



38 CFR Part 74 Non-Compliance Process for Ineligible Firms Reporting Firms Believed to Be Ineligible for Vets First Verification

Issue:

The Center for Verification and Evaluation (CVE) has established a process to report firms alleged to be non-compliant with one or more of the regulatory requirements for the Vets First Verification Program.

Additionally, alleged fraud must be reported to the Department of Veterans Affairs Office of the Inspector General (VA OIG).

Discussion:

The Vets First Verification Program is regulated by **38 CFR Part 74: Veterans Small Business Regulations**. To apply for Veteran set-asides and sole source procurements available through the VA Veterans First Contracting Program, firms must demonstrate eligibility, ownership, and unconditional control to obtain verification by CVE. As a Veteran-centric organization, CVE reviews and responds to all allegations of non-compliance with 38 CFR Part 74 when sufficient evidence is provided to support the allegation(s). *CVE does not process allegations related to fraud or acquisition violations.* If you desire to allege a firm is fraudulent, please submit a complaint via the VA OIG Hotline at 1-800-488-8244 or <http://www.va.gov/oig/hotline/default.asp>.

Eligibility

Eligibility is determined by the firm's ability to **meet the small business requirements** set by the Small Business Administration (SBA) and owner's designation as a Veteran. A Veteran is a person who served on active duty with the Army, Air Force, Navy, Marine Corps, or Coast Guard (for any length of time) and was discharged or released under conditions other than Dishonorable. A Reservist or member of the National Guard called to federal active duty or disabled from a disease or injury incurred or

aggravated in the line of duty or while in training also qualifies as a Veteran.

Ownership

One or more Veterans or service-disabled Veterans **must have** direct and unconditional ownership of at least **51 percent of the company**.

Unconditional Control

The Veteran owner(s) **must have** all the requirements for unconditional control with **possession of:**

- Full decision-making authority
- Managerial experience to the extent and complexity needed to operate the company
- Strategic policy and day-to-day decision-making authority
- Highest compensation within the company (unless there is a reasonable explanation why the owner is compensated less)
- Highest officer position within the company

Reporting Alleged Non-Compliant Firms

Anyone who believes a firm is non-compliant with 38 CFR Part 74 should submit a Non-Compliance Referral Form (attached) that details and provides evidence of the alleged violation(s). Complete the form in its entirety and email it to vacocvereferrals@va.gov.

CVE will conduct a sufficiency review on all submissions and provide one of the following responses to the sender based on the relative topics.

- **Fraud:** CVE will inform the sender to report the allegation(s) to VA OIG.
- **Violation for limitations on subcontracting (pass-through) or contract administration:** CVE will inform



the sender to report the allegation(s) to the Contracting Officer for the contract or solicitation in question.

- **Non-compliance with 38 CFR Part 74 but does not provide sufficient evidence:** CVE will ask the sender to complete a non-compliance referral form and provide sufficient evidence to support the referral.
- **Non-compliance with 38 CFR Part 74 and provides sufficient evidence to investigate:** CVE will acknowledge receipt of the referral and review the allegation for compliance. If there is suspicion of fraud or an acquisition violation, CVE will refer the matter to VA OIG or the appropriate acquisition office for review.

When the review is complete, CVE will determine if the firm is found to be compliant or non-compliant with 38 CFR Part 74. If the participant is found to be non-compliant, a Notice of Proposed Cancellation (NOPC) is sent to the VOSB concern with specific facts and reasons for CVE's findings.

If CVE determines that the firm is non-compliant after receiving a response to the NOPC or no response is received, CVE will issue a Notice of Verified Status Cancellation/NVSC and remove the VOSB concern from the VetBiz Vendor Information Pages database.

After a final compliance determination has been made, CVE will inform the sender of the results.

Note: The attached non-compliance referral form and aforementioned email address are for non-compliance referrals only.

CVE has no authority to determine a firm's size. If a firm claims to be a small business but is not, it should be reported directly to SBA at <https://www.sba.gov/content/report-fraud-waste-abuse>.

For more information about the VA Vets First Verification Program, please visit <http://www.va.gov/osdbu/verification/>.

**VA Office of Small and Disadvantaged
Business Utilization**

Center for Verification and Evaluation

1-866-584-2344

Monday-Friday

8 a.m. to 8 p.m. (EST)

<http://www.va.gov/osdbu>

Status Update: verificationfollowup@va.gov

Profile Questions: vip@va.gov



U.S. Department of Veterans Affairs

Office of Small and Disadvantaged Business Utilization
Center for Verification and Evaluation

38 CFR Part 74 Non-Compliance Referral Form

Please complete the ENTIRE form and submit to: vacocvereferrals@va.gov

Referred By:

Date

SDVOSB/VOSB Company Name:

Company DUNS#

Please indicate the regulation category(s) being violated:

- Company has undue influence/undue dependence on non-Veteran entity
- Non-Veteran(s) or non-Veteran entities apply undue influence on Veteran company
- Veteran owner does not have at least 51% ownership in the company
- Community Property Issues
- Veteran lacks the experience necessary to run the concern
- Veteran does not manage concern full-time or has outside employment
- Veteran is not the highest officer
- Veteran is not the highest paid
- Veteran does not control applicant decision-making
- Veteran does not have day-to-day control
- Concern is a Joint Venture
- Other

Allegation(s): In the space below, please describe, in detail, how the firm in question has violated the regulation(s) indicated above. Be specific and provide the names and DUNS numbers for other affiliated companies. Include evidence to support your allegation(s) as an attachment.
(Additional space continued on the next page)

Please indicate which organization you have reported this allegation to:

I R R X SE BY CVE REPRESENTATIVE

- | | |
|--|---|
| <input type="checkbox"/> Repeat Fraud Tip | <input type="checkbox"/> Hotline Referral |
| <input type="checkbox"/> Document Pull Requested | <input type="checkbox"/> Of interest to OIG |
| <input type="checkbox"/> CVE Verified | <input type="checkbox"/> Holds VA Contracts |

Provide context (dates, names, etc.) of boxes checked

Continuation Box from Allegation(s) on previous page