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SERVICE DISABLED VETERAN OWNED BUSINESS PROGRAM

Session 1 - "Cause and Effect"

**A look at the requirements and relationships of
Public Law 106-50 and Public Law 108-183.**

SERVICE DISABLED VETERAN OWNED BUSINESS PROGRAM

DEFINITIONS

38 U.S.C. 101 (2) The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

38 U.S.C. 101 (16) The term “service-connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

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DEFINITIONS

Service-Disabled Veteran Owned Business

(1) Means a small business concern-- (i) 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; and (ii) 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 permanent and severe disability, the spouse or permanent caregiver of such veteran.



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"With Congress, every time they make a joke it's a law, and every time they make a law it's a joke."

Will Rogers

Veterans tracking the implementation of PL 106-50 tend to agree with the latter part of Will's statement.

Effective implementation of PL 108-183 should change that SDVOB perception.



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What is Public Law 106-50?

PL 106-50 began as HR 1568, *The Veterans Entrepreneurship and Small Business Development Act*, a bill introduced in the U.S. House of Representatives ^{later} by Congressman Jim Talent (MO) on April 27, 1999.

The purpose of the act was *"to expand existing and establish new assistance programs for veterans who own or operate small businesses."*

Less than four-months later (8/17/99) it became **public law.**

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What did it say?

There were seven distinct “titles” or elements of PL 106-50 including the establishment of the *Veterans Corporation* and the *Office of Veterans Business Development* in the Small Business Administration.

The element of PL 106-50 we need to focus on says:

“The Government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans shall be established at not less than 3-percent of the total value of all prime contract/subcontract awards for each fiscal year.”

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So, what does that mean?

In terms of real dollars it equated to:

- \$6,120,000,000 SDVOB contract dollars - FY 2000
- \$6,570,000,000 SDVOB contract dollars - FY 2001
- \$7,050,000,000 SDVOB contract dollars - FY 2002
- \$7,050,000,000 **carried forward** - FY 2003
- \$7,050,000,000 **carried forward** - FY 2004

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SDVOB's should have received over 7 billion contract dollars?

In reality, Federal agencies have contracted with SDVOB's for roughly 2/10 percent of total Federal contracts since the law was implemented.

- \$554,167,000 in FY 2001 (0.25)
- \$298,901,000 in FY 2002 (0.13)
- \$510,135,596 in FY 2003 (0.21)
- The actual expenditures for 2004 are not currently available. The expectation is that no significant improvement will be seen.



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Public Law 106-50

	<u>GOAL</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>SUCCESS</u>
SB	23	22.8	22.6	25.4	100%
SDB	5	7.1	6.8	7.4	142%
8(A)	2.5	2.9	2.4	3.9	123%
WOB	5	2.5	2.9	3.2	57%
HUB	2-3	.7	.7	1.0	30%
SDVOB	3	.3	.1	0.2	6%

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What's the Problem?

There are as many explanations to why Federal agencies aren't reaching the 3% goal as there are SDVOB's.

Agencies have indicated that a large part of the problem lies in the legislation and its failure to provide a mechanism for attaining the goal.

Congress decided to address that criticism!



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How?

HR 2297, **Veterans Benefits Act of 2003**, was introduced in the House of Representatives on June 2, 2003.

Section 308, ***PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS***, was added during House deliberations.

December 16, 2003 it became **PL 108-183**.

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What does it do?

There were five elements to the law:

- *SOLE SOURCE CONTRACTS*
- *RESTRICTED COMPETITION*
- *RELATIONSHIP TO OTHER CONTRACTING PREFERENCES*
- *ENFORCEMENT; PENALTIES*
- *CONTRACTING OFFICER*

You need to be aware of the capability for items (a) and (b).

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Section 308, Paragraph 'a'

SOLE SOURCE CONTRACTS- *In accordance with this section, a contracting officer may award a sole source contract to any small business concern **owned and controlled by service-disabled veterans** if—*

(1) The contracting officer determines that you are a responsible contractor and that it is unlikely that 2 or more SDVOB's would submit on the contract;

(2) The award price will not exceed--

(A) \$5,000,000, ...manufacturing;

(B) \$3,000,000, ... other contract, and

(3) The price is fair and reasonable.

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Section 308, Paragraph 'b'

RESTRICTED COMPETITION- *In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.*

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WHAT HAS CHANGED?

Goal – an object or end that one strives to attain.

Mandate – an authoritative order or command.

Congress has now given Federal Agencies a vehicle for achieving the 3% goal. House Veterans Committee Chairman Chris Smith has indicated that their Committee will be watching for agencies achievement of the “*goal*”. The goal now has the appearance of a mandate!

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SUMMARY

The Congressional "goal" of PL 106-50 for ensuring at least 3% of all Federal contract dollars are received by SDVOB's has been largely ignored by Federal agencies, including the agencies responsible for implementing it. PL 108-183 can only change that if you hold them accountable.

During FY 2005, the contracting goal for SDVOB's will exceed 7 Billion dollars. What part of that goal will your company receive?

"Ninety-nine percent of failures come from people who have the habit of making excuses." *President George Washington*



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<http://veterans.house.gov/legislation/108/hr2297s.html>

<http://www.isgovt.com/pl10650.pdf>

<http://www.isgovt.com/108183.pdf>

GO TO SESSION 2 <http://www.isgovt.com/SESSION2.pdf>

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