

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Department of Veterans Affairs

*Audit of
Veteran-Owned and
Service-Disabled Veteran-Owned
Small Business Programs*

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ACRONYMS AND ABBREVIATIONS

BIRLS	Beneficiary Identification Records Locator Subsystem
CCR	Central Contractor Registration
CFR	Code of Federal Regulations
CVE	Center for Veterans Enterprise
eCMS	Electronic Contract Management System
EPLS	Excluded Parties List System
FAR	Federal Acquisition Regulation
FSS	Federal Supply Schedule
FPDS-NG	Federal Procurement Data System-Next Generation
GAO	Government Accountability Office
JOTFOC	Justification for Other Than Full and Open Competition
NAICS	North American Industry Classification System
OA&L	Office of Acquisition and Logistics
OAL&C	Office of Acquisition, Logistics, and Construction
OIG	Office of Inspector General
ORCA	Online Representations and Certifications Application
OSDBU	Office of Small and Disadvantaged Business Utilization
P&LO	Procurement and Logistics Office
PNM	Price Negotiation Memorandum
SBA	U.S. Small Business Administration
SDVOSB	Service-Disabled Veteran-Owned Small Business
VAAR	Veterans Affairs Acquisition Regulation
VetBiz VIP	VetBiz Vendor Information Pages
VHA	Veterans Health Administration
VOSB	Veteran-Owned Small Business
USH	Under Secretary for Health

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Report Highlights: Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs

Why We Did This Audit

We evaluated the Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business (SDVOSB) programs to determine if VOSB and SDVOSB contracts met program and contract eligibility requirements and if program controls were effective. The VOSB and SDVOSB programs foster entrepreneurship by increasing business opportunities for veterans. In FY 2010, VOSB and SDVOSB procurements totaled nearly \$3.5 billion representing approximately 23 percent of VA's total procurement spending.

What We Found

We project that VA awarded ineligible businesses at least 1,400 VOSB and SDVOSB contracts valued at \$500 million annually and that it will award about \$2.5 billion in VOSB and SDVOSB contracts to ineligible businesses over the next 5 years if it does not strengthen oversight and verification procedures. VA and the Office of Small and Disadvantaged Business Utilization (OSDBU) need to improve contracting officer oversight, document reviews, completion of site visits for "high-risk" businesses, and the accuracy of VetBiz Vendor Information Pages information. Thirty-two (76 percent) of the 42 statistically selected reviewed businesses were either ineligible to participate in the programs or ineligible for the awarded contracts.

The 32 businesses benefitted from the award of \$46.5 million in contracts, including \$26.7 million in Recovery Act-funded contracts intended for eligible VOSBs and SDVOSBs. Although VA reported awarding 23 and 20 percent of its total procurement dollars, respectively, to VOSBs and SDVOSBs in FY 2010, we projected that these

figures were overstated by 3 to 17 percent because of awards made to ineligible businesses.

What We Recommended

We recommended the OSDBU Executive Director implement comprehensive VOSB and SDVOSB program controls to ensure VA effectively administers the programs and meets Federal and VA regulations. We also recommended the Deputy Under Secretary for Health (USH) work with the Office of Acquisition, Logistics, and Construction (OAL&C) and OSDBU Executive Directors to ensure contracting officers adhere to all applicable acquisition requirements and review subcontracting agreements when making awards.

Agency Comments

The USH and OAL&C and OSDBU Executive Directors agreed with our findings and recommendations and plan to complete all corrective actions by September 2012. We consider these planned actions acceptable and will follow up on their implementation.

(original signed by:)

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INTRODUCTION

Objectives

We evaluated VA's oversight of the Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business (SDVOSB) programs. Specifically, we assessed if businesses awarded VOSB and SDVOSB sole-source and set-aside contracts met program and contract eligibility requirements and if VA has effective management controls in place to oversee the programs.

VOSB and SDVOSB Program Description

Congress created the U.S. Small Business Administration (SBA) to maintain and strengthen the nation's economy by enabling the establishment and viability of small businesses. In 1999, Congress required the SBA to establish programs and services to help veterans make the transition from service member to small business owner by increasing Federal contracting and subcontracting opportunities for veterans and service-disabled veterans. The creation of the VOSB and SDVOSB programs fosters the entrepreneurship of veterans by increasing the business opportunities available to eligible VOSBs and SDVOSBs when the Federal Government purchases goods and services.

Veterans First Contracting Program

Congress' passage of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461) contained veteran-owned small business requirements that led to the establishment of the Veterans First Contracting Program. The legislation, codified in United States Code, Title 38, Sections 8127–8128, authorized VA to take a unique "Veterans First" approach in its contracting activities. Provisions in the public law changed the order of VA's contracting preferences, making SDVOSBs and VOSBs, the first and second choices, respectively, when satisfying VA's acquisition needs. The law required VOSBs and SDVOSBs to register in a VA database, the VetBiz Vendor Information Pages (VIP), to be eligible for contract awards and continued to require contracting officers to make fair and reasonable price determinations before they awarded VOSB and SDVOSB sole-source and set-aside contracts.

Program Office Responsibilities

VA's Office of Small and Disadvantaged Business Utilization (OSDBU) assists and supports small business interests through its monitoring of VA's implementation and execution of VOSB and SDVOSB contracting. OSDBU is responsible for the development of department-wide policies, programs, and practices related to small business concerns. OSDBU also trains VA staff, negotiates prime and subcontracting goals, and monitors program performance execution for VA leadership. The Office of Acquisition, Logistics, and Construction (OAL&C) is responsible for contracting policy and training acquisition staff.

Currently, VA is the only agency within the Federal Government that maintains an activity to verify the status of veteran-owned small businesses. The Center for Veterans Enterprise (CVE) within OSDDBU performs the business verification function and manages the list of “veteran-owned” businesses in VA’s VetBiz VIP database. Further, VA has made additional efforts to ensure the integrity of the programs through its amendment of the VA Acquisition Regulation (VAAR). For example, VAAR was amended to require contracting officers to check the VetBiz VIP database for eligible businesses before they award VOSB or SDVOSB contracts. As of July 13, 2011, the VetBiz VIP database included over 9,000 businesses, of which CVE had verified the eligibility of 7,852 (86 percent) businesses as VOSBs or SDVOSBs.

A revision to the Code of Federal Regulations (CFR)¹ has made CVE’s VOSB and SDVOSB verification responsibilities more challenging and the process for establishing control and ownership more complex. Under this revision, veteran owners no longer need to work full-time in the business provided they can demonstrate that their outside employment activities do not have a significant impact on their ability to manage and control the business. In addition, the revised CFR now permits veteran owners to maintain more than one business in VetBiz VIP, provided veteran business owners demonstrate the requisite requirements of control and ownership.

¹ CFR Title 38, Part 74.4(c)(1) states a business must be controlled by one or more veterans or service-disabled veterans who possess requisite management capabilities. Owners need not work full-time but must show sustained and significant time invested in the business. An owner engaged in employment or management outside the business must submit a written statement that demonstrates that the activities will not have a significant impact on the owner’s ability to manage and control the business. A January 19, 2011, *Federal Register* notice (Vol. 76, No. 12) modified the rule in CFR Title 38, Part 74, allowing more than one business in the VOSB and SDVOSB programs as long as the veteran can demonstrate the requisite requirements of ownership and control.

RESULTS AND RECOMMENDATIONS

Finding 1 Ineligible Businesses Received VOSB and SDVOSB Sole-Source and Set-Aside Contracts

VA awarded VOSB and SDVOSB sole-source and set-aside contracts to businesses that did not meet eligibility requirements prescribed by Federal law.² Our review of 42 statistically selected businesses disclosed that VA awarded 32 (76 percent) ineligible businesses \$46.5 million in VOSB and SDVOSB contracts during our 12-month review period ending May 31, 2010. The awards included \$26.7 million in Recovery Act-funded contracts. Therefore, we project that VA annually awards ineligible businesses a minimum of 1,400 VOSB and SDVOSB sole-source and set-aside contracts valued at \$500 million. Moreover, over the next 5 years, VA will award a minimum of \$2.5 billion to ineligible businesses if it does not strengthen the programs' verification and management controls. (See Appendix D, Table 4 for additional information.)

The businesses were ineligible because the veteran owners subcontracted more work to nonveteran-owned businesses than allowed under Federal regulations or veterans did not really control or own the businesses. Ineligible businesses sometimes had multiple issues related to subcontracting, control, and ownership. Inadequate CVE eligibility verification processes and inadequate oversight of contracting officers who are responsible for assessing contractor eligibility at the time of award contributed to the award of VOSB and SDVOSB contracts to ineligible businesses. Furthermore, many of the awarded VOSB and SDVOSB contracts did not meet general Federal Acquisition Regulation (FAR) and VAAR requirements intended to ensure the integrity of procurements and protect the Government's interests.

The award of VOSB and SDVOSB contracts to ineligible businesses reduces the funding available to eligible businesses and the accuracy of VA's reported socioeconomic goal accomplishment data. For example, if ineligible businesses received between \$500 million and \$2.6 billion (the 90 percent confidence interval of our sample) in VOSB and SDVOSB awards during FY 2010, VA's reported total VOSB and SDVOSB procurement dollars would decrease anywhere from 3 to 17 percent. Thus, VA may be barely meeting the Secretary's VOSB and SDVOSB procurement goals of 12 and 10 percent; even though it reported that it had

² CFR Title 38, Part 74 defines business eligibility requirements for participation in VA's VOSB and SDVOSB programs.

awarded 23 and 20 percent of its total procurement dollars, respectively, to VOSBs and SDVOSBs in FY 2010. (See Appendix D, Table 5 for more information.)

Ineligibility Due to Subcontracting Practices

Twenty-four (57 percent) of the 42 reviewed businesses that received \$39.3 million in VOSB and SDVOSB awards were ineligible because they did not meet Federal VOSB and SDVOSB incurred cost and subcontracting performance thresholds for the contracted item or service. In these cases, the veteran-owned small businesses either entered contracts where they knew they would have to “pass through” the majority of the contract funds and work requirements to another business or they could not meet FAR incurred costs and subcontracting performance requirement thresholds.

Adherence to incurred cost and subcontracting performance thresholds ensures that veteran-owned small businesses, in keeping with the goals of the VOSB and SDVOSB socioeconomic procurement programs, perform a specified amount of work on each awarded contract. In theory, business owners receive a commensurate amount of the funds and benefits from the contract award. Use of these thresholds to make awards also reduces the risk for fraud and abuse because they deter VOSBs and SDVOSBs from using their status to obtain awards and then “pass through” the work for a fee or percentage of the contract to larger, nonveteran-owned businesses.

“Pass-Through” Contracts to Nonveteran-Owned Businesses

Despite Federal subcontracting thresholds, 18 businesses that were awarded 42 VOSB and SDVOSB contracts valued at \$35 million “passed through” the majority of the contracts’ work requirements and funds to nonveteran-owned businesses. Subcontracting thresholds in the CFR³ limit the amount of contract work and funds subcontracted out to a nonveteran-owned business under a VOSB or SDVOSB contract. In addition, the CFR requires VOSBs and SDVOSBs to submit partnering agreements with their bid proposals so contracting officers can review them prior to award. Nevertheless, businesses used partnering agreements to bypass the programs’ subcontracting thresholds. “Pass-through” contracts occurred when businesses or joint venture/partnerships listed veterans or service-disabled veterans as majority owners of the business, but contrary to VOSB and SDVOSB program requirements, the nonveteran-owned businesses either performed or managed the majority of the work and

³ CFR Title 13, Part 125.6(b) and Title 48, Part 852.219-10 and Part 852.219-11 specify subcontracting limitations. For service contracts excluding construction, a business must incur at least 50 percent of the contract’s personnel costs using its own employees. For supplies or products contracts, the business must incur at least 50 percent of the cost of the contract. For general construction contracts, the business must incur at least 15 percent of the contract’s personnel costs using its own employees. For specialty trade construction contracts, the business must incur at least 25 percent of the contract’s personnel costs using its own employees.

received the majority of the contracts' funds. "Pass-through" contracts identified during our audit included the following examples:

An SDVOSB that offered technical writing services as its major business line received two contracts totaling \$178,500 to provide janitorial services to Veterans Health Administration (VHA) medical facilities located in another state. Prior to the award, the SDVOSB formed a partnership with a nonveteran-owned business and subsequently passed all of the work through to the nonveteran-owned business. The SDVOSB alone did not have the experience or staffing to perform the work required by the contracts.

An SDVOSB that provided carpentry and painting services received one sole-source and three set-aside contracts valued at \$4.2 million for projects including elevator and dumbwaiter replacements and nursing home and building renovations. The SDVOSB lacked the staffing and equipment to complete the required work on these contracts and passed the work through to nonveteran-owned businesses. For example, the SDVOSB used five nonveteran-owned subcontractors to complete a \$2.2 million Recovery Act-funded SDVOSB set-aside contract to replace elevators and dumbwaiters. During interviews, the veteran owner showed no awareness of the subcontracting performance requirements and stated the SDVOSB did not provide the services required by the contracts so he had to outsource the work to subcontractors.

In some cases, veteran owners did not seem aware of the subcontracting performance threshold requirements and that they were ineligible for the awarded VOSB and SDVOSB contracts. We concluded that contracting officers are not properly reviewing VOSB and SDVOSB contractors' subcontracting and partnering agreements at the time of award to ensure businesses meet Federal subcontracting performance thresholds. Many factors contributed to the lapse in this review process. Contracting officers may not be aware of the requirements and may not be requesting the required subcontracting information. Contractors may be withholding the information during the bid or request for proposal process, or contracting officers may simply not be properly reviewing and evaluating the provided information.

*Exceeding Federal
Subcontracting
Thresholds*

Six additional businesses that were awarded 15 SDVOSB contracts valued at \$4.3 million exceeded the subcontracting performance thresholds established for service and construction contracts in the CFR. These businesses simply lacked the resources to complete the required amount of work under the contracts. On service contracts, excluding those for construction, the VOSB or SDVOSB must incur at least 50 percent of the cost of the contract using its own employees. For general construction contracts, the VOSB or SDVOSB must incur at least 15 percent of the cost of the contract using its

own employees. An example of a business that did not meet the required subcontracting threshold follows:

An SDVOSB received two Recovery Act-funded SDVOSB construction contracts valued at \$793,000 to repair roads, catch basins, and sidewalks and to correct ductwork deficiencies in a building. Reviews of the related subcontracts for these two contracts determined that the SDVOSB had only performed \$47,000 or 10.5 percent of the work on the road repair contract valued at \$449,000, while non-SDVOSB subcontractors completed the remaining 89.5 percent of the work. The veteran and his employees did not perform the required minimum 15 percent of the work on the road repair contract along with work required by other active contracts assigned to the SDVOSB.

From our discussions with the business owners who did not meet the subcontracting performance thresholds, use of these types of subcontracting agreements is a common practice. VOSBs and SDVOSBs solicit partnerships with nonveteran-owned businesses that possess the technical capability to do the work. Likewise, ineligible nonveteran-owned businesses initiate relationships with VOSBs and SDVOSBs to gain access to Federal VOSB and SDVOSB contracts.

***Ineligibility
Because of Lack
of Control and
Ownership***

Sixteen businesses that were awarded 28 VOSB and SDVOSB contracts valued at \$8.5 million did not meet Federal control and/or ownership requirements for veteran-owned small businesses. Businesses must meet these requirements before they can receive VOSB or SDVOSB sole-source and set-aside contracts. Thus, CVE focused its efforts exclusively on the verification of control and ownership of the businesses to ensure their eligibility for the VOSB and SDVOSB programs. Despite CVE's verification processes, our audit still identified ineligible businesses where veterans did not control and/or own the businesses but received VOSB or SDVOSB awards.

***Veterans Did Not
Manage and
Control Businesses***

Fourteen businesses that were awarded 24 VOSB and SDVOSB contracts valued at \$8 million could not demonstrate that veterans managed and controlled the businesses. To establish control, the CFR⁴ requires one or more veterans (or service-disabled veterans) to manage and control the operations of a business concern. The veteran(s) must be involved in long-term decision making, day-to-day management, and administration of

⁴ CFR Title 38, Part 74.1 defines a VOSB and SDVOSB as a business where the management and daily business operations are controlled by one or more veterans or service-disabled veterans, or in the case of a veteran with a permanent and severe disability, a spouse or permanent caregiver of such veteran. Some businesses may be owned and operated by an eligible surviving spouse.

the business's operations. In addition, the veteran must also hold the highest officer position in the business, usually the president or chief executive officer, and must have managerial experience commensurate with the extent and complexity needed to operate the business. The following provides an example where the veteran who was the "president" of the business did not control the business.

An SDVOSB received two SDVOSB construction contracts valued at \$77,500 to evaluate and rate fire smoke dampers and replace air handling and condensing units. However, we were unsuccessful in our efforts to contact the veteran, the president of the business. The vice president of the SDVOSB, who was not a service-disabled veteran, managed the business's day-to-day operations, and the business's employees said they never met the veteran owner in person. The vice president and veteran owner used the owner's status as a service-disabled veteran to obtain sole-source contracts, and the absentee veteran owner received quarterly dividend payments from the business.

We also identified similar scenarios involving families where veterans own and control the business "on paper." The self-certifications for the businesses on VetBiz VIP, the Central Contractor Registration (CCR), the Online Representations and Certifications Application (ORCA), and other documents indicate the veteran owns the business. However, interviews and observations during visits to businesses often showed that nonveteran family members, such as the veterans' brothers or spouses, managed, operated, and controlled the businesses' day-to-day operations.

CVE verified 2 of the 14 ineligible businesses where a veteran did not manage and control the business. CVE's verification process involved the review of documentation available online about the business such as the business license, Dun and Bradstreet reports, CCR, and the USA Spending Web site data. However, in our opinion, these online document reviews were insufficient to establish control of the business by a veteran. Reviews of additional documentation such as resumes, signature cards, negotiated checks, as well as onsite interviews with the veteran owner and business managers are needed to establish who really controls and manages a business.

Veterans Did Not Own Businesses

Four businesses that did not meet the programs' ownership requirements received seven VOSB and SDVOSB contracts valued at \$1.2 million. To establish ownership, the CFR⁵ requires one or more veterans or service-disabled veterans to unconditionally and directly own at least 51 percent of a business.

As illustrated by the following example, documents may indicate a veteran is the business's owner but that may not be the case in reality:

A business received a \$623,000 SDVOSB contract in July 2009 to replace elevators in two VHA medical facility buildings even though it was not a veteran-owned business. Online documents such as the Dun and Bradstreet reports, CCR, and information from the ORCA Web site indicated that a veteran owned the business. However, an interview with the president of the company revealed the business was actually one of three family-owned and -operated businesses. The family employed the veteran in all three businesses, including the SDVOSB the veteran supposedly owned, as an hourly wage employee. The family encouraged and helped the veteran create the SDVOSB, but the documents and interviews with the veteran owner and business managers confirmed the veteran did not own or manage the business.

Similar to the ineligible businesses that did not meet control requirements, CVE had verified one of the four ineligible businesses that did not meet ownership requirements. In the case discussed above, CVE reviewed the initial documents available online such as the company's business license, CCR, Dun and Bradstreet, and USA Spending Web site information but did not designate this SDVOSB as a "high-risk" business. Consequently, CVE did not require a site visit and additional documentation reviews. However, it is our opinion that it is difficult to establish ownership without performing onsite interviews with the veteran owner and business managers and reviews of documents, such as corporate bylaws, stock certificates, and tax returns including schedules used to report income from partners.

CVE also faces additional challenges establishing control and ownership because it must change its verification processes to reflect revisions in the CFR. The revised CFR states that veteran owners no longer need to work full-time in the business and that they could maintain more than one business in VetBiz VIP if the veteran owners can demonstrate control and ownership.

⁵ CFR Title 38, Part 74.1 defines a VOSB and SDVOSB as a business not less than 51 percent owned by one or more veterans or 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 veterans or service-disabled veterans.

***Ineligibility
Caused by
Improper Use of
SDVOSB Status***

Two businesses that did not meet SDVOSB eligibility requirements received 13 SDVOSB contracts (4 sole-source awards and 9 set-asides) valued at \$5.6 million. Under Public Law 109-461, businesses owned by service-disabled veterans have priority or preference over veteran-owned small businesses competing for the same contracts. Moreover, to be eligible for SDVOSB contracts, the CFR defines a service-disabled veteran as a veteran with a VA service-connected disability rating between 0 and 100 percent. Consequently, these two VOSBs may have improperly benefitted from their use of the SDVOSB status and blocked eligible SDVOSBs from receiving these contracts.

For these two businesses, the veteran owners “self-certified” in the CCR and VetBiz VIP that they had service-connected disabilities and requested CVE verification to participate in the SDVOSB program. CVE could not verify the claimed service-connected disabilities in the Beneficiary Identification Records Locator Subsystem (BIRLS) and sent letters to the businesses stating that they could not verify the veteran owners’ disability ratings. CVE stated that until the passage of the Veterans’ Benefits Act of 2010⁶ it was not required to remove businesses from the VetBiz VIP database if it could not verify the veterans’ disability rating. As a result, these two businesses were still visible to contracting officers on VetBiz VIP and continued to receive SDVOSB awards.

One business that self-certified as an SDVOSB in VetBiz VIP received three sole-source and seven set-aside contracts valued at \$5.3 million for landscaping and cemetery maintenance services. The veteran owner never filed a disability claim with the Veterans Benefits Administration and could only provide letters during our audit from his college and a high school friend as evidence of his hearing loss.

The other business that self-certified as an SDVOSB in VetBiz VIP received one sole-source and two set-aside SDVOSB contracts for duct cleaning and maintenance work valued at \$343,500. Although the veteran owner had self-certified his business as an SDVOSB on VetBiz VIP, BIRLS did not have a record of the veteran, and the veteran did not have a disability rating. During our interviews, the veteran owner stated he was in the Marine Corps for 5 weeks. He stated that he only attended boot camp during that time and injured his leg during a casual football game, which resulted in the veteran

⁶ The President signed the Veterans’ Benefits Act of 2010 in October 2010. Section 104 of this law expanded VA’s requirement to verify business status as owned and operated by veterans, service-disabled veterans, or eligible surviving spouses. In addition, the Act specifically prohibited businesses from being listed in the database until VA verified the veterans’ statuses, and where applicable, disability ratings.

owner's honorable discharge. However, he never filed a claim with the Veterans Benefits Administration and, therefore, lacked a service-connected disability rating. Thus, the veteran was not eligible to receive the SDVOSB contract awards.

***Factors
Contributing to
Awards Made to
Ineligible
Businesses***

OSDBU's inadequate administration and oversight of VA's VOSB and SDVOSB programs, along with current subcontracting and partnering practices, makes VA vulnerable to the award of contracts to ineligible businesses. Although VA has implemented business verification processes that other Federal agencies have not, the Office of Acquisition and Logistics (OA&L) and the Procurement and Logistics Office (P&LO) have not provided contracting officers sufficient guidance and oversight to ensure they adequately assess VOSB and SDVOSB contract eligibility. Contracting officers need to assess the business's subcontracting and work plans at the time of award and to monitor performance throughout the term of the contracts to ensure their eligibility. Moreover, OSDBU should strengthen its CVE verification processes and to coordinate the monitoring and administration of the VOSB and SDVOSB programs with two key VA procurement offices, OA&L and P&LO. (Finding 2 discusses the management problems challenging OSDBU's ability to carry out its responsibilities.)

***Contracting Officers
Did Not Properly
Assess Contract
Eligibility***

Many of the ineligible businesses received VOSB or SDVOSB contracts because contracting officers did not adequately assess the businesses' programs and contract eligibility as required by the FAR and VAAR during the contract award process. Of the 32 ineligible businesses we reviewed, 24 (75 percent) were ineligible because contracting officers either did not review or properly assess subcontracting and partnering agreements provided by contractors before awarding VOSB and SDVOSB contracts. Similarly, contracting officers did not consistently check the VetBiz VIP database or the businesses' North American Industry Classification System (NAICS) codes to ensure their eligibility for VOSB and SDVOSB contracts. Federal law requires businesses to register in VetBiz VIP to be eligible for an award. The VAAR 819.7003 requires contracting officers to check the eligibility of businesses for VOSB or SDVOSB awards in the VetBiz VIP database prior to award. In addition, VAAR requires contracting officers to check the NAICS codes of the business with those assigned to the contract to ensure the business is a small business concern based on size standards for each NAICS category assigned by the SBA.

***OSDBU Lacked
Effective
Verification
Processes***

OSDBU's ineffective oversight of CVE contributed to the significant number of ineligible businesses that received VOSB and SDVOSB contracts. OSDBU did not ensure CVE had adequate VOSB and SDVOSB verification processes and that it adequately maintained the VetBiz VIP database. Federal law requires CVE to verify each small business concern listed in the

VetBiz VIP database to ensure a veteran or a service-disabled veteran owns and controls the business. Prior to the signing of the Veterans' Benefits Act of 2010 and the related VAAR Class Deviation⁷ effective on October 1, 2010, CVE's verification process relied heavily on limited electronic document reviews and onsite reviews for businesses deemed "high-risk." CVE defined a high-risk business as one where the veteran owned only 51 percent of the business, the business received VA contract dollars exceeding \$5 million, or the business was a Federal Supply Schedule (FSS) vendor.

Consequently, CVE reviewed business information available electronically through the CCR, Dynamic Small Business Search, Dun and Bradstreet, ORCA, and the USA Spending Web site to assess control and ownership. Nevertheless, CVE's document review process in many cases was insufficient to establish control and ownership and an onsite review was not required because the business did not meet CVE's criteria for a high-risk business. In effect, this verification process allowed businesses to self-certify as veteran-owned or service-disabled veteran-owned small businesses with little supporting documentation. Moreover, the likelihood of identifying self-certified businesses that were ineligible due to a lack of control and ownership was low because CVE did not always follow through on its own procedures and require onsite reviews for individual businesses that it judged as high-risk.

Since the VAAR Class Deviation became effective on October 1, 2010, CVE started performing additional documentation reviews as part of its verification process. It has started requiring businesses to submit additional documents that we consider key to establishing control and ownership such as tax returns, stock certificates, and negotiated checks. Furthermore, under its newly implemented "fast track" process, CVE is making more of an effort to complete site visits for businesses under consideration for VOSB and SDVOSB contract awards.

CVE's failure to maintain accurate and current information in the VetBiz VIP database also exacerbated problems in CVE's verification processes. For example, CVE staff did not remove a business from VetBiz VIP after OSDDBU sustained a protest of a business's veteran-owned status, thus allowing an ineligible business to continue receiving sole-source and set-aside contracts.

⁷ According to the Class Deviation from VAAR 804.1102, the apparently successful offeror is required to apply for and receive verified status by CVE as a VOSB or SDVOSB before a contracting officer can execute the award.

*OSDBU's
Ineffective
Oversight Led to
Awards to Ineligible
Businesses*

Finally, OSDBU's ineffective oversight of the VOSB and SDVOSB programs and lack of coordination with OA&L and P&LO also contributed to the high number of ineligible businesses awarded VOSB and SDVOSB sole-source and set-aside contracts. OSDBU acknowledged that it did not have current policies and procedures and lacked sufficient monitoring mechanisms to properly administer the verification program. OSDBU also did not coordinate with OA&L and P&LO to monitor contracting officers and ensure they complied with VOSB and SDVOSB requirements.

For 18 (56 percent) of the 32 ineligible businesses identified by our auditors, contracting officers had not checked the eligibility of the business in the VetBiz VIP database before awarding them 33 contracts valued at \$15.6 million. In addition, contracting officers awarded 57 contracts valued at \$39.3 million to 24 (75 percent) of the 32 ineligible businesses that exceeded VOSB and SDVOSB subcontracting thresholds. Thus, the majority of the \$39.3 million in VOSB and SDVOSB contract funds and work benefitted nonveteran-owned businesses. Finally, in the two cases discussed below, the contracting officers purposefully facilitated the award of VOSB and SDVOSB contracts to ineligible businesses.

The contracting officer encouraged a nonveteran-owned business to enter into a pass-through arrangement with an SDVOSB for the purchase and installation of paper shredding equipment. The contracting officer told the nonveteran-owned business with which he had negotiated a contract to "find an SDVOSB to work with" after the contracting officer realized the business was not an SDVOSB. The nonveteran-owned business sought out an SDVOSB and paid it \$15,000 for the use of its SDVOSB status. The contracting officer then awarded the \$398,000 sole-source contract to the SDVOSB that partnered with the nonveteran-owned business to install paper shredding machines.

The contracting officer knowingly awarded a \$69,000 VOSB sole-source contract for van and taxi services at a VA Community Based Outpatient Clinic to an ineligible entity, a nonprofit Veterans Service Organization. The CFR⁸ defines an eligible small business as a business entity that has been organized for profit. While VA may establish other types of contracts with nonprofits, such as Veterans Service Organizations, current legislation prohibits the award of VOSB and SDVOSB contracts to nonprofit organizations. According to interviews with the Board of Directors of the Veterans Service Organization, the contracting officer instructed the

⁸ CFR Title 13, Part 121.105 defines a business concern eligible for assistance as a small business organized for profit.

organization to register and self-certify as a VOSB in VetBiz VIP and the CCR to obtain the award.

**Other Contracting
Deficiencies
Related to
Inadequate
Contract
Oversight**

Many of the VOSB and SDVOSB contracts we reviewed did not meet FAR, VAAR, and VA contracting requirements that protect the Government's interests and promote transparency in VA procurements. Fifty-four (68 percent) of the 79 VOSB and SDVOSB contracts valued at \$21.9 million awarded to the 32 ineligible businesses had one or more contracting deficiencies.

Contracting officers awarded 20 businesses 30 VOSB and SDVOSB contracts valued at \$12 million where they did not complete a justification for other than full and open competition (JOTFOC) prior to the award or perform and document a price reasonableness determination in a document such as the price negotiation memorandum (PNM). FAR 6.303-1 states that contracting officers should not use sole-source contracts or award any contracts using other than full and open competition unless the contracting officer justifies the use of such actions in writing. In addition, VAAR 806.302-7 requires the contracting officer to justify contract awards using other than full and open competition. Finally, FAR 15.406-3(a)(11) requires contracting officers to document in the contract file the principle elements of the negotiated agreement to include documentation of fair and reasonable pricing.

Contracting officers also did not review the Excluded Parties List System (EPLS) to ensure businesses had not been debarred or determined ineligible to receive the contracts. We found contracting officers did not check the EPLS for 23 businesses prior to the award of 41 VOSB and SDVOSB contracts totaling \$19.5 million. FAR 9.405(d)(1) requires contracting officers to review the EPLS to ensure businesses have not been debarred, suspended, or proposed for debarment.

In many cases, contracting officers did not properly use VA's Electronic Contract Management System (eCMS), which promotes transparency and improves the monitoring of VA contracting actions. Contracting officers had not uploaded required contract documents in eCMS for 29 businesses awarded 68 VOSB and SDVOSB contracts valued at \$27.9 million even though OA&L Information Letter IL049-07-06 requires contracting officers to record all procurement actions of \$25,000 or more in eCMS. VA has opportunities to enhance contract performance oversight and accountability by ensuring this information is captured in eCMS.

Eligibility and Contracting Deficiencies in Recovery Act-Funded Contracts

As part of the Office of Inspector General's (OIG) mandated Recovery Act oversight responsibilities, we noted that 13 (41 percent) of the 32 ineligible businesses had improperly received \$26.7 million in VOSB and SDVOSB contracts funded by the Recovery Act. On February 17, 2009, the President signed the Recovery Act providing VA with about \$1 billion in funding to correct, replace, upgrade, and modernize existing infrastructure and utility systems at VA medical facilities. Both the President and Congress emphasized the need for accountability, efficiency, and transparency in the allocation and expenditure of Recovery Act funds. The Recovery Act also mandated that the OIG provide oversight for programs, grants, and activities funded by the Recovery Act.

Our statistically selected sample of 42 businesses included 14 businesses that were awarded 24 VOSB and SDVOSB Recovery Act-funded contracts valued at \$27.3 million. Thirteen (93 percent) businesses were ineligible for 22 VOSB and SDVOSB Recovery Act contracts (92 percent) valued at \$26.7 million. Similar to other ineligible businesses, businesses awarded Recovery Act-funded VOSB and SDVOSB contracts were ineligible because of improper subcontracting practices, a lack of demonstrated control or ownership, improper use of SDVOSB status, or a combination of these factors.

In addition, contracting officers awarded 9 businesses (64 percent) 10 VOSB and SDVOSB Recovery Act-funded contracts valued at \$5.3 million that had at least 1 contracting deficiency. Contracting officers awarded VOSB and SDVOSB Recovery Act contracts without querying VetBiz VIP and EPLS to ensure the businesses were eligible to participate in the VOSB and SDVOSB programs. Contracting officers also did not prepare required contract documentation such as JOTFOCs and PNMs where applicable and did not place required documentation in eCMS. (See Appendix C, Table 3 for more information.)

Conclusion

Based on our audit results, VA awards ineligible businesses a minimum of 1,400 VOSB and SDVOSB sole-source and set-aside contracts valued at \$500 million annually (lower limit of 90 percent confidence interval), and could award a minimum of \$2.5 billion to ineligible businesses over the next 5 years. (See Appendix E for additional information.) Moreover, the significant number of ineligible businesses receiving VOSB and SDVOSB awards also decreases the reliability of the VOSB and SDVOSB socioeconomic goal data reported annually to Congress. VA cannot be exactly sure how much VOSBs and SDVOSBs are actually benefitting from these contract awards. (See Appendix D, Table 5 for more information.)

VA should improve visibility and transparency over VetBiz VIP and verification information that supports the eligibility of the businesses participating in these programs. Since the implementation of the VAAR

Class Deviation in October 2010, CVE has implemented additional documentation reviews to strengthen VOSB and SDVOSB verification processes. Documentation reviews without onsite visits may not identify ineligible businesses where the veteran lacks control and ownership. Verification of control and ownership has become even more challenging for CVE because it must also implement changes related to the Veterans' Benefits Act of 2010.

Although OSDDBU has recently implemented a "fast track" process to assess businesses' eligibility prior to awards, it should work with OA&L and P&LO to develop a long-term solution that ensures the participation of eligible businesses and adequate oversight. By coordinating the training and monitoring of contracting officers, OSDDBU, OA&L, and P&LO can ensure contracting officers properly assess VOSB and SDVOSB program and contract eligibility and award VOSB and SDVOSB contracts that meet FAR and VAAR requirements. Furthermore, because of the significant subcontracting issues we identified, OSDDBU, OA&L, and P&LO, in our opinion, need to hold contracting officers accountable for assessing and monitoring businesses' subcontracting, joint venture, and partnering agreements. Contracting officers should be responsible for ensuring businesses understand contract and performance requirements at the time of award and monitor the businesses' compliance with subcontracting requirements throughout the term of the contract. We also suggest VA enhance its veteran-owned business outreach and education efforts to ensure veterans receive information on VOSB and SDVOSB program and contract eligibility and contract performance requirements.

- Recommendations**
1. We recommended the Deputy Under Secretary for Health develop and implement a review strategy for active, high-dollar VOSB and SDVOSB contracts to determine if Federal subcontracting performance requirements have been met, and if the requirements have not been met, to research and pursue remedies.
 2. We recommended the Executive Director of the Office of Small and Disadvantaged Business Utilization⁹ establish an oversight function to ensure the completion of site visits for all VOSBs and SDVOSBs identified by the Center for Veterans Enterprise as high-risk to ensure that they meet all Federal requirements for control, ownership, and program eligibility.
 3. We recommended the Executive Director of the Office of Acquisition, Logistics, and Construction coordinate with the Deputy Under Secretary

⁹ The title of this position has recently changed to the Executive Director, Small and Veteran Business Programs.

for Health and the Executive Director of the Office of Small and Disadvantaged Business Utilization to develop and mandate training for contracting officers on VOSB and SDVOSB ownership and control requirements and the assessment of subcontracts and joint venture agreements for compliance with FAR, VAAR, and Federal regulations.

4. We recommended the Executive Director of the Office of Small and Disadvantaged Business Utilization coordinate with the Executive Director of the Office of Acquisition, Logistics, and Construction and the Deputy Under Secretary for Health to monitor VOSB and SDVOSB contracts to ensure contracting officers have complied with applicable FAR and VAAR requirements; documented their review of subcontracting, partnering, and joint venture agreements; and properly used the Electronic Contract Management System.
5. We recommended the Executive Director of the Office of Acquisition, Logistics, and Construction coordinate with the Deputy Under Secretary for Health to develop policies and procedures to ensure that appropriate administrative action is taken when it is determined that a contracting officer has knowingly awarded a VOSB or SDVOSB contract to an ineligible business or entity and, where feasible, terminate these awards and reestablish them with eligible businesses.

**Management
Comments and
OIG Response**

The Under Secretary for Health, the Executive Director of the Office of Small and Disadvantaged Business Utilization, and the Executive Director of the Office of Acquisition, Logistics, and Construction generally agreed with our findings and recommendations and provided acceptable action plans. The Under Secretary for Health has developed a multi-step strategy using statistical sampling to review active VOSB and SDVOSB contracts. OSDDBU, which is reviewing all businesses with pending awards, estimates that it will be able to perform site visits for about one third of the programs' current applicants, and believes it now has the capability to visit all potential high-risk applicants. OAL&C is developing contracting officer training on the Veterans First Contracting Program and guidance to heighten awareness of the use of VetBiz VIP.

All three offices have indicated that they will address the challenge of reducing the number of ineligible businesses in the VOSB and SDVOSB programs. However, the effectiveness of their action plans will ultimately depend upon their continued collaboration as they follow through with and implement the plans. Issues involving Veteran ownership and control and business' eligibility for contracts awarded under the SDVOSB and VOSB authorities demonstrate how important it is for OSDDBU, VHA's Procurement and Logistics Office, and the OAL&C to work together.

VA should address the interrelated responsibilities of these three offices as it develops and implements an enterprise-wide strategy to reduce the number of ineligible businesses receiving VOSB and SDVOSB contracts. We will monitor VA's actions closely to ensure the actions taken adequately address the report's recommendations. We will follow up to ensure contracting staff are held accountable for inappropriate actions. Appendixes F, G, and H contain the full text of the comments of the Under Secretary for Health, the Executive Director of the OSDDBU, and the Executive Director of the OAL&C.

Finally, we addressed technical issues and concerns about the report with the individual offices and revised or added clarifying information to the report as needed. VA's most significant technical concern with the report regarded the OIG's inclusion in its projections of awards of \$25,000 and greater made under contracting authorities other than the Veterans First Contracting Program. Contracting authorities such as FSS, multi-agency contracts, and Government-wide acquisition contracts do not specifically require VA to verify the eligibility of the businesses.

In response, the primary objective of our audit was to identify potentially ineligible businesses that received VOSB and SDVOSB awards regardless of whether or not VA had verified their status. The majority of the businesses in our universe received their awards through the Veterans First Contracting Program. Some of the reviewed businesses received FSS orders, as well as VOSB and SDVOSB sole-source and set-aside contracts under the Veterans First Contracting Program. Although the FSS authority does not specifically mandate verifications, we believe it remains incumbent upon VA to ensure the eligibility of these businesses because VA's National Acquisition Center establishes the initial FSS contracts and VA includes FSS awards in its reported VOSB and SDVOSB socioeconomic goal accomplishment data. In addition, none of the reviewed businesses had any multi-agency or Government-wide contract orders that were designated VOSB or SDVOSB awards valued at \$25,000 and greater. Therefore, the awards made under these other contracting authorities to these businesses did not affect our audit results or projections.

Finding 2 OSDBU Should Implement Management Controls To Provide Effective VOSB and SDVOSB Program Oversight

OSDBU lacks management controls prescribed by Federal policy¹⁰ and the CFR to ensure effective operation and achievement of its program office responsibilities. OSDBU lacks a clearly defined organizational structure with documented roles and responsibilities; current policies, procedures, and monitors to administer the VOSB and SDVOSB programs and business verification process; and an effective performance management system with which to monitor and evaluate overall performance.

OSDBU did not develop a comprehensive management control structure for the management and oversight of CVE because it considered the establishment of management controls to be secondary to its other responsibilities and day-to-day operations. As a result, OSDBU lacks reasonable assurance that CVE is operating effectively to eliminate VA's current backlog of business verifications and is properly maintaining the VetBiz VIP database to prevent ineligible businesses from receiving VOSB and SDVOSB contracts. Without the implementation of an adequate management control system, OSDBU will not be able to ensure the effective implementation of current CVE process improvement initiatives and the effectiveness of CVE's management and operations.

OSDBU and CVE Lack a Defined Organizational Structure

OSDBU and CVE lack a formal organizational structure. OSDBU and CVE managers have not formally defined their staff's roles and responsibilities in key areas. Consequently, CVE lacked an accurate, updated organizational chart; CVE staff that performed business verifications lacked documented duties, roles, and responsibilities; and some CVE staff lacked job descriptions that accurately described their current job functions. The CVE Deputy Director attributed the absence of key organizational and management control documents to recent program changes and a reorganization of the office. In addition, the CVE Deputy Director stated CVE had encountered difficulties with the Office of Human Resources Management in obtaining approval for job position descriptions that had been included in the CVE reorganization package approved on January 14, 2009.

Continuing CVE Operational Challenges

In response to Section 104 of the Veterans' Benefits Act of 2010, effective October 13, 2010, CVE implemented new verification processes, including a "fast track" verification process for businesses under consideration for

¹⁰ OMB Circular No. A-123 defines management's responsibility for internal control in Federal agencies.

VOSB or SDVOSB awards. The Act required the exclusion of businesses from the VetBiz VIP database and listing until the verification of their status as a veteran-owned small business. As of the effective date of the Act, CVE had 60 days to notify all of the unverified businesses in the database of the need to apply for verification and of their removal from the database if they did not submit the requested verification information within 90 days of receipt of the notice. As a result, CVE had a significant backlog of unverified businesses and had verified only 6,621 (39 percent) of the just over 17,000 businesses in the VetBiz VIP database by January 31, 2011.

During an April 2011 Executive Leadership Board meeting, OSDBU reported that in implementing the provisions of the Act, CVE had removed 8,100 businesses from public view in the VetBiz VIP database because they had not responded to CVE document requests. Further, the CVE Deputy Director stated that she believed a large number of incoming businesses were waiting for the implementation of CVE's new Web-based portal, VIP 5, to submit their verification documents online. CVE expected VIP 5 to improve the verification process because it would allow businesses to upload verification documents, check their verification status, and allow CVE to automate BIRLS system and EPLS reviews. According to OSDBU, it implemented VIP 5, including a case management system, with partial functionality on May 2, 2011. As of July 13, 2011, CVE had verified 7,852 (86 percent) of the 9,147 businesses shown in the VetBiz VIP database.

Efforts to Address Structural and Operational Issues in OSDBU and CVE

VA's Chief of Staff chartered a task force including representatives from OSDBU, OA&L, Office of General Counsel, and the Office of Information and Technology to identify opportunities for VOSB and SDVOSB verification process improvements, standardize communication for veterans seeking information on the programs, and ensure OSDBU and CVE work together. We consider the implementation of VIP 5 and the process improvement initiative of the Chief of Staff to be positive steps. However, the absence of a clear organizational structure in which OSDBU and CVE staff have documented roles and responsibilities makes the implementation of any lasting, long-term operational improvements difficult. Without the establishment of a formal organizational structure and fundamental management controls, VA cannot ensure the effectiveness of the OSDBU's and CVE's operations and accountability for specific functions and duties within the offices, such as those needed to reduce the backlog of unverified businesses.

OSDBU and CVE Lack Formal Verification Program Guidance

OSDBU and CVE lacked current policies and procedures on the administration of the VOSB and SDVOSB verification program. During the audit, we found that CVE had not updated its policies and procedures to reflect changes in VetBiz VIP and to address verification processes needed to comply with the Veterans' Benefits Act of 2010. OSDBU and CVE managers stated they generally relied on VA Information Letters issued by

OA&L and notices of rule changes in the *Federal Register* to provide updated program requirements and guidance to their staffs instead of their own updated policies and procedures. Moreover, neither OSDBU nor CVE had developed additional guidance to establish needed CVE management oversight functions such as accountability for the completion of assigned verification duties and responsibilities and the establishment of verification performance measures and reporting requirements. On April 15, 2011, after the audit had concluded, CVE issued revised guidelines that it believed would provide CVE staff comprehensive direction.

**OSDBU and CVE
Lack an Effective
Performance
Monitoring
Process**

OSDBU and CVE lack comprehensive, effective performance measures and monitors. CVE had only established formal timeliness and quality standards for one of its three groups, the Risk Assessment group. In total, CVE had 18 full-time equivalents assigned to 3 CVE groups to help maintain VetBiz VIP and complete VOSB and SDVOSB verifications.

- The Operations and Technology group assists in CVE operations planning, budgeting, VetBiz VIP database IT support, and operates the CVE Call Center, which, according to the group manager, receives 2,000 to 3,000 calls per month from veterans inquiring about business assistance and guidance. The group also performs quality reviews on completed business verification reviews and risk assessments.
- The Verifications group performs initial verification assessments, creates new business profiles, updates an internal CVE database, and coordinates the performance of business verification reviews with CVE's contractors.
- The Risk Assessment group reviews verification assessments for "high-risk" businesses, and as needed, according to the Deputy Director, coordinates up to 100 monthly onsite reviews with CVE's 2 contractors who conduct the reviews.

OSDBU and CVE lacked performance measures to monitor and assess the effectiveness of the overall performance for the Operations and Technology and Verifications groups. OSDBU and CVE managers' weekly performance monitoring meetings focused on the progress the office made on the verifications listed on the verification inventory sheet—a short numerical summary showing the number of completed, in process, and the status of backlogged businesses awaiting verification. OSDBU and CVE managers monitored the office's progress in completing verifications and implemented performance measures and monitors in their staff's individual performance appraisals. However, management did not assign accountability for the timely, quality completion of work, and ensure the overall effectiveness of the processes of the Operations and Technology and Verifications groups.

Emphasis on the completion of verifications without equal attention given to the quality of the verifications and the proper coordination and execution of CVE duties leaves CVE and the VOSB and SDVOSB programs vulnerable to fraud and abuse. Inadequate or incomplete verifications, or as discussed in Finding 1, the failure to properly maintain VetBiz VIP, can result in the award of VOSB and SDVOSB contracts to ineligible businesses. Moreover, without an effective performance measurement and monitoring system, OSDBU cannot determine if it has the right staff, resources, and processes in place to timely address VA's backlog of about 2,000 verifications in process as of the Verification Program Report, dated July 12, 2011.

OSDBU managers stated CVE was responsible for monitoring verification program managers and staff and ensuring the proper completion of business verifications. Nevertheless, the CVE Deputy Director had not implemented performance measures to monitor CVE supervisors and staff and to ensure accountability for performance. The CVE Deputy Director stated that she assessed work performance based on recently completed work because some of her staff lacked current job descriptions and/or formal assigned duties and responsibilities.

Conclusion

OSDBU and CVE officials need to improve the management of CVE before they can effectively administer VA's VOSB and SDVOSB programs and reduce the number of ineligible businesses receiving VOSB and SDVOSB awards. At this time, OSDBU lacks the performance management information needed to determine if it has the right staffing mix and processes in place to address the backlog of businesses requiring eligibility verification due to the implementation of the Veterans' Benefits Act of 2010. OSDBU also lacks fundamental management controls, such as a defined organizational structure and policies and procedures, to monitor, maintain, and measure sustained CVE performance and the implementation of process improvements over time.

Recommendation

6. We recommended the Executive Director of the Office of Small and Disadvantaged Business Utilization establish a comprehensive management control system including a defined organizational structure with formalized roles and responsibilities, a performance management system, and updated policies and procedures to ensure the effective administration of the VOSB and SDVOSB programs and related verification and reporting processes required by Federal law.

**Management
Comments and
OIG Response**

The Executive Director of the Office of Small and Disadvantaged Business Utilization agreed with our finding and recommendation and provided an acceptable action plan. The Executive Director has taken steps to strengthen the integrity of the VOSB Verification Program through the issuance of updated guidelines on April 15, 2011, and the initiation of the enhanced VetBiz VIP database on May 2, 2011. Moreover, the Executive Director has

developed a detailed action plan to address OSDBU's organizational structure, management controls system, performance management system, policies and procedures, reporting systems, and regulations. OSDBU plans to complete these corrective actions by September 2012. We consider this action plan responsive to our concerns and we will follow up on its implementation. (Appendix G contains the full text of the comments received from the Executive Director of the Office of Small and Disadvantaged Business Utilization.)

Appendix A Background

Procurement Goals

The Veterans Entrepreneurship and Small Business Development Act of 1999 set an annual Government-wide goal of 3 percent of the total value of all prime contract and subcontract awards for each fiscal year for small business concerns owned and controlled by service-disabled veterans. In January 2008, pursuant to Public Law 109-461, the Secretary established VA's first-ever procurement goals for VOSB and SDVOSB participation in VA procurements. These goals increased VA's SDVOSB procurement goal from the Federal Government's statutory minimum of 3 percent to 7 percent, and its VOSB procurement goal from 7 percent to 10 percent. The Government awards contracts to VOSBs and SDVOSBs through sole-source or set-aside contracts based on competition restricted to small businesses.

VOSB and SDVOSB Program Magnitude

VA's use of the VOSB and SDVOSB programs has grown significantly over the past 3 years. VA has steadily increased VOSB and SDVOSB procurements, from \$2.1 billion in FY 2008 to \$2.7 billion in FY 2009. In FY 2010, VA reported that VOSB and SDVOSB program expenditures totaled nearly \$3.5 billion or 23 percent of VA's total program procurement spending.

CVE Verification Process

CVE administers a verification process to certify the eligibility of VOSBs and SDVOSBs for small business sole-source and set-aside contracting opportunities. The verification process begins when the veteran owner(s) electronically signs or faxes CVE VA Form 0877 declaring majority and, if applicable, minority ownership percentages. To assess a business's eligibility for the VOSB or SDVOSB program, CVE reviews the veteran's status in VA's BIRLS and reviews information available about the business online through the CCR, Dynamic Small Business Search, Dun and Bradstreet, ORCA, and USA Spending Web sites.

CVE designates VOSBs and SDVOSBs high-risk if it determines the business has a 51 percent majority veteran owner, has received VA contract dollars exceeding \$5 million, or is an FSS vendor. When a business is designated as high-risk, CVE schedules an onsite review by a contractor to conduct additional verification work. The onsite review consists of the following:

- An evaluation of the business's day-to-day operations to assess the veteran's involvement in the daily management of the business.
- Discussions with the veteran owner and other responsible employees and personnel to understand their role in the business and their interaction with the veteran owner.

- Additional reviews of documents such as resumes, negotiated checks, corporate bylaws, stock certificates, and tax returns to help assess whether the veteran(s) owns and controls the business.

**Recent Regulatory
Changes Affecting
VOSB and
SDVOSB
Programs**

On September 10, 2010, VA obtained a class deviation from VAAR 804.1102, “Vendor Information Pages Database.” The deviation, effective October 1, 2010, required prospective VOSB and SDVOSB awardees under the Veterans First Contracting Program to apply for verification and be verified by CVE prior to the receipt of an award. In addition, on October 13, 2010, the President signed the Veterans’ Benefits Act of 2010 in which Section 104 of the Act required VA to verify the program eligibility of all VOSBs and SDVOSBs listed in the VetBiz VIP database. The Act required VA to provide VOSB and SDVOSB owners notice of this requirement within 60 days of the Act’s passage, and VOSB and SDVOSB owners to submit their applications and supporting documentation within 90 days after receipt of the notice.

In response to these regulatory changes, CVE initiated a “fast track” program to complete verifications within 21 business days for businesses awaiting awards, implemented additional documentation requirements for verifications, and sent out notification letters informing businesses of the time frame for submitting required documentation and removal from the public VetBiz VIP database if no documentation is submitted.

**VA Acquisition
Offices That Help
Implement the
VOSB and
SDVOSB
Programs**

VA’s OA&L within the OAL&C develops department-wide acquisition policy, manages VA’s acquisition training program, and offers continuing education programs for VA procurement staff around the country. The OA&L manages VA’s Contracting Officer Certification Program and is responsible for warranting all VA contracting officers.

P&LO within VHA develops the annual VHA Acquisition plan that forms the basis for VHA’s acquisition strategy. This strategy seeks to procure high-quality health care products and services in the most cost-effective manner and to help VA attain socioeconomic procurement goals. P&LO coordinates the implementation of acquisition policy and functions as a liaison between OAL&C and VHA’s acquisition workforce in the 21 Veterans Integrated Service Networks.

Prior Audits

The Government Accountability Office (GAO) performed a series of audits related to the VOSB and SDVOSB programs. GAO identified case studies showing fraud and abuse, ineffective oversight, lack of effective fraud prevention controls, and challenges facing VA’s verification program. GAO concluded that VA’s process for validating program eligibility might not be effective because VA verified the status of two SDVOSBs that GAO identified as ineligible for the SDVOSB program.

Appendix B Scope and Methodology

Audit Scope

We conducted our audit fieldwork from August 2010 through January 2011. Our audit was limited to VOSBs and SDVOSBs awarded sole-source and set-aside contracts valued at \$25,000 and greater that were reported in the Federal Procurement Data System-Next Generation (FPDS-NG) during the 12-month period ending May 31, 2010. In total, our audit included 42 randomly selected businesses that had received 106 VA VOSB and SDVOSB contract awards valued at about \$58.6 million.

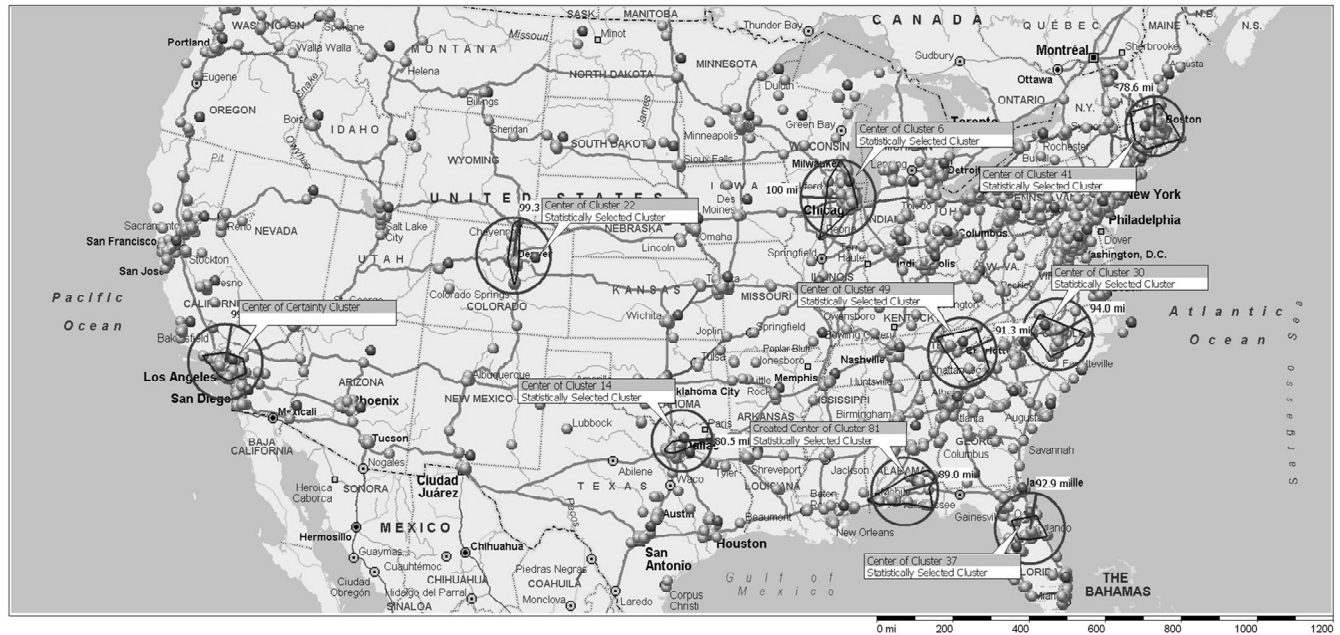
Site Visits to Statistically Selected Businesses

From our universe of VOSB and SDVOSB contract awards made during the 12-month period ending May 31, 2010, we sorted our audit universe into clusters (geographic regions). We first statistically selected two businesses from the southern California cluster to test our audit procedures. We then statistically selected eight additional geographic clusters and randomly selected five businesses within each cluster to review and visit. We visited businesses in the following states and cities:

- Alabama—Andalusia and Ozark
- California—Los Angeles and San Pedro
- Colorado—Colorado Springs, Commerce City, Englewood, and Littleton
- Florida—Cantonment, Groveland, Ocala, Orlando, and Panama City Beach
- Illinois—Chicago, Elmhurst, Lincolnshire, Rockford, and Warrenville
- Massachusetts—Cambridge, Hanover, Plymouth, Wakefield, and West Bridgewater
- North Carolina—Burlington, Fayetteville, Greensboro, Hillsborough, and Raleigh
- South Carolina—Greenville and Greer
- Tennessee—Kingsport, Knoxville, and Sevierville
- Texas—Allen, Dallas, Flower Mound, and Sulphur Bluff

Figure

Statistically Selected Geographical Clusters



Source: VA OIG

Methodology

For each randomly selected business, we evaluated management controls for VOSB and SDVOSB program eligibility and reviewed supporting documentation to ensure businesses were eligible for the program and specific VOSB and SDVOSB contract awards. Documents we reviewed included:

- Articles of incorporation and organization and corporate bylaws
- Organizational, annual, and board meeting records
- Stock ledgers and certificates
- Financial statements
- Federal personal and business tax returns
- Lease and loan agreements
- Payroll records
- EPLS documentation for the business
- VetBiz VIP documentation for the business
- Contracts and related documents such as statements of work, bid proposals, partnering agreements, PNMs, and sole-source justifications

We interviewed OSDBU and CVE officials to gain an understanding of the controls in place to manage the verification program. We also interviewed

VA contracting officials to assess compliance with the provisions of the VOSB and SDVOSB program during the award process.

In addition, we interviewed the business and veteran owners and other key officers, managers, and employees of the businesses to help verify their VOSB or SDVOSB eligibility status. We projected the results of ineligible VOSBs and SDVOSBs to the audit universe and assessed the impact of the results on VA's reported VOSB and SDVOSB socioeconomic goal data.

Fraud Detection

We planned and implemented our work to identify potentially fraudulent activities. We focused primarily on the identification of potentially ineligible SDVOSBs and VOSBs as a possible indicator of fraud. We also planned and implemented audit steps to determine what management controls, if any, were in place to identify potentially fraudulent VOSBs and SDVOSBs. We referred certain ineligible businesses that had control and/or ownership issues or that did not meet required subcontracting thresholds to the OIG Office of Investigations for further evaluation.

***Reliability of
Computer-
Processed Data***

We assessed the reliability of FPDS-NG data by comparing selected data elements (such as business name and address) to documentation in CCR and sampled items in our review to procurement actions in eCMS. We concluded the data used to accomplish the audit objectives were sufficiently reliable.

***Compliance With
Government Audit
Standards***

We conducted our audit work from May 2010 through March 2011. Our assessment of internal controls focused on those controls relating to our audit objectives. We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C Eligibility Exceptions and Contracting Deficiencies

Table 1

VOSB and SDVOSB Sample Information and Eligibility Issues

Description		Business Count	Percent	Obligated (Millions)	Percent
Business Information	Sampled Businesses Reviewed	42	100	\$ 58.6	100
	VOSB	10	24	12.3	21
	SDVOSB	32	76	46.3	79
	CVE Verified*	16	38	33.6	57
Eligibility Exceptions	1 or More Eligibility Issues	32	76	46.5	79
	Subcontracting Issues Identified	24	57	39.3	67
	Control: Not Established	14	33	8.0	14
	Ownership: Not Established	4	10	1.2	2
	Miscellaneous Issues	5	12	5.9	10

*Two businesses verified by CVE after the OIG site visit to the businesses.

Source: VA OIG

Table 2

VOSB and SDVOSB Contract Data and Contracting Deficiencies for Sampled Businesses

Description		Contract Count	Percent	Obligated (Millions)	Percent	Business Count
VOSB and SDVOSB Contracts	VOSB and SDVOSB Contract Awards	106	100	\$ 58.6	100	42
	Sole-Source	39	37	8.9	15	19
	Set-Aside	67	63	49.6	85	35
	Recovery Act	24	23	27.3	47	14
Contracting Deficiencies	1 or More Contracting Deficiencies	75	71	32.4	55	32
	No VetBiz VIP check	45	42	20.5	35	26
	No PNM and/or JOTFOC Found	30	28	12.0	20	20
	No EPLS Check	41	39	19.5	33	23
	eCMS Lacked Required Documents	68	64	27.9	48	29

Source: VA OIG

Table 3

**VOSBs and SDVOSBs Awarded Recovery Act Contracts
With Eligibility Issues and Contracting Deficiencies**

Description		Business		Contract		Obligated (Millions)
		Count	Percent	Count	Percent	
Recovery Act - Sample Information	Recovery Act Sample Items	14	100	24	100	\$ 27.3
	CVE Verified	8	57	14	58	19.3
Eligibility Exceptions	1 or More Eligibility Issues	13	93	22	92	26.7
	Subcontracting Issues	9	64	17	71	24.4
	Control: Not Established	3	21	3	13	1.6
	Ownership: Not Established	2	14	2	8	0.8
	Improper Use of SDVOSB Status	2	14	3	13	1.3
Contracting Deficiencies	1 or More Contracting Deficiencies	9	64	10	42	5.3
	No VetBiz VIP check	6	43	6	25	4.5
	No PNM and/or JOTFOC Found	4	29	4	17	2.5
	No EPLS Check	5	36	6	25	4.0
	eCMS Lacked Required Documents	8	57	9	38	4.6

Source: VA OIG

Appendix D Statistical Sampling Methodology

Our approach included two-stage statistical sampling. In the first stage, we used mapping software to place the businesses in geographic clusters and then randomly selected clusters. In the second stage, we statistically selected businesses from each of the clusters. We then reviewed each selected business to assess the business's eligibility for the VOSB or SDVOSB programs and for the awarded VOSB or SDVOSB sole-source and/or set-aside contracts.

Population

FPDS-NG reported 3,671 VOSBs and SDVOSBs with 14,732 contracts totaling \$3.2 billion for the annual period ending May 31, 2010. To ensure we reviewed businesses with substantial VA contracting activity, we selected from the FPDS-NG universe all of the businesses categorized as VOSBs or SDVOSBs with contracting activity of \$25,000 and greater as the population (audit universe) for this audit. Businesses dropped from our universe included businesses under investigation by the OIG Office of Investigations, businesses reviewed or subject to an onsite review by CVE, businesses already reviewed by GAO, or businesses with no sole-source or set-aside contracts. Consequently, the population included 1,503 businesses with 4,660 contracts totaling \$2.9 billion.

Sampling Design

We used a two-stage sampling approach. The first stage required that we group businesses into geographic "clusters" so that we could statistically select nine clusters for site review. We selected one cluster to test our audit procedures. Businesses located within a radius of 115 miles formed each cluster; we used geographic mapping software to form the clusters according to concentration of business addresses. With the exception of the two businesses randomly selected in the cluster to test our audit procedures, all other clusters included the review of five businesses. Other than the test cluster, the likelihood of cluster selection depended upon the number of businesses in the cluster. Clusters with greater concentrations of VOSBs and SDVOSBs had a greater probability of selection.

For the second stage, we selected VOSBs/SDVOSBs within each cluster using simple random sampling. In total, we reviewed 42 businesses in 8 clusters and 1 test cluster with 39 sole-source contracts totaling \$8.9 million and 67 set-aside contracts totaling \$49.7 million.

For each randomly selected business, we verified the veteran or disabled veteran status of the business's owner(s). We reviewed documents and visited the business to determine if the veteran owner(s) managed and controlled the business. For each VOSB or SDVOSB sole-source or set-aside contract awarded to one of our randomly selected businesses, we evaluated whether the business had the experience, staffing, and resources to

complete the contracted work. If completion of the contract work required subcontracting, partnering, a joint venture, or the involvement of a nonveteran-owned business, we assessed whether the veteran-owned small business awarded the contract exceeded Federal subcontracting thresholds. Finally, we also assessed the awarded VOSB and SDVOSB contracts to determine if contracting officers had followed general FAR and VAAR contracting requirements.

Weights

We projected the sample results by summing the weights for each projection. An OIG statistician computed weights as the product of the inverse of the probability of selection at each of the two stages of sampling. Since each cluster had a different number of VOSBs and SDVOSBs and contracts and the samples sizes were the same across selected clusters, the sampling weights varied in size. This accounts for the percentages calculated from the raw sample numbers being different from the percentages calculated from the weighted projections.

Projections and Margins of Error

In general, projections of potential monetary benefits and contract counts from this sample had large sampling errors. While many factors about the sample design can contribute to the level of sampling errors, these errors occur mostly because of the relatively small size of the sample and the complexity of the sample design.

Due to the imprecision of these sample projections, we chose to report the more conservative lower limit of the 90 percent confidence interval instead of the midpoint (sample projection). Further, due to the high margin of error associated with the eligibility exceptions, we did not project the error rates for the individual exception categories. Based on our results, we projected the VOSB and SDVOSB eligibility exceptions for the 12-month review period ending May 31, 2010.

Table 4

Sample Projections and Margins of Error for Sample Results

Estimate Name and Type		Estimate (Projection)	Margin of Error	90% Confidence Interval		Sample Size
				Lower Limit	Upper Limit	
Any Eligibility Exception	Value (Millions)	\$ 1,478	\$ 1,014	\$ 464*	\$ 2,493	42
	Contract Count	2,461	1,045	1,416**	3,506	42

*Rounded to \$500 million for annual and 5-year projection purposes.

**Rounded to 1,400 for annual and 5-year projection purposes.

Note: The margins of error and confidence intervals are indicators of the precision of the estimates. If we select a large number of samples and compute the estimates from each one, 90 percent of those estimates would fall within the confidence interval.

Source: VA OIG

Table 5

VA Procurement Goals Adjusted for Projected Errors

Description	VOSB		SDVOSB	
	Millions	Percent*	Millions	Percent*
Goals Reported by OSDDBU**	\$ 3,525	23	\$ 3,065	20
Minus: Lower Limit of Estimate in Error	508	3	500	3
Goals As Adjusted by Lower Limit of Error	\$ 3,017	20	\$ 2,565	17
Goals Reported by OSDDBU**	\$ 3,525	23	\$ 3,065	20
Minus: Upper Limit of Estimate in Error	2,552	17	2,548	17
Goals As Adjusted by Upper Limit of Error	\$ 973	6	\$ 517	3

*VA's internal VOSB and SDVOSB program goals for FY 2010 are 12 percent and 10 percent, respectively, of its total procurement dollars.

**OSDBU reported that VA procurements totaled \$15.4 billion in FY 2010.

Source: VA OIG

Appendix E Potential Monetary Benefits in Accordance With Inspector General Act Amendments

Recommendation	Explanation of Benefits	Questioned Costs
1–5	Review existing VOSB and SDVOSB contracts and strengthen VOSB and SDVOSB program and contract eligibility controls to reduce the number of sole-source and set-aside contracts awarded to ineligible businesses over the next 5 years.	\$2.5 billion*
6	Strengthen OSDBU and CVE management and controls to reduce the risk of verifying ineligible businesses as eligible VOSBs and SDVOSBs and awarding VOSB and SDVOSB contracts to ineligible businesses over the next 5 years.	
Total		\$2.5 billion*

*Note: Per VA OIG policy, we estimate the impact of potential monetary benefits for 5 years.

Appendix F Under Secretary for Health Comments

Memorandum

Department of Veterans Affairs

Date: June 17, 2011

From: Under Secretary for Health (10)

Subj: OIG Draft Report, Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs (VAIQ 7115984)

To: Assistant Inspector General for Audits and Evaluations (52)

1. I have revised Veterans Health Administration's (VHA) response to Recommendation 1. Attached is VHA's corrective action plan for the report's recommendation.
2. Thank you for the opportunity to review the draft report. If you have any questions, please contact Linda H. Lutes, Director, Management Review Service (10A4A4) at (202) 461-7014.



Robert A. Petzel, M.D.

Attachment

**VETERANS HEALTH ADMINISTRATION (VHA)
Action Plan**

**OIG Draft Report, Audit of the Veteran-Owned and Service-Disabled
Veteran-Owned Small Business Programs (VAIQ 7115984)**

Date of Draft Report: May 17, 2011

Recommendations/ Status	Actions	Completion Date
--------------------------------	---------	-----------------

Recommendation 1. We recommend the Deputy Under Secretary for Health develop and implement a review strategy for active, high-dollar VOSB and SDVOSB contracts to determine if Federal subcontracting performance requirements have been met and if the requirements have not been met, to research and pursue remedies.

VHA Comments

Concur

VHA's Chief Procurement and Logistic Office (PL&O) will assign an independent review team at each Service Area Organization (SAO) to investigate a statistically valid sample of active contracts. The following sample sizes will be developed:

- a. >5 million: Those contracts over 5 million, then narrow it further to the contracts that show they have option year and then use a random sampling calculator with a 90% confidence level, +/- 10 confidence interval to develop the final sample size.
- b. 1-5 million: Same as above
- c. 100K-1million: Same as above

The review efforts will be concentrated on those contracts with option years as those contracts if awarded/subcontracted improperly have long term effects.

The SAO team will utilize the following methodology to review the high-dollar sampled contracts :

- a. Verify status of Veteran- Owned Small Business (VOSB)/Service-Disabled Veteran-Owned Small Business(SDVOSB) and ensure contract file is documented
- b. Determine if a sub contractor is involved in the contract.
 - i. If No subcontractor, note as such and issue is closed.

- ii. If Yes subcontractor –
 - * Review and analyze subcontractor agreements (Joint Venture/Partnering/Teaming agreements, subcontracts) to determine if the Federal requirements for subcontracting limitations are being met and/or that the work is not being passed through to non-VOSBs/SDVOSBs.
 - * Conduct site visits if SAO reviews of the subcontracting agreements identify possible systemic issues at Networks, or identify fraud indicators relative to specific VOSBs, SDVOSBs, or contracts.
- c. If requirements have been met, document contract file and issue is closed.
- d. If requirements have not been met, team will turn over findings to contracting officer (CO) and possibly OIG Investigations and Office of General Counsel (OGC) to pursue remedies. SAO Team will track until issue resolved.
- e. VHA's PL&O will determine after initial sampling results if further active contracts should be reviewed.

In Process

December 31, 2011

Veterans Health Administration
June 2011

Appendix G Office of Small and Disadvantaged Business Utilization Executive Director Comments

Memorandum

Department of Veterans Affairs

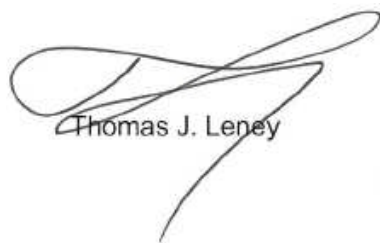
Date: June 21, 2011

From: Executive Director, Small and Veteran Business Programs (00SB)

Subj: VA OIG Draft Report - Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs

To: Assistant Inspector General for Audits and Evaluations (52)

1. This is in response to your request for the Office of Small and Disadvantaged Business' (OSDBU) review of the OIG Draft Report— Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs.
2. OSDBU appreciates the opportunity to review this report. Our response is attached.
3. Questions may be referred to Ms. Elizabeth Torres, Program Analyst, at (202) 461-4300.



Thomas J. Leney

Office of Small and Disadvantaged Business Utilization
Response to VA Office of Inspector General
DRAFT REPORT # XX
Audit of the Veteran-owned and Service-disabled Veteran-owned
Small Business Programs

Recommendation #2: We recommend the Executive Director, Small and Veteran Business Programs, establish an oversight function to ensure the completion of site visits for all VOSBs and SDVOSBs identified by CBVE as high risks to ensure that they meet all Federal requirements for control, ownership and program eligibility.

Response: Concur Targeted Completion Date: May 31, 2012

Comments: Appendix D cites that Federal Procurement Data System – Next Generation records indicate that VA contracted with 3,671 VOSB and SDVOSB firms during the report period under review. VA's Office of Small and Disadvantaged Business Utilization (OSDBU) currently has the ability to visit up to 1200 applicants yearly. This represents about one-third of incumbents identified in the draft report. The report also correctly notes that enactment of the Veterans Small Business Verification Act (October 2010) requires VA to now examine supporting documents from all applicants. Universal document review complemented by the ability to site visit one-third of VA's SDVOSB and VOSB contractors yearly limits the potential that ineligible firms will be approved for the Veteran-owned small business Verification Program. During the period January 1, 2011 through April 30, 2011 approximately 5.2% of firms examined were identified as high risk. (Site visits were conducted for 95% of these identified as high risk.) This does not include the 11% that were identified as critical and sent an initial denial. Given this data, we believe that we have enough site visits planned to cover expected high risk applicants. A quarterly briefing will be provided to interested staff in VA's Office of Inspector General. A component of the briefing will report the number of high-risk applicants identified and the number of site visits completed.

Recommendation #3: We recommend the Executive Director, Small and Veteran Business Programs, coordinate with the Executive Director, Office of Acquisition, Logistics and Construction and the Deputy Under Secretary for Health to develop and mandate training for contracting officers on VOSB and SDVOSB ownership and control requirements and the assessment of subcontracts and joint venture agreements for compliance with FAR, VAAR and Federal Regulations.

Response: Concur in principle. Targeted Completion Date: May 31, 2012

Page 2.

OSDBU Response to VA OIG Draft Report on Oversight of VOSB/SDVOSB Programs

Comments: The Executive Director, Office of Acquisition, Logistics and Construction (OALC) is the Department's responsible official for development and delivery of training to VA's acquisition workforce. Staff in the OSDBU fully support this recommendation and have begun to work with the OALC to develop content and methodology for this training. VA OSDBU plans to work with OALC and PLO to develop an agency specific training program for small business liaisons and acquisition staff, in collaboration with VA's Acquisition Academy. This training will include laws and regulations that pertain to small business programs, to include ownership and control requirements of SDVOSB and VOSB firms, joint ventures, and subcontracting. This training class needs to comply with the small business programs training requirements that will be specified by the Federal Acquisition Institute, as they develop the requirements for the training specified by Public Law 111-240, Section 1343 (Jobs Act). However, we recommend the lead organization be the OALC.

Recommendation #4: We recommend the Executive Director, Small and Veteran Business Programs coordinate with the Executive Director of the Office of Acquisition, Logistics and Construction and the Deputy Under Secretary for Health to monitor VOSB and SDVOSB contracts to ensure contracting officers have complied with applicable FAR and VAAR; documented their review of subcontracting, partnering and joint venture agreements and properly used eCMS.

Response: Concur in principle. Targeted Completion Date: May 31, 2012

Comments: While VA OSDBU does not monitor contracts, OSDBU works closely with OALC to monitor contract compliance. VA acquisition personnel are currently required to submit subcontracting plans to OSDBU for review and coordination prior to award.

The term "partnering" is not specific and could represent non-binding situations in which the government does not have privity of contract (such as prime contractor/subcontractor relationships).

The eCMS system is an electronic contract management system that is managed by acquisition, not OSDBU.

OSDBU staff stand ready to assist OALC by reviewing joint venture agreements for compliance, but we recommend that the lead organization be OALC.

Page 3.

OSDBU Response to VA OIG Draft Report on Oversight of VOSB/SDVOSB Programs

Recommendation #6: We recommend the Executive Director, Small and Veteran Business Programs, establish a comprehensive management control system, including a defined organizational structure with formalized roles and responsibilities, a performance management system; and updated policies and procedures to ensure the effective administration of the VOSB and SDVOSB programs and related verification and reporting processes required by the Code of Federal Regulations Title 38, Part 74 and the Veterans Benefits Act of 2010.

Response: Concur.

Targeted Completion Date: May 31, 2012

Comments:

The OSDBU fully supports this recommendation and notes that permanent leadership was re-established on April 17, 2011. The OSDBU believes that notable progress has been achieved in strengthening the integrity of the VOSB Verification Program since May 2010, when OSDBU began calling-in documents. Written guidelines were updated on April 15, 2011. Performance plans for both Fiscal Year 2010 and 2011 contain production standards. Perhaps the most significant action occurred on May 2, 2011 when the enhanced Vendor Information Pages database and the VetBiz Case Management System went live. Further, OSDBU has acquired additional contractor support to help manage the volume of applications. This support includes weekly progress meetings to discuss an array of measures and quality issues. Our plan of action to comply with this specific recommendation follows. A quarterly briefing will be scheduled to announce progress toward completing this and other recommendations.

Page 4.

OSDBU Response to VA OIG Draft Report on Oversight of VOSB/SDVOSB Programs

Action Category	Identified Activities	Est. Completion Date
OSDBU Reorganization	<ul style="list-style-type: none"> • Interview staff to assess skills readiness and identify any redundancies; • Review legislative and regulatory functions; • Identify technology enhancements to improve efficiency; • Study in-sourcing/out-sourcing balance requirements; • Obtain internal concurrence on re-structuring, resources • Write position descriptions • Announce and hire any new positions 	January 31, 2012
Management Control System	<ul style="list-style-type: none"> • Train additional staff as Program Management Professionals; • Assess existing management controls; • Acquire VA or contractor support to identify critical improvements and related resource needs; • Identify best practices in technology tools to measure program performance; • Develop an internal recurring audit function; • Obtain VA concurrences for planned actions and resources needed for OSDBU to become ISO 9001 certified. 	May 31, 2012

Page 5.

OSDBU Response to VA OIG Draft Report on Oversight of VOSB/SDVOSB Programs

Action Category	Identified Activities	Est. Completion Date
Performance Management System	<ul style="list-style-type: none"> • Review existing position descriptions, performance standards and assigned duties (note: position description rewrites are addressed in "OSDBU Reorganization;") • Invite VA's Office of Human Resources to review performance plans and offer improvement ideas; • Enforce updates to plans within 30 days of an employee's significant change of duties; • Provide awareness training for all staff to be conducted in coordination with VA's Office of Labor Relations 	
Updated Policies and Procedures	<ul style="list-style-type: none"> • Executive Director completes review of existing policies and procedures and revises as needed; • Effective April 2011, a quarterly Change Review Board will document discussion of changes to the April 15, 2011 Verification Program Guidelines; • OSDBU will issue a VA Handbook or Directive to define intra-departmental responsibilities and communications. • Exercise option on current Advisory and Assistance Services contract to refresh November 2009 benchmarking study and recommend further enhancements to VA's VOSB Verification Program 	May 31, 2012

Page 6.

OSDBU Response to VA OIG Draft Report on Oversight of VOSB/SDVOSB Programs

Action Category	Identified Activities	Est. Completion Date
Reporting System Improvements	<ul style="list-style-type: none"> Executive Director completes review of existing organizational metrics and identifies changes; OSDBU acquires contractor support to develop a technology-based management dashboard. 	March 31, 2012
Regulation Review/Revision	<ul style="list-style-type: none"> Executive Director completes review of current 38 CFR Part 74; OSDBU conducts focus group discussions with stakeholders and owners; VA submits proposed Rule Change to OMB to be published in the Federal Register for public comments Changes to 38 CFR Part 74 are finalized 	September 30, 2012

Appendix H Office of Acquisition, Logistics, and Construction Executive Director Comments

Memorandum

Department of Veterans Affairs

Date: June 10, 2011

From: Executive Director, Office of Acquisition, Logistics, and Construction (001ALC)

Subj: OIG Draft Report, "Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs" (VAIQ 7121463)

To: Assistant Inspector General for Audits and Evaluations (52)

1. The Office of Acquisition, Logistics, and Construction (OALC) reviewed the Office of Inspector General (OIG) draft report, "Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Program," as submitted for comment May 17, 2011, and provides the following comments:

a. Public Law 109-461 mandates verification of service-disabled Veteran-owned small business (SDVOSB) and Veteran-owned small business (VOSB) status for awards made using the authorities "under this section," i.e, section 8127 of title 38, United States Code. Awards not made using these authorities (for example, the Federal Supply Schedules) do not carry a verification mandate. The draft report does not clearly explain how the OIG removed from its sample the firms that received awards through other authorities; if such firms are unverified, this does not indicate noncompliance since the mandate does not apply to such awards, by law. Moreover, data attempting to measure the extent of noncompliance cannot properly be extrapolated to VA's entire acquisition spend, since that effectively extends the mandate to contract dollars to which the mandate does not apply. Without properly accounting for these statutory distinctions, OIG's assertion that VA overstates its SDVOSB and VOSB awards by 3 to 17 percent (page 3) may not be supportable. OALC recommends OIG clarify both the report and the scope and methodology appendix to clarify how it addressed this issue.

Page 2

OIG Draft Report, "Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs" (VAIQ 7121463)

b. On page 1, the draft report notes the Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for developing Department-wide policies, programs, and practices related to small business concerns, and educates and trains VA staff. We recommend revising this language to indicate this is a collaborative effort. With respect to contracting policy and training acquisition staff, OALC carries out this responsibility as an inherent part of its oversight of these personnel. OALC issues warrants to the acquisition staff and sets policy and expectations for such staff to continue exercising those responsibilities. Accordingly, OALC is the sole source for authoritative contracting policy. However, OSDBU, as the VA interface with the Small Business Administration (SBA), is the natural source for monitoring and receiving updates on SBA programs. VA's concurrence process provides a collaborative environment where OSDBU and OALC can develop appropriate guidance and obtain participation by other stakeholders, such as the Office of General Counsel.

c. On page 9, footnote 6 incorrectly describes Public Law 109-461 as the Veterans First Contracting Program. Public Law 109-461 is the Veterans Benefits, Health Care, and Information Technology Act of 2006. The Veterans First Contracting Program is VA's implementation of this statute.

2. OALC has the following comments on recommendations 3 and 5 of the draft report:

Recommendation 3: We recommend the Executive Director of the Office of Acquisition, Logistics, and Construction coordinate with the Deputy Under Secretary for Health and the Executive Director of the Office of Small and Disadvantaged Business Utilization to develop and mandate training for contracting officers on VOSB and SDVOSB ownership and control requirements and the assessment of subcontracts and joint venture agreements for compliance with FAR, VAAR, and Federal regulations.

Page 3

OIG Draft Report, "Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs" (VAIQ 7121463)

OALC Response: Concur. The VA Acquisition Academy's Contracting Professional School is developing a distance learning module for the Veterans First Contracting Program. The module provides the information from the initial face-to-face training in an interactive Web-based environment. It will be reviewed internally at the

VAAA and by VA Subject Matter Experts (SMEs). SMEs provided input in the form of updated slides, lessons learned, and relevant case studies; all have been incorporated into the module. The module will be available on the VALU TMS in late July.

OALC notes that contracting officers generally should rely on the verification decisions made by OSDDBU and not make independent determinations on their own. However, awareness of basic issues involved with Veteran ownership and control can help contracting officers take note of potential "red flags" justifying a new OSDDBU verification, such as through the status protest process.

Recommendation 5: We recommend the Executive Director of the Office of Acquisition, Logistics, and Construction coordinate with the Deputy Under Secretary for Health to develop policies and procedures to ensure that appropriate administrative action is taken when it is determined that a contracting officer has knowingly awarded a VOSB or SDVOSB contract to an ineligible business or entity and, where feasible, terminate these awards and reestablish them with eligible businesses.


OALC Response: Concur in principle. OALC agrees that a contracting officer who disregards legal requirements and knowingly awards to an ineligible firm should face appropriate administrative actions. However, OALC believes existing policies and processes provide adequate authority for action. The Veterans Affairs Acquisition Regulation authorizes termination of warrants whenever a contracting officer blatantly disregards acquisition regulations, policies or procedures, or performs unsatisfactorily (VAAR 801.690-7). OALC does not believe additional duplicative processes are necessary.

Page 4

OIG Draft Report, "Audit of the Veteran-Owned and Service-Disabled Veteran-Owned Small Business Programs" (VAIQ 7121463)

However, OALC does concur with the need to heighten contracting officer awareness of the need to consult the Vendor Information Pages (VIP) database to confirm that a prospective awardee is verified, when making awards under Veterans First Contracting Program authorities. Moreover, contracting officers need to document this action to the contract file. OALC will issue additional guidance to contracting officers to highlight these issues.

3. Should you have questions this submission, please contact Mr. C. Ford Heard III, Acting Associate Deputy Assistant Secretary for Procurement Policy, Systems, and Oversight, at (202) 461-6821, or via e-mail at: ford.heard@va.gov.


for Glenn D. Haggstrom

Appendix I Office of Inspector General Contact and Staff Acknowledgments

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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Acknowledgments	Janet Mah, Director Andrea Chinchilla Gregory Gladhill Herlin Guerra-Sagastume Tim Parker John Powers Daniel Rico
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Appendix J Report Distribution

VA Distribution

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