

## Calendar No. 544

116TH CONGRESS  
2D SESSION

# S. 3282

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.

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### IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2020

Mr. CASSIDY (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

SEPTEMBER 15, 2020

Reported by Mr. MORAN, without amendment

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## 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 2020”.

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)(A) The Secretary may award a contract under  
23 this section only after the Secretary obtains from the of-  
24 feror a certification that the offeror will comply with the  
25 requirements described in paragraph (1)(A) if awarded  
26 the contract.

1 “(B) A certification described in subparagraph (A)  
2 shall—

3 “(i) specify the exact performance requirements  
4 applicable under such paragraph; and

5 “(ii) explicitly acknowledge that the certification  
6 is subject to section 1001 of title 18.

7 “(3)(A) The Director of Small and Disadvantaged  
8 Business Utilization for the Department, established pur-  
9 suant to section 15(k) of the Small Business Act (15  
10 U.S.C. 644(k)), and the Chief Acquisition Officer of the  
11 Department, established pursuant to section 1702 of title  
12 41, shall jointly implement a process using the systems  
13 described in section 16(g)(2) of the Small Business Act  
14 (15 U.S.C. 645(g)(2)), and any other relevant systems  
15 available, to monitor compliance with this subsection.

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

20 “(C) If the Secretary determines, in consultation with  
21 the Inspector General of the Department, that a small  
22 business concern that is awarded a contract under this  
23 section did not act in good faith with respect to the re-  
24 quirements described in paragraph (1)(A), the small busi-

1   ness concern shall be subject to any or all of the following  
2   consequences—

3           “(i) referral to the Debarment and Suspension  
4       Committee of the Department;

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

7           “(iii) prosecution for violating section 1001 of  
8       title 18.

9       “(D)(i) Not later than November 30 for each of fiscal  
10   years 2021 through 2025, the Inspector General shall sub-  
11   mit to the Committee on Veterans’ Affairs of the Senate  
12   and the Committee on Veterans’ Affairs of the House of  
13   Representatives a report on violations and suspected viola-  
14   tions described in subparagraph (B) for the fiscal year  
15   preceding the fiscal year during which the report is sub-  
16   mitted.

17       “(ii) Each report submitted under clause (i) shall in-  
18   clude, for the period covered by the report, the following:

19           “(I) The number of referred violations and sus-  
20       pected violations received under subparagraph (B).

21           “(II) The disposition of such referred violations,  
22       including the number of small business concerns sus-  
23       pended or debarred from Federal contracting or re-  
24       ferred to the Attorney General for prosecution.”.

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

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