

The VA must do its duty to help veteran-owned small business

BY SCOTT DENNISTON, OPINION CONTRIBUTOR - 09/07/17 04:11 PM EDT

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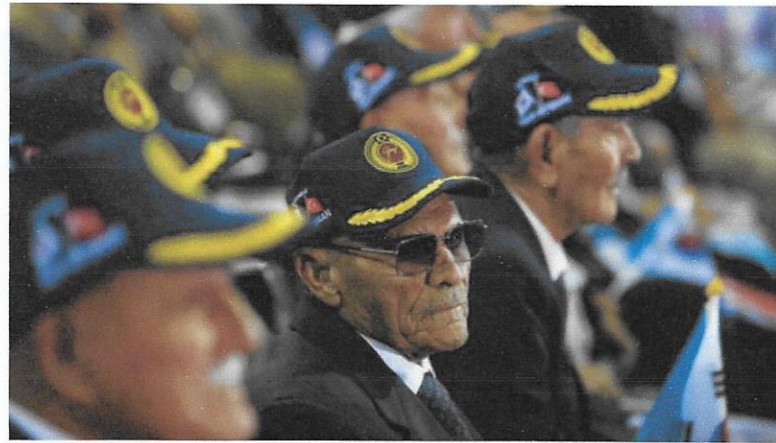
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For too long, the U.S. Department of Veterans Affairs (VA) has circumvented a policy known as VETS First, refusing to give preference to veteran-owned small businesses despite being directed to by Congress, the Government Accountability Office (GAO) and the U.S. Supreme Court.

This refusal hurts not only veteran-owned small businesses, but the millions of veterans who depend on the VA.

In 2006, Congress passed The Veterans Benefits, Health Care and Information Technology Act, which among other things established the VETS First program. But the VA, under administrations controlled by both parties, never followed through. On several occasions, the GAO has ruled that the VA has failed to follow the law. And still, it does nothing.

In 2016, a veteran owned small business called Kingdomware Technologies mustered up the capital to file a lawsuit that made it all the way to the U.S. Supreme Court. The court came to a unanimous decision that not only was the VA disregarding VETS First, but in moving forward, the department's "rule of two" should be used for all VA procurements.

The "rule of two" states that if a reasonable expectation exists that two or more veteran-owned small businesses will submit offers that meet the requirements of the contract at a fair price, then the award should be restricted to one of those businesses.

Even in the wake of a unanimous Supreme Court decision, VETS First remains unimplemented. The VA has stated that the policy is administratively burdensome and costly and is causing large businesses

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to leave the VA market without providing any empirical data to substantiate their concerns. The VA should establish a price differential and allow veteran-owned small businesses to fill any voids that may be left by large businesses leaving the market.

In any case, when Congress passes a law and the Supreme Court upholds it, that's it. The debate is over, and the law must be enforced.

Moving forward, the VA needs to comply with VETS First and the Supreme Court's 2016 ruling by:

- revising its acquisition policies and training to ensure better oversight of its contracting activities;
- improving the ability for veteran-owned small businesses to obtain Federal Supply Schedule contracts for the products the VA buys; and
- ending its use of contract vehicles that do not contain veteran-owned small businesses.

There are more than 7,000 veteran and service-disabled veteran-owned small businesses in the U.S. that the VA states has met the VETS First criteria and are therefore eligible for contract awards. It is therefore unfathomable that the VA cannot find quality companies from this list to award contracts to.

These small businesses are employing hundreds of thousands of Americans — including many veterans. It isn't easy for them to call out the VA, their most important customer, but this has become more than just an issue of administrative policy.

The VA is now operating in extra-constitutional waters, and we feel it's our patriotic duty to draw attention to the department's refusal to implement VETS First — and to fulfill Abraham Lincoln's promise "to care for him (and her) who shall have borne the battle."

Scott Denniston is the former director of the Office of Small Business Programs and the Center for Veterans Enterprise at the Department of Veterans Affairs. Presently he is the executive director of the [National Veteran Small Business Coalition](#) whose mission is to transition veterans into business owners. Denniston serves on the Humana Veterans Advisory Board which provides guidance to Human Healthcare Services Inc., on delivering innovative healthcare solutions to our nation's veterans. He also serves on the board of directors for the [American Freedom Foundation](#) and the [American Small Business Coalition](#).

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