from their state or local government (a contractor's license for example), and most states require that they register with their county if doing business under any name other than their given name (i.e. Joe's Garage must register as a "doing business as (dba)");
- Assemble copies of business and financial documents. Refer to the lists located on www.VetBiz.gov for your business type and a complete listing of the required documentation. Redact (black out) all Personally Identifiable Information (PII) to include: Social Security numbers, dates of birth, home address (if different from the business address), home phone number, and bank routing number and checking account number.
- The Veteran should be the highest compensated employee unless there is an acceptable written explanation otherwise submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business (38 CFR 74.4 (g) (3)).
- If you do not have a particular document that is required, please include a written explanation as to why it has been omitted. Save your comments with the name of the missing document must be included. For example, if your state or type of company does not require this document.
- If you are applying to have more than one business verified, you must also submit a written explanation that demonstrates that such activities will not have a significant impact on an eligible Veteran owner's ability to manage and control their Small Business.

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- If you do not work full-time in the business, a written explanation that shows sustained and significant time invested in the business is required. *Remember that while not all Veteran owners need to work full-time in the business, the regulation still includes the requirement that an eligible Veteran owner who manages the company must devote full-time to the business during the normal working hours of the firm.*

These documents are required before the examination process can begin. If significant changes in name, structure or ownership occur, you might have to reapply.

2. Read 38 CFR Part 74 to be sure you are eligible. Applications or business models that do not conform to the requirements of both Veteran status and ownership and control requirements in 38 CFR sections 74.3 and 74.4 will be denied. Among these are:

- ✓ Eligible as Service-Disabled Veteran and registered in the BIRLS
- ✓ The Veteran has unconditional direct ownership at 51percent;
- ✓ The Veteran holds the highest officer position and is the highest paid employee unless there is a reasonable explanation submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business;
- ✓ The Veteran manages the company on both a strategic policy and a day-to-day basis;
- ✓ Non-Veterans do not control the company; and do not have the ability to exercise negative control. Negative control includes, but is not limited to, instances where a minority shareholder has the ability, under the concern's chapter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders.
- ✓ The Veteran has the managerial experience of the extent and complexity needed to run the company.

3. Submit and maintain a complete, accurate, up-to-date registration in VIP and the System for Award Management (SAM). (<https://www.sam.gov/>) Inconsistent information may slow down the processing of the application and will increase the amount of information requested from the applicant. You should maintain complete, accurate, up-to-date registrations anyway, since these are your interface with buyers and contracting officers. It is very important to enter the ownership information into VIP

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correctly when you register: correct names and information for each owner, correct email address for each owner, and ownership percentages must add up to 100 percent. Upon receipt, VIP will send an email to those email addresses. Each owner must click on the link in the email to sign VA Form 0877 electronically. The application cannot be submitted until all owners, adding up to 100percent, have signed the VA Form 0877 and all required documents are received.

4. Correct Veteran status inaccuracies through the VA Regional Office. Veteran status is verified using VA's BIRLS database. If BIRLS does not have and that the ownership percentages add up to 100 percent. Upon receipt, each owner any record for the applicant's Social Security number, Center for Veterans Enterprise (CVE) will send the applicant a letter telling them to contact his VA Regional Office. The application processing is suspended when that notice is sent. There is no other method of restarting the application other than by having the VA Regional Office correct the Veteran's BIRLS record. Once the BIRLS record has been created/corrected, re-contact CVE to reapply.

5. Respond quickly and completely to requests for information. The majority of the document examination is performed by VA support contractors. If the Examiner requests additional documents, processing stops until information is received. If the Applicant fails to respond, VA may deny the application based upon a lack of supporting documentation. It is important to keep in mind that no application will be processed until all supporting documentation is received.

6. Get your company verified before applying to have any joint ventures verified. Generally, a joint venture is a formal business relationship between two or more Small Business concerns to engage in and carry out a single, specific business venture for joint profit. For VA contracts, a joint venture must be in the form of a separate legal entity; in other words, two or more companies form a new business. The new business created by the joint venture must have a DUNS number and must be separately registered in SAM. If a joint venture is applying to be verified as a Veteran-Owned joint venture, then the Veteran partner must first be verified. When registering your company in VIP, do not select "Yes" for joint venture *if it is not a separate company with a joint venture agreement*. Most project teams are not joint ventures; they are comprised of a prime contractor and one or more subcontractors.

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7. Apply for Renewal after one year. In accordance with 38 CFR §74, Verification is for one year, and the company must apply for renewal. If the company has been verified based on full document review or site visit, the renewal application will require the Veteran to either state that no changes have occurred with regard to Veteran status, ownership, or control regarding the company; or describe any changes that have occurred related to Veteran status, ownership, or control regarding the company. If full document review (those approved before February 2011) has not been done, you must submit full documentation for a new examination.

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COMMON ISSUES THAT SLOW APPLICATIONS DOWN

- **100 percent of Owners have not completed the VA Form 0877 electronic signature.** In accordance with 38 CFR § 74, Verification is for one year, and the company must apply for renewal. If the company has been verified based on full document review or site visit, the renewal application will require the Veteran to either state that no changes have occurred with regard to Veteran status, ownership, or control regarding the company; or describe any changes that have occurred related to Veteran status, ownership, or control regarding the company. If full document review (those approved before February 2011) has not been done, you must submit full documentation for a new examination.
- **The applicant does not upload all required documents to their VIP Profile and then click [SUBMIT].** The application processing does not start until the Applicant clicks [SUBMIT].
- **The Applicant does not provide complete documentation. (See Suggestion #5 in Components of Success)** The Examination cannot begin until all of the required documentation is submitted. In some cases, the Examiner requests additional documents and receives a nonresponsive reply, such as:
 - The Applicant does not want to submit it. In this case, the application does not proceed until the Applicant submits the requested document(s). After the 30 day deadline in the email request has lapsed, the application is forwarded for removal from the process.
 - The Applicant sends documents that are inconsistent with each other and/or other information. In this case, the Examiner will ask for additional information and explanation. If those are not received within the time requested, the application will be referred to higher-level review and is likely to be denied by VA.
 - The Applicant provides a response that requires the Examiner to resolve the issues. The Applicant must provide their own documents and explanations in order to resolve any issues regarding ownership and control by the Veteran without requiring the Examiner to make any assumptions. All explanations must fully explain the deviation or the reason that the document is not being submitted. The Applicant cannot assume that the Examiner will be able to fill in the gaps and resolve ambiguities or omissions in the Applicant's favor; it is important for the applicant to provide a complete and factual response.

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- **Non-Veterans appear to control the company. (See Suggestions #1 and #2 in Components of Success)** The Examiners will review all information to determine that the Applicant conforms to the requirements in 38 CFR 74.4. In those cases in which the Veteran holds the highest officer position, is the highest paid employee, and manages the company on a day-to-day basis, the Development Officers and Small Business Development Centers nationwide regarding significantly, the Examination proceeds more slowly, and additional supporting documents will likely be requested. Review all agreements and policy documents to assure that the Applicant controls the company and the board of directors. In many cases, an Examiner is sent to the company's place of business to conduct an onsite Examination.
- **The Veteran is unavailable.** Generally, direct communication with the Veteran is the most productive means of resolving discrepancies or omissions in the record. Additionally, if the Veteran is unavailable, it implies that the Veteran is not managing the business on a day-to-day basis. An eligible Veteran owner will be required to explain how any outside employment affects their ability to control the Applicant. If the Veteran is a Federal employee, it is unlikely that the company can receive a Federal contract (See [FAR 3.6](#)).
- **The Applicant has an unusual ownership or management structure.** Current practice is to conduct an onsite Examination of applicants with unusual ownership or management structures. Joint or co-management with non-Veterans will usually result in a finding of a lack of control and a denial. The Veteran must have full authority to control the concern, or adequately weighted voting rights to have final decision-making authority.
- **The applicant has affiliation issues.** Businesses are affiliates of each other if, directly or indirectly, one has the power to control the other. Based upon 38 CFR Parts 74 and 74.5, affiliation issues must be examined in more detail to assure that the Applicant is not unduly dependent on other entities to the extent that those entities have the potential to control the Applicant. Current practice is to conduct an onsite Examination of Applicants who appear to have affiliation issues.

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DEFINITIONS

CFR 38 § 74.1 Definitions for VetBiz Vendor Information Pages (VIP) Verification Program

For the purposes of part CFR 38, 74, the following definitions apply.

Center for Veterans Enterprise (CVE) is an office within the U.S. Department of Veterans Affairs (VA) and is a subdivision of VA's Office of Small and Disadvantaged Business Utilization (OSDBU). CVE helps Veterans interested in forming or expanding their own Small Businesses. It also helps VA contracting offices identify Veteran-Owned Small Businesses and works with the Small Business Administration's Veterans Business combine their efforts, property, money, skill, or knowledge, but not on a continuing or Veterans' business financing, management, and technical assistance needs. OSDBU is the office within the VA that establishes and monitors Small Business program goals at the prime and subcontract levels and which functions as the ombudsman for Veterans and Service-Disabled Veterans seeking procurement opportunities with the Department.

Clock, the Applicant's the 90 day clock does not officially start until all required/requested documents have been submitted. Upon receipt of all documents, the examination commences and the 90 day clock for Verification begins. If additional documents are required/requested the clock stops until all documents are received. Applicants will have 30 days to submit requested documents and will receive notifications through their VIP profile email at the 20 day and 10 day points. At the 30 days, applications will be removed and Applicants will have to start the process over. CVE processes complete applications within 90 days in accordance with regulatory compliance.

Days are calendar days. In computing any period of time described in part 74, of 38 CFR, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where CVE is closed for all or part of the last day, the period extends to the next day on which the agency is open.

Day-to-Day Management means supervising the executive team, formulating sound policies and setting strategic direction.

Day-to-Day Operations means the marketing, production, sales, and administrative functions of the firm.

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Eligible Individual means a Veteran, Service-Disabled Veteran or surviving spouse, as defined in this section.

Immediate Family Member means: A father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, and mother-in-law.

Joint Venture is an association of two or more Small Business concerns to engage in and carry out a single, specific business venture for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. For VA contracts, a joint venture must be in the form of a separate legal entity.

Negative Control includes, but is not limited to, instances where a minority shareholder has the ability, under the concern's chapter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders.

Non-Veteran means any individual who does not claim Veteran status, or upon whose status an Applicant or participant does not rely in qualifying for VetBiz VIP Verification Program participation.

Participant means a Veteran-Owned Small Business concern that has verified status in the VetBiz VIP database.

Primary Industry Classification means the six-digit North American Industry Classification System (NAICS) code designation which best describes the primary business activity of the participant. The NAICS code designations are described in the NAICS Manual, published by the U.S. Office of Management and Budget.

Principal Place of Business means the business location where the individuals who manage the concern's day-to-day operations, spend most working hours, and where top management's current business records are kept. If the office from which management is directed and where the current business records are kept are in different locations, CVE will determine the principal place of business for program purposes.

Same or Similar Line of Business means business activities within the same three-digit "Major Group" of the NAICS Manual as the primary industry classification of the Applicant or participant. The phrase "same business area" is synonymous with this definition.

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Service-Disabled Veteran is a Veteran who possesses either a disability rating letter issued by VA, establishing a service-connected rating between 0 and 100 percent, or a disability determination from the Department of Defense.

Service-Disabled Veteran-Owned Small Business concern is a business not less than 51 percent of which is owned by one or more Service-Disabled Veterans, or in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more Service-Disabled Veterans; the management and daily business operations of which are controlled by one or more Service-Disabled Veterans, or in the case of a Veteran with a permanent and severe disability, a spouse or permanent caregiver of such Veteran. In addition, some businesses may be owned and operated by an eligible surviving spouse. Reservists or members of the National Guard disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify.

Size determinations – The Small Business Administration determines the standard for size determinations, See 13 CFR, Part 121. Also refer to SBA's Guide to Size at www.sba.gov/content/guide-size-standards.

Small business concern – CVE applies the Small Business concern definition established by [48 CFR 2.101](http://www.ecfr.gov/current/title-48/chapter-I/part-211/subpart-B/section-211.101).

Surviving spouse is any individual identified as such by VA's Veterans Benefits Administration and listed in its database of Veterans and family members. To be eligible for VetBiz VIP Verification, the following conditions must apply:

- 1) If the death of the Veteran causes the Small Business concern to be less than 51 percent owned by one or more Veterans, the surviving spouse of such Veteran who acquires ownership rights in such Small Business shall, for the period described in paragraph (2) of this definition, be treated as if the surviving spouse were that Veteran for the purpose of maintaining the status of the Small Business concern as a Service-Disabled Veteran-Owned Small Business.
- 2) The period referred to in paragraph (1) of this definition is the period beginning on the date on which the Veteran dies and ending on the earliest of the following dates:
 - (i) The date on which the surviving spouse remarries;

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- (ii) The date on which the surviving spouse relinquishes an ownership interest in the Small Business concern;
 - (iii) The date that is 10 years after the date of the Veteran's death; or
 - (iv) The date on which the business concern is no longer small under Federal Small Business size standards.
- 3) The Veteran must have had a 100 percent service-connected disability or died as a direct result of a service-connected disability. Note: Concerning definition of surviving spouse: For program eligibility purposes, the surviving spouse has the same rights and entitlements of the Service-Disabled Veteran who transferred ownership upon his or her death.

Unconditional ownership means ownership that is not subject to conditions precedent, conditions subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights, or other arrangements causing or potentially causing ownership benefits to go to another (other than after death or incapacity). The pledge or encumbrance of stock or other ownership interest as collateral, including seller-financed transactions, does not affect the unconditional nature of ownership if the terms follow normal commercial practices and the owner retains control absent violations of the terms.

VA is the U.S. Department of Veterans Affairs.

Vendor Information Pages (VIP) is a database of businesses eligible to participate in VA's Veteran-Owned Small Business Program. The online database may be accessed at no charge via the Internet at <http://www.VetBiz.gov/>.

Verification Eligibility Period is a 12-month period that begins on the date the Center for Veterans Enterprise issues the approval letter establishing verified status. The participant must submit a new application each year to continue eligibility. Eligibility expires on the anniversary of the one year expiration if the Applicant fails to submit for Re-verification.

Veteran is a person who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and at any place and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to Federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a Veteran.

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Veteran-Owned Small Business Concern (VOSB) is a Small Business concern that is not less than 51 percent owned by one or more Veterans, or in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more Veterans; the management and daily business operations of which are controlled by one or more Veterans and qualifies as “small” for Federal business size standard purposes. All Service-Disabled Veteran-Owned Small Business concerns (SDVOSBs) are also, by definition, Veteran-Owned Small Business concerns. When used in these guidelines, the term “VOSB” includes SDVOSBs.

[Veterans Affairs Acquisition Regulation \(VAAR\)](#) is the set of rules that specifically govern requirements exclusive to the VA prime and subcontracting actions. The VAAR is chapter 8 of title 48, Code of Federal Regulations, and supplements the Federal Acquisition Regulation (FAR), which contains guidance applicable to most Federal agencies.

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