U.S. SMALL BUSINESS ADMINISTRATION

ADVISORY COMMITTEE ON
VETERANS BUSINESS AFFAIRS

PUBLIC MEETING

THURSDAY, MARCH 8, 2018
9:00 A.M.

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(Meeting called to order, 9:12 a.m.)

MS. CARSON: Good morning and thank you for joining the Advisory Committee on Veterans Business Affairs. I apologize for the brief delay. We have exciting news, and I am pleased to announce that the committee met this morning and have elected as Chairman Mike Zacchea of the University of Connecticut Entrepreneurship Bootcamp for Veterans Program. And I shall turn it over to you, Chairman, thank you for your commitment.

MR. ZACCHEA: Thank you, Barb. For the record, my name is Mike Zacchea, I run the Entrepreneur Bootcamp for Veterans at the University of Connecticut as a part of the veterans and military families.

The first thing I’d like to do is thank all of our chairmen emeritus, most immediately Jim O’Farrell, for his work with the committee, and then as well we have Mike Phipps and Ed Fielder are in and so I’d like to thank them as well.

We have a number of new members here today, so I would like to go around the room and introduce our new members. And if you would, please say a couple of words about yourself.
MR. LOWDER: Do you want Mark?

MS. CARSON: The one with the face.

MR. LOWDER: Yeah.

MS. CARSON: Until the red light comes -- there you go.

MR. LOWDER: We good?

MS. CARSON: Um-hum.

MR. LOWDER: I’m Lynn Lowder, I’m the CEO of One Vet at a Time and I’m a United States Marine.

MR. ZACCHEA: Thank you and welcome aboard.

MR. LOWDER: Thanks, Mike,

MS. CARSON: Fran.

MR. PEREZ-WILHITE: Oh. Good morning, everyone, I’m Fran Perez-Wilhite with the North Carolina Military Business Center.

MR. LOWDER: Good morning.

MR. ZACCHEA: Good morning, Fran, and welcome aboard. Just a couple of items for administration. One, when you speak into the microphone, please press the button that has a face on it, identify yourself for the record, and, two, if you have a cell phone, please put it on do not disturb, or do not ring, or whatever your phone has. Thank you.

MR. O’FARRELL: Good morning, everyone, I’m Jim O’Farrell with AMSG. And I also just want to make
one following comment to Lynn Lowder, introducing him. He said he’s a U.S. Marine and I just want to go on the record as saying that he’s somebody that a lot of us look up to. He’s a Marine Corp combat Vietnam veteran, first recon, just an outstanding person who has spent a good part of his adult life helping veterans in many different capacities, including helping them start businesses.

MS. CARSON: On the phone. Thanks, Jim.
MR. ZACCHEA: Do we have anybody on the phone?
(No response.)
MR. ZACCHEA: If you -- if you’re on the phone, would you please speak up and identify yourself, thanks.
MR. MCADAMS: Good morning, Rich McAdams --
MS. CARSON: Rich McAdams.
MR. MCADAMS: -- of ReliaONE, focusing on cybersecurity. I’m a Veterans Strong vet and I am wrapping up my term on the committee, but it’s been great fun.
MR. ZACCHEA: Thank you for your service, Rich. Anyone else on the phone?
(No response.)
MR. ZACCHEA: Okay. I’ll take silence as permission to move forward. We’re going to go to the
next agenda item, OVBD updates for Barb.

MS. CARSON: Thank you. Thank you, Mike, I appreciate that. I am Barb Carson, the associate administrator for the Office of Veteran Business Development, I’ll be sharing a brief update with you today and I also want to thank the members of the committee.

I know that the annual report is in draft and it looks fantastic. I really value the work that you do and so does the President, Congress, and our SBA administrator. I look forward to having that finalized report so that we can share the recommendations and begin to take action on them.

And it takes an incredible amount of work from volunteers who have served on this board in the past, those of your who have accepted a new commitment and those you who are enduring for longer with us. I do also add my gratitude to Rich McAdams and Ed Fielder for your service as you transition and finish your terms, and Mike Phipps as well, who’s in the room, incredible contributions. It’s another full-time job and you can’t do it without grit and have the heart for it. It means a lot to me, thank you.

I’m going to move on to -- moving on to our first update on the Veterans Business Outreach Center
Program. In the fall we did put out a funding opportunity and as you know, Ray Milano is a former deputy -- or, excuse me, the former director of the VBOC program. We have a new director who stepped in as Ray was promoted to my deputy, that is Stan Kurtz. He has been onboard since mid December and he will lead us into this new land of VBOC. Even the current ones, everyone is recompeting and we expect to announce those by April the 1st and they will begin operations on May 1st.

The big changes here are building their capacity. They are now expected to teach and participate in 100 percent of the Boots to Business coverage around the United States. We had been 20 VBOCs with approximately 60 personnel training or 17,000 people in Boots to Business alone, not counting their additional mentorship and training and connection to VSOs, for example.

So there’s a -- they’ve got a big, big job ahead of them, but I feel the competition was tough, and I look forward to announcing those, introducing them to you at that very next meeting.

A reminder of what their goals are, as I said, first priority is Boots to Business, reaching service members, spouses, Reserve, and Guard while they are in
the ideation and feasibility stage. That really is about introducing them to all the resources that are out there, it’s been a focus of this committee. There are so many resources, how do we get them in the right channel at the right time, we’ll continue working on that.

Also we expect them to connect with our SBA infrastructure in the field, really support the district office and their vision for their veteran outreach strategy.

Again, training and counseling, it’s something that’s common to all resource partners of SBA. We do value the ability of Veteran Business Outreach Centers to refer to others who can help veterans at whatever stage of business they’re in.

And, finally, this referral, we’ve got to get a way to measure it. This is something else I saw on the draft report, we still have trouble tracking our clients from the time that we are first introduced to making sure we stick with them through every phase of business.

OVBD is leading the agency in our client relationship management both as a typical tool that everyone thinks of commercially, but also to track outcomes and to make sure that we provide value and get
more feedback. And we use it for logistics and operations as well, so please help us continue to do that work, your recommendations are helping us move forward. That’s all on the Veterans Business Outreach Center program at this time, any questions?

MR. O’FARRELL: This is Jim O’Farrell. So, Barb, I do have a question. Last year several of us visited several of the VBOCs around the country and one of --

MS. CARSON: Um-hum.

MR. O’FARRELL: -- the themes that emerged from those visits was the need for increased resources to support the counseling, because they were being taken -- a lot of the time was being taken up with the Boots to Business program.

Have there been any, you know, discussions about that within SBA about enhancing the funding, enhancing the resources to provide that counseling, because I think what we found in the discussions and what we hear over the last couple years is that folks go to the -- the Business to -- I’m sorry, the Boots to Business program and then it’s kind of, like, okay, you got this two-year -- two-day emersion in -- in starting a business, and then you need some counseling, you need something that comes, you know, on day three and --
MS. CARSON: Um-hum.

MR. O’FARRELL: -- and four, and five.

MS. CARSON: It’s a great question, Jim, and I wish I could more fully answer it as we still await a fiscal ‘18 federal budget, and that could pass. So we continue to be on this continued resolution with -- had multiple ones in this fiscal year, so we’ve done the best that we can to stretch the resources that we have.

At the same time, with agency reform, as directed by Executive Order last spring, late winter, looking at ways to be effective and efficient. I need to go back to statute, what is the Veterans Business Outreach Center role, what do we need to do at a minimum. And what we are called to do is serve the transitioning service members and the population that it has access to TAP, and so I must start there, and fully execute that mission, and even that was a stretch.

There are a couple bills that are out right now that have been introduced. It’s too soon that they’ve even left committee, but I will provide information to the Advisory Committee on perhaps some ways that you could address those concerns in that channel. And then I hope to demonstrate to you with funding how we would in crease our capacity, but at
this time I can’t do more.

One additional update on the Veteran Federal Procurement Entrepreneurship Training program, that is our single grantee. The Veteran Institute for Procurement will have their 1,000th graduate this month, the SBA administrator will be there to celebrate that milestone.

I would love to share with you that 30 percent of the VA sector prime contractors were VIP graduates. We’re seeing similar success, the GWAC 2 for IT, and there’s another that I’m forgetting the name of, we talked about it yesterday. So what I’m seeing is that graduating from this program has value in the market.

Agencies are seeing companies that graduate from this as ones that they have capacity and capability to excel with a prime or subcontract, so we’re thrilled with the outcomes of this program and look forward to continuing to take feedback from this committee on what else they can address that would help veteran business owners and federal procurement avoid some of the pitfalls that are out there.

Moving to the next page, quick updates on Boots to Business. We have completed the curriculum update and, again, your feedback was helpful here. One big thing that you’ll see that was written by Mike
Phipps’ report, I believe, was a specialty track, the need for some attention after Boots to Business.

One of the outcomes of Boots to Business that we do measure is the connection to follow-on resources, we can’t have everything hung on the Christmas tree of Boots to Business. There are other great resources in the SBA network where we should be sending folks and there are some amazing nonprofits, and community, and state resources, too. So it really is about finding the next fit and perhaps not building it all here, but we do agree there’s some room for specialization.

Some of the areas we’re looking at ruling out are in federal procurements, franchising, social enterprise, service, and manufacturing technology. Those will not all happen in this first year, but they are things that we will continue to look for your input on, on where you see some gaps and where we could address specific needs that are appropriate at this phase, which is the introduction, feasibility, and launch.

This is not the place where we’re capturing the market. We’re of established business owners, honestly, at the -- most of our transitioning service members. And there are other resources outside Boots to Business, but within SBA, that are probably a better
fit, so we just need to do a better job of connecting people at the right place.

For a few collaboration updates that we’re proud of, the American Legion, who is serving on both the Interagency Task Force and this advisory committee met -- the SBA administrator and deputy administration met with the new commander, Rohan, just last week and it was a great collaboration. It’s good to get your key leaders together to agree on where we’ve been successful in the past and where we’re going in the future.

I will remind you that the American Legion was with us from the creation of Boots to Business and then further helped us identify the need for veterans of all eras to have access to such programming, which is how Reboot came about. They demonstrated their commitment by allowing us to use venues across the nation to host these events and really open up the doors to veterans of all eras. Because there was a focus on post-911 that was perceived, we didn’t want to leave anyone out. We’ve had great success, that will continue.

Another area where we have seen a need is we’ve got this incredible pipeline of folks who are launching what happens next, what happens to scaling, and making some good decisions, getting capital, all
the things that come right after you’ve opened the
door. The American Legion would like to see SBA do
more. There were some conversation on that and I look
forward to providing an update in the next quarterly
meeting.

With the Department of Defense, of course we
continue with our transition assistance work. We also
have Liz O’Brien, who’s a new member. She’s
representing the U.S. Chamber of Commerce Foundation, a
great intersection for the military spouse work that
both Department of Defense and the U.S. Chamber are
doing for economic opportunity via entrepreneurship for
military spouses.

A third plan of effort with Department of
Defense is new, their deputy assistant secretary of
public affairs is a former SBA member as a regional
administrator and now on the other side of the fence at
DOD sees a great opportunity for synergy to bring
forward the Reserve and Guard members in particular who
are entrepreneurs.

We have a new initiative called, This Is Your
Military, and they want people to be aware of those who
are serving right next door to you that you may not
even be aware wear the uniform periodically and serve
both in the community and in uniform. So we’ll meet
with that senior leader on Monday and, again, provide an update in June on what we’re doing.

The interest in -- this came up, I believe, in the legion meeting and elsewhere, what are we doing with pre-deployment, and there’s a new bill introduced yesterday that talks about this. I’ll send these links to each of you members, and anyone who’s on the phone you’re welcome to write to us and get them as well.

We really need to capture those folks and try and help them save their business or help their employers save their business if there’s going to be a great loss in operational capacity if they deploy. So that’s a multiphase and multiline of effort, work with defense and also probably the National Guard Bureau, so Jaime Wood, our director of policy engagement, is working on the team right -- the development of that plan to bring it all together and we’ll share that with you.

For the Department of Veteran Affairs, our deputy administrator met with the Deputy Secretary of Veteran Affairs to talk about a variety of issues. One is the move potentially at some point of the verification program to SBA, it’s again still a -- just discussion phases, that has been a focus of this committee and the Interagency Task Force. There is no
other update at this time, except to say that the two agencies are talking about that and looking for ways that that would make sense.

We also expect to sign very soon a memorandum of understanding with the Department of Veteran Affairs to better link our referrals in the field between vocational rehabilitation and employment beneficiaries who have that self-employment eligibility for benefits to our resources here at SBA. Instead of having just VA counselors who are working really hard, but they may not be the best to judge whether a business plan is good to go, we’re happy to do that. That’s in our wheelhouse, we can do that.

We also want business owners who hit SBA first to say, hey, you may be eligible for Chapter 31 benefits and that could be something you could use in your self-employment journey. So understand each others’ eligibility, knowing where to refer, and how to connect, that’s what we’re working on. It happens some places around the country already in great ways, but we need it to be more consistent so that you have -- if you do this in Michigan, you’re going to get the same connection that you would in Florida.

And finally with Department of Labor, this is a strong partner for us. They have veterans employment
training that we met this past month. Pardon me, I’m losing track, those years went so fast. They brought together members of every one of their administrations to talk with us and find new connections on ways to share data, so that we could learn where some gaps are and where we’re having success in terms of economic opportunity and employment.

Also licensing and credentialing, particularly for military spouses. Pretty well -- I don’t see the problem as solved, mission is not accomplished, but for those service members who are coming out of the service and have a credential or license, they’re having better success with these inner-state compacts to make it transferrable. Reciprocity is there for the service member. Military spouse needs the same service and we’re getting further along there.

Finally, for Department of Labor, the HIRE Vets Medallion Program. If you haven’t seen it, it’s in pilot phase this year and I encourage you to check it out. They are looking to reward and recognize employers who are hiring veterans, retaining them, and training them. So small businesses are included in this pilot, and we look forward to some ways that we can learn some best practices -- and encourage more small business owners to hire veterans, Reserve, and
And finally on my last page, looking ahead at what we hope to tell you more about in June. Among the things I already committed to, here are a few more.

National Veterans Small Business Week will remain the first week of November. This year the administrator is onboard and has approved us to go ahead, so we should have our theme and some basic framework and would love your input on what you’d like to see. You are an important stakeholder, we will not declare that we have finalized planning until we’ve met again and talked about it.

For Boots to Business, we do survey participants at the one-year point once they’ve completed to here, have you gone into business, what’s your next step, how’s it going. Although we collect this all year round, we report on it in quarter three, so that’s an update you’ll receive.

And finally on Boots to Business Reboot, which is the Boots to Business curriculum, but delivered for veterans of all eras, we’re doing a bottom-up review. We are finding some trends, these are people who are likely already in business. They tend to be older, more established, may have different resources and interests, so we are doing a review and look forward to
your input there.

And finally the VBOCs, you’ll get to meet them. If not in person, you’ll have a profile on each one. And we want to make sure that like you did last year, you have an opportunity to connect with them and be a part of their mission.

And VBOC 2.0, we have been testing over the last year how can -- if we say referral’s important, how are we enabling this consistent referral network across the nation with only 60 people touching it? So technology is one of the aspects that’s important.

We are finding a place that we can collaborate using shared software, for example a business plan. I can work on it as a VBOC counselor and Jim over there is at the Small Business Development Center for the next phase. I can share my client’s business plan and progress so far, of course with the client’s permission.

Also reaching into rural places. If we only have 20 or 22 VBOCs, it’s not realistic that we’re going to have to face-to-face interaction every time. How can we make it feel most engaging and authentic while working on some of those platforms as well? Those are my updates at this time, are there any questions at all?
MR. ZACCHEA: I’ll take silence as no questions, but thank you, Barbara, that was great.

Next item on the agenda is the SBA ombudsman update with Natalie Duncan, our Deputy National Ombudsman.

MS. DUNCAN: It’s okay. Thank you, Barb, for inviting me to join you. And congratulations, Mike, on your election as the new Chair.

So I’m really excited to be here. I am married into a three-generation Navy family and spent six years with the Department of the Army, including time working for the CG of TRADOC, so veterans issues are near and dear to my heart. And thanks, everyone, for your time.

So in her visits across the country with 600-plus businesses across 31 states, the administrator, on her ninth tour, has really highlighted the ways in which regulations have really just had adverse impact on a number of small businesses in terms of its -- really, the complexity of regulations, the sheer volume, and really the cost associated with compliance.

And I, too, across my travels from coast to coast, have heard from small business owners that have really voiced similar types of concerns and shared those specific examples of how regulations have, you
know, impeded their ability to grow and then in some cases even driven them out of business.
And so I think as the administrator has said many times, it’s -- I think there’s a recognition certainly that regulations are important to protect people, the environment, American workers, but at the same time the government really needs to strike a -- the right balance to make sure that small businesses and their equities are also taken into account when enforcement actions are taken against them.
And in my travels across the country, one thing that I should mention is that with respect to veteran small businesses is the whole issue about certification. The dual certification has been something that’s been -- like, I think for the people I’ve met with from places in, you know, Tulsa, Oklahoma to, you know, Phoenix, Arizona, and to, you know, Pittsburgh, that there’s been the whole -- the need for the dual certification from the VA and SBA has been viewed as sort of an impediment, and so I’m really glad to hear from Barb’s last presentation that there’s discussions that have been initiated with Allie and the senior leadership of the VA to begin to address that.

MS. CARSON: Um-hum.

MS. DUNCAN: And so I wanted to just very
briefly highlight the work of the -- the SBA’s Office of the National Ombudsman and how we assist small businesses. And feel free to break in at any time and ask me questions, or you could hold off until the end, whatever you would prefer.

Slide three, please. So the National Ombudsman really serves as a champion for small businesses when they encounter instances of unfair regulatory enforcement actions taken against them, and by that what I mean are excessive fines, penalties, investigations, audits, and instances where there’s retaliatory actions taken, and so that’s where we come in and can be of help.

So in terms of what we do, we fulfill our mission to small business owners by first just listening to their concerns through forums that we host, whether it may be public hearings or roundtables across the country, and then engaging in outreach events, serving on panels, speaking engagements with trade associations, as well as directly with small businesses, and we’re able to solicit their comments as well as understand, you know, what are their concerns, and what we do is, you know, raise those concerns to the attention of federal regulators.

So we have established relationships with not
just folks within SBA, because we’re not just the SBA’s
ombudsman, but we’re also the ombudsman really for the
-- of the interagency. And so when there are concerns,
we raise those to the attention of federal regulations,
whether it may be OSHA, or Wage An Hour, or IRS, or
Department of Transportation, and we shine a light on
those issues so that they would really -- it’s to raise
awareness and get them addressed.

And also when we do that, I think we offer
some unique platforms where small businesses have an
opportunity to share those concerns to the attention of
members of Congress, as well as congressional staff.
And so, you know, as I tell many people who are small
business are -- they’re in situations that are quite
untenable, is that oftentimes when you look to for
regulatory relief it’s not a matter of just something
where you can just ask and -- and it will go away.

So it’s not like something that it’s a press
a button and it’s done, but rather it takes a long
sustained effort across multiple fronts to really bring
the attention to -- of the issues to people in the
legislative branch and -- and also bring it to people
in the executive branch.

And it could be a long slog, but oftentimes
you need to, like, sort of have that persistence to
kind of stay on course and to not give up, because it -- there are a lot of dynamics in the sort of broader environment that may turn in one’s favor, and so I think we’re very fortunate now to be in a climate that’s very favorable for regulatory reform and regulatory relief.

As you know, the President had -- back in January and February when he first took office, had issued two executive orders focused on offering regulatory relief to big and small businesses.

Nat Miller, who is the SBA ombudsman, is serving as SBA’s reg reform chair and so he certainly is working across the government with his counterparts to kind of look at regulations and to look at the economic impacts, and in aggregate, and to look at what can be done to kind of strip out or modify regulations that are duplicative or unnecessary.

So in terms of, like -- okay. So in terms of, like, our work, I think oftentimes I don’t know if any of you have worked with SBA’s Office of Advocacy, so there -- have any of you?

MR. O’FARRELL: We’ve had -- this is Jim O’Farrell, we had them come in and give presentations, briefings to us over the past several years.

MS. DUNCAN: Okay. Great. So some of you are
new, right, so pretty much in a nutshell is they focus
a lot on listening to the concerns of small businesses
on the front and when regulations are still kind of
being contemplated and being formulated.

And so small businesses have an opportunity to
shape those regulations by providing input and we come
in more on sort of the back end when regulations are
already on the books and enforcement actions, as I
described earlier, the actions are taken against the
small business and what we can do is help through sort
of a few -- in terms of, like, the process, what small
businesses need to do is really kind of go through a
formal, you know, filing process to kind of get their
complaint on the table.

So please turn to slide five. So what we do
is -- I think in terms of our work is we help to break
down barriers, you know, between small businesses and
federal agencies and help to achieve tangible results
in terms of time and cost savings.

Next slide please. And so I’d like to just
kind of highlight a few of those regulatory fairness
levers. And so I think, as I mentioned earlier, in
terms of issue resolution, we do have a formal
complaint-filing process where businesses are able to
document their concerns in writing and so that we can
raise those to the attention of the federal agencies and get them to respond.

And so I think the benefit of going to us versus going direct to the agencies is -- one is they get -- the small businesses will get high-level review of the issue. So oftentimes when there’s an enforcement action taken against them, they’re dealing with the regulator, meaning, like, the inspector, or the auditor, or someone like that, and it can be kind of, you know, it may cause a lot of anxiety for folks.

And so coming to us they’ll get a higher level, independent look from that agency to see if the action that was taken is fair and if there’s any sort of ways to mitigate the penalties in the form of reductions in fines, and pay the penalties, or even waivers based on size of the business, or the fact that it’s a first-time offense. So we don’t guarantee that in every instance that there will be favorable outcomes, but in many instances we are able to effectuate a positive outcome.

And then there’s a practical matter, this falls a little bit outside of our original jurisdiction, but there is legislation that’s currently in the works that addresses contracting issues. So for a lot of veteran small business owners some of the --
that the issues that we get are around federal contracting, like in the -- like, for instance, it may be -- it’s the cases where they had not -- they performed work for the Air Force, but they had not yet gotten payment, and so we can help with bird-dogging those kinds of issues.

And just in terms of statistics, to let you know, we had 460 cases last year, which was the highest in a decade --

MR. O’FARRELL: Um-hum.

MS. DUNCAN: -- that we’re filed and 21 of those cases were Department of Defense and two were VA cases. And then in terms of contracting cases it was 37, so those may or may not be filed by, you know, veteran small businesses, but, you know, many are. So --

MR. O’FARRELL: This is Jim O’Farrell.

MS. DUNCAN: -- yes.

MR. O’FARRELL: So sorry to interrupt.

MS. DUNCAN: Um-hum.

MR. O’FARRELL: Natalie, I do have a question then.

MS. DUNCAN: Sure.

MR. O’FARRELL: Do you actually track veteran business ownership in terms of the roundtables that you
have in public hearings?

In taking that feedback, do you have that data separated out that you can say? For example, you just gave the number 460 cases, but that’s the entire population of --

MS. DUNCAN: Correct.

MR. O’FARRELL: -- complaints or --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- or things that you were taking in. And then about 24 were DOD, and so you’re kind of making an assumption for some 20-plus number were DOD?

MS. DUNCAN: Um-hum.

MR. O’FARRELL: So you’re making an assumption then that those are veteran businesses, but they may or may not be?

MS. DUNCAN: I’m not making --

MR. O’FARRELL: Sorry.

MS. DUNCAN: -- an assumption that it is, but it’s --

MR. O’FARRELL: It is.

MS. DUNCAN: -- it’s -- I’m sorry. So I’m not making an assumption that it is, but I’m just letting you know that those were the number of cases that were submitted.
MR. O’FARRELL: Um-hum.

MS. DUNCAN: But at this point we -- in terms of -- and, you know, this had come up in, you know, our last meeting.

MR. O’FARRELL: Um-hum.

MS. DUNCAN: In terms of the case management system, the agency has made a decision to -- so with our case management system it’s very arcane, it’s legacy, and so -- and we recognize the need for a new one, so we have put a business case together, we’ve asked for funding for it, but I think as an agency -- the agency as a whole has made a decision to go with an enterprise-wide customer relations management, CRM, system --

MR. O’FARRELL: Um-hum.

MS. DUNCAN: -- rather than have us or a standalone for economies of scale and other reasons, and so that’s all driven by the CIO’s office.

MR. O’FARRELL: Um-hum.

MS. DUNCAN: And so what we have done is provided them with our business requirements to better have that kind of segmentation. But because we were told not to go out and buy our own system and to --

MR. O’FARRELL: Uh-huh.

MS. DUNCAN: -- at this point we’re not able
to kind of segment that out. So we will, when -- once the agency has a system that’s rolled out.

MR. O’FARRELL: Okay. So, Jim O’Farrell again. You know, the -- kind of the purpose of my question is to --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- kind of -- was to elicit that type of response. So, you know, for Mike Zacchea, our new Chairman, as we think about the annual report that we’ll submit for the current fiscal year, one of the recommendations in that report could be the ACVBA strongly endorses the SBA’s procurement of the new CRM solution that is state of the art and allows for tracking of veteran businesses within the larger --

MS. DUNCAN: Yes.

MR. O’FARRELL: -- census of businesses that are being handled through the ombudsman program, so that at some future date you can say we did a listening session in San Diego and we heard -- we had three veteran business owners who told us these stories of things that they were being -- that were being done to them, they perceived --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- and we wanted to help fix that. And so then as a result of that, if you just
keep, you know, rolling this out, you could say that by tracking those three veteran businesses and allowing us to see that information --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- of what they were concerned about, we may be able -- then in the following annual report --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- be able to say here’s something that we think needs changing within our Federal Government to support our veteran businesses.

MS. DUNCAN: Yes.

MR. O’FARRELL: Does that make sense of kind of the --

MS. DUNCAN: Yeah, I --

MR. O’FARRELL: -- the --

MS. DUNCAN: -- think it --

MR. O’FARRELL: -- thread there?

MS. DUNCAN: -- it absolutely does. And I think some of these businesses, and we would need certainly to have their permission in order to be able to release information, and we can certainly share it in terms of, like --

MR. O’FARRELL: Right, in --

MS. DUNCAN: -- you know --
MR. O’FARRELL: -- general terms.

MS. DUNCAN: -- in general terms.

MR. O’FARRELL: That’s right.

MS. DUNCAN: Like --

MR. O’FARRELL: You don’t have to --

MS. DUNCAN: -- Atlanta --

MR. O’FARRELL: -- name names.

MS. DUNCAN: -- based.

MR. O’FARRELL: Exactly.

MS. DUNCAN: You know, 30 person, small business, veteran owner.

MR. O’FARRELL: Yeah, or just -- we’re seeing trends across the country and it’s these three trends that we want to try to help leave at -- ACVBA would like to help you address those, any trends that you’re seeing that are not positive, and that we can help advocate for a change.

MS. DUNCAN: Yeah, so -- and it concurred without the other piece we’re also doing and this is part of the administrators, you know, making the agency more effective and efficient is in terms of -- and just more customer-friendly -- is in terms of our form for complaints filing, that’s sort of on the front end. So the system is on the back end of it, but the form is -- on the front end is to make changes to it to provide
that segmentation.

And so I think part of it is, it’s striking a balance, because you don’t want to ask too much of people, because it’s onerous on them but at the same time we do need it for reporting purposes and to better understand the populations we’re serving.

MR. ZACCHEA: If I could -- if I could just --

MS. DUNCAN: Um-hum.

MR. ZACCHEA: -- Mike Zacchea, if I could just chime in. Jim, thanks.

MS. DUNCAN: Thank you, Mike.

MR. LOWDER: Natalie, I’m going to --

MS. DUNCAN: Yes.

MR. LOWDER: -- chime in --

MS. DUNCAN: Um-hum.

MR. LOWDER: -- here if I can make the technology work. I am a --

MS. DUNCAN: The second one.

MR. LOWDER: -- I am a Marine, so -- there we go. A little for One Vet at a Time. Natalie, a couple questions, please.

MS. DUNCAN: Yes. Uh-huh.

MR. LOWDER: You said there were 460 cases that --

MS. DUNCAN: Um-hum.
MR. LOWDER: -- your office handled?

MS. DUNCAN: In ’17.

MR. LOWDER: In ’17?

MS. DUNCAN: Um-hum.

MR. LOWDER: Twenty-one were DOD centered?

MS. DUNCAN: Um-hum.

MR. LOWDER: Two were -- were VA centered?

MS. DUNCAN: Yes.

MR. LOWDER: Tell me, where’s the -- is there a majority of departmental issues if you were going to look at -- I’m interested -- which department is most of the action occurring in?

MS. DUNCAN: Within these two or within the broader?

MR. LOWDER: Aggregately.

MS. DUNCAN: Um-hum. Aggregately a lot of them within CMS, so Centers for Medicare and Medicaid Services, and those are around -- they’re small business durable medical equipment providers that have issues with the competitive bidding process of CMS as well as repetitive audits. So with the new administration coming in, a new secretary for HHS, they are at this point kind of taking a hard look at the competitive bidding processes.

MR. LOWDER: Okay. After --
MS. DUNCAN: So --
MR. LOWDER: -- after --
MS. DUNCAN: -- but it’s --
MR. LOWDER: -- after that, then what?
MS. DUNCAN: -- so what --
MR. LOWDER: CMS?
MS. DUNCAN: -- it’s really -- at this point, I mean, it’s really, I think, the -- in terms of what -- what do you mean by, “What’s --”
MR. LOWDER: I’m still driving at the aggregate figure.
MS. DUNCAN: -- oh, I see.
MR. LOWDER: You said --
MS. DUNCAN: Okay.
MR. LOWDER: -- CMS --
MS. DUNCAN: So CMS --
MR. LOWDER: I got --
MS. DUNCAN: -- is --
MR. LOWDER: I got it.
MS. DUNCAN: -- is one. Another one is, like, IRS, we get a lot of taxation issues.
MR. LOWDER: Okay.
MS. DUNCAN: And Wage and Hour within Department of Labor.
MR. LOWDER: Okay.
MS. DUNCAN: As well as OSHA.

MR. LOWDER: OSHA. All right.

MS. DUNCAN: So those are kind of the top ones.

MR. LOWDER: Thank you.

MS. DUNCAN: And then we get smatterings of -- oh, sorry, of everything else.

MR. LOWDER: Thanks, Natalie. Next question, compliance assistance.

MS. DUNCAN: Um-hum.

MR. LOWDER: I should have asked this earlier, so just let me come back, if I might. Do you have any idea how many compliance-assistance matters you work through in a year, give or take, just ballpark?

MS. DUNCAN: So versus --

MR. LOWDER: Anything.

MS. DUNCAN: -- just --

MR. LOWDER: No versus, just do you find your department consulting or people out there, small business owners, can call you and say, I’m really pulling my hair out?

MS. DUNCAN: -- um-hum.

MR. LOWDER: It’s not a problem in my case, but, I’m pulling my hair out?

MS. DUNCAN: Yeah, it’s not your problem.
MR. LOWDER: I’m trying to work through this whole compliance matrix here.

MS. DUNCAN: Yes.

MR. LOWDER: Does that happen?

MS. DUNCAN: So -- okay. So there is a bill that’s -- right now it’s -- that’s been introduced and it’s having to -- basically, it’s expanding the authority of the Ombudsman’s Office to provide best-practice guidelines, like compliance assistance for small businesses. So it’s something where, I think, because the subject matter experts on the actual regulation -- let’s say on, you know, silica -- you know, crystalline silica, that’s an issue with the, you know, construction industry.

MR. LOWDER: Um-hum.

MS. DUNCAN: It’s an OSHA issue, that’s something where, you know, we don’t have the expertise on that regulation. We facilitate a process to get the complaints to the attention of the agencies, but they’re the subject matter expert on what it takes for a company of this size in the construction industry to comply with the crystalline silica rule, but that’s not something that we do, but what we are doing, meaning that really falls within the responsibility of OSHA.

MR. LOWDER: Um-hum.
MS. DUNCAN: But what we are doing is -- one of the things we do as federal agencies, we grade them in our annual report and we’re including some additional criteria next year that’s never been included before to look at their compliance assistance in terms of -- because in the statute this is for -- 21 years since the office has been in existence it’s been on the books, but it hasn’t yet been sort of enforced, if you will.

MR. LOWDER: Okay.

MS. DUNCAN: Which is to -- one is to provide -- for agencies to provide compliance assistance guides to small businesses shortly -- by the date of the publication of the rule or shortly thereafter, so that’s in the statute.

MR. LOWDER: Um-hum.

MS. DUNCAN: And then the other is done on an annual basis to report to Congress on the compliance assistance that they provide to -- to small businesses. So that’s written in section 212 of SBREFA, but it’s something that for 21 years had not been enforced, and so we’re actually introducing new criteria in the -- we piloted this year without penalizing them for -- meaning for 2017. Not this year, last year.

MR. LOWDER: Um-hum.
MS. DUNCAN: But beginning 2018 we’re going to include a dimension -- two dimensions in the grading to grade them based on the -- both the reporting to Congress as well as the compliance assistance that it’s timely, so that’s --

MR. LOWDER: Let me --

MS. DUNCAN: -- what we’re doing.

MR. LOWDER: Let me ask you one last question.

MS. DUNCAN: Um-hum.

MR. LOWDER: I’m going to stick on this compliance assistance here for a minute. In the staffing of that in your office, if some person calls in and says --

MS. DUNCAN: Yes.

MR. LOWDER: -- gosh, I just can’t seem to get this, will -- do you find or have you found that you will -- I don’t want to misread anything here, but in the process of taking a company through -- a new veteran entrepreneur through, then you stick with them, or they come to you serially for a period of time, or are they hitting -- if they have continuing issues, do they get a new person on staff every time?

MS. DUNCAN: Oh, no, they go to the same person, because --

MR. LOWDER: All right.
MS. DUNCAN: -- of the way we set up our portfolios. So it's -- they don’t have the frustration of every time calling someone and that they have to explain the story again to someone new, so we divide our portfolios by department or agency.

MR. LOWDER: Great.

MS. DUNCAN: And so --

MR. LOWDER: Okay.

MS. DUNCAN: -- and of course some are multiagency, but they’ll stick with that person.

MR. LOWDER: Okay.

MS. DUNCAN: I mean, on occasion if there’s someone who’s -- you know, let’s say on leave for two weeks, then I’ll move the case to somebody else, but that’s an exception.

MR. LOWDER: All right. Any idea how many of those compliance-assistance issues you guys deal with in a year?

MS. DUNCAN: What do you mean by --

MR. LOWDER: Just numbers of issues that revolve around compliance assistance, how many --

MS. DUNCAN: -- so --

MR. LOWDER: -- people call on an annual basis and say, I need help?

MS. DUNCAN: -- so we get the 460 cases and
121 of those -- sorry, this is -- I’m sorry, this is ‘16. So it’s 316 --

MR. LOWDER: Okay.

MS. DUNCAN: -- cases in FY16. We’re still tabulating ‘17. And then of that 316, 121 are enforcement related, so those tend to time more to compliance -- regulatory compliance, whereas 190 of the 316 are non-enforcement. So it could be things like, you know, contracting issues, but they’re not regulatory --

MR. LOWDER: Okay.

MS. DUNCAN: -- in nature.

MR. LOWDER: So, Natalie, thank you.

MS. DUNCAN: Um-hum.

MR. LOWDER: In a while I think I’ll be better disposed on small things if I read your annual report. If I get a copy of that, that would be great.

MS. DUNCAN: Sure.

MR. LOWDER: Thank you very much.

MS. DUNCAN: There you go, so --

MS. CARSON: Natalie, can you --

MS. DUNCAN: -- yes?

MS. CARSON: -- do you have a hard copy available for the committee or do -- is there a --

MS. DUNCAN: Yeah.
MS. CARSON: -- website that they could go to?

MS. DUNCAN: You’re talking about the annual reports?

MS. CARSON: Yeah.

MR. LOWDER: Um-hum.

MS. DUNCAN: I can bring a couple copies down.

MS. CARSON: Thank you.

MS. DUNCAN: And it is on our website.

MR. ZACCHEA: Natalie, you had mentioned very quickly, this is Mike Zacchea --

MS. DUNCAN: Yes.

MR. ZACCHEA: -- about a bill that was introduced expanding the authority of the ombudsman, could you -- what is the name of that bill or what’s the number of that bill?

MS. DUNCAN: I think it’s 1146, but I’ll have to --

MR. ZACCHEA: HR?

MS. DUNCAN: -- get back to you.

MR. ZACCHEA: To -- house -- house bill?

MS. CARSON: House.

MS. DUNCAN: Senate --

MS. CARSON: Senate.

MS. DUNCAN: -- I think. Let me -- I’ll have to -- if you don’t mind, I’ll -- I’ll Google it, but
that -- I think that’s what it is.

MR. ZACCHEA: Thank you.

MR. O’FARRELL: Jim O’Farrell, one quick followup.

MS. DUNCAN: Yes.

MR. O’FARRELL: So you mentioned --

MS. DUNCAN: Um-hum.

MR. O’FARRELL: -- that in FY16 you had 316 and then it jumped to 460?

MS. DUNCAN: Yes.

MR. O’FARRELL: Okay. My math isn’t all that great, but off the top of my head is that like a 40-percent increase or something?

What -- to what do you -- whatever the percentage is, it’s a sizable increase, what -- to what do you attribute the increase?

MS. DUNCAN: That’s a very good question. A very good question. So I think there is, you know, causation and there’s correlation, right, so they’re different. So I would say this is not causation, this is a correlation that pretty much it’s kind of like a -- think about it like an ecosystem.

So the more outreach we do, the more we raise awareness that we exist, and that we are here to assist small businesses, and then the more filings we get. So
I’m under, actually, no illusion that there will be no problems in previous years and all of a sudden there were new problems last year that just, you know, crept up, so I don’t believe that that’s the case. And I think there has always been sort of the sense that, you know, the 30 million small businesses we have we hit so few, just because we just don’t have the bandwidth to be traveling all over the place and it’s -- you know, it’s recourse constraining to -- right, so one thing that we are doing this year more of is I’ve done a number of webinars in addition to --

MR. O’FARRELL: Um-hum.

MS. DUNCAN: -- doing the in-person regional roundtables. And Nat, the ombudsman, has also gone out to talk to a lot of associations and so forth. So some of the webinars, like last week I did one with the National Customs Brokers, Freight Boarders Association, and that hit, you know, 300 -- close to 300 numbers.

MR. O’FARRELL: Um-hum.

MS. DUNCAN: So something like that is very -- it’s -- and it’s free, so I’m always happy to look for ways, I think, to kind of expand our reach and impact and raise that awareness through these sort of technology means in addition to the in-person.

MR. O’FARRELL: Um-hum.
MS. DUNCAN: But one thing that would be great is if -- for instance, if there are groups that you’d like for us to talk to, we would be happy to talk to them.

MR. O’FARRELL: Um-hum.

MS. DUNCAN: And so the other thing I would attribute to in terms of increased outreach, it’s really -- we really worked very hard in the past year to establish good relationships with federal agencies and so that has led to greasing the wheels in terms of resolving case issues, but on the other hand, an added benefit has been being invited to speak at their events where they touch thousands of small businesses.

And out of that I always arrange, you know, like sidebar meetings to meet with certain associations or groups, and then that -- one thing leads to another, and then they’ll invite me to their events, and so it’s sort of a chain reaction. So if --

MR. O’FARRELL: This --

MS. DUNCAN: -- if you can help generate that chain reaction by, you know, like, introducing us to small businesses that would benefit from our services or big groups --

MS. CARSON: Um-hum.

MS. DUNCAN: -- we can do that and it would be
MR. O’FARRELL: Yeah, this is Jim O’Farrell again. So two that come to mind right off the bat, the VA holds an annual National Veterans Small Business Conference, it was in St. Louis in December in 2017, it will -- they’ll do it again November/December time frame.

MS. DUNCAN: Um-hum.

MR. O’FARRELL: And then also the National Veterans Small Business Coalition, if you Google, and the SBC.

MS. DUNCAN: Um-hum.

MR. O’FARRELL: That’s a nationwide, you know, chapter-based organization.

MS. DUNCAN: Um-hum.

MR. O’FARRELL: And I’m clear --

MS. DUNCAN: Okay.

MR. O’FARRELL: -- on many others.

MS. DUNCAN: Great.

MR. LOWDER: Natalie, I’m not -- I want to ask you one more thing --

MS. DUNCAN: Um-hum.

MR. LOWDER: -- or just --

MS. DUNCAN: Sure.

MR. LOWDER: -- just really it -- thank you
for all you’re doing, by the way, and going to bat for these veterans.

MS. DUNCAN: Um-hum.

MR. LOWDER: Not speaking -- just from me personally, the whole issue to me is getting veterans in business and making it as painless as possible --

MS. DUNCAN: Yes.

MR. LOWDER: -- if you will. One of the things we experience -- frankly, what I do is I run with veterans all the time and they come to me for -- because of my law background, they want to file a claim, you know, that kind of thing, and one of the constant things we hear -- and they’re not complaining loudly, but I can -- I sense the frustration in them getting through all the widgets.

MS. DUNCAN: Yes.

MR. LOWDER: So anything and everything you all are doing to make that as painless -- I know there’s standards and all the rest, but in what you’re doing, helping these people get there is so vital so they don’t get frustrated, and I feel like somebody’s really in my corner. So thank you for doing that, to me that’s one of the most valuable things that we can do.

MS. DUNCAN: Thank you. I mean, I feel like
what we do every day is -- it’s about breaking down barriers and being their champion, so --

MR. LOWDER: Um-hum.

MS. DUNCAN: -- in -- because it -- it is really frustrating to just deal with big bureaucracy or just --

MR. LOWDER: Right.

MS. DUNCAN: -- getting -- I mean, it’s like, you know, getting -- in a world of telemarketing, I mean, everything -- you’re put on hold for so long, and no one picks up, and, you know, lights are on, but nobody’s home.

MR. LOWDER: Right.

MS. DUNCAN: So I understand how frustrating that can be and so --

MR. LOWDER: Okay.

MS. DUNCAN: -- we’re there to break down those barriers. So --

MS. CARSON: Um-hum.

MS. DUNCAN: -- so just very quickly, because I do need to go to another location at -- and depart here at 10:10, just to -- in terms of -- so I’m not going to go through it slide-by-slide. So we -- I think we talked a lot about these and so I’ll just kind of -- let’s skip to slide 14.
So really in terms of kind of our accomplishments -- and we talked about the breadth and depth of the outreach, so hitting, I think, 15 states, 10 regions in the last seven months or so, and also I talked about the vitality of the partnerships with federal agencies as well as building relationships with state and local small business advocates and regulators.

And so although our jurisdiction is to deal with federal issues from a small business standpoint, they want sort of a continuum of care. So when we do our roundtables, oftentimes we will invite state and local advocates to come, the Office of Advocacy, and so to just make sure that all of their questions are answered if we’re not able to address them.

One thing that I wanted to just quickly touch upon is, you know, boards, is -- we are -- like you guys, you’re a FACA board. We have 10 FACA boards that are regulatory enforcement fairness boards across the country and these -- and so we’re looking for people who are small business owners and operators across different regions to fill a number of vacancies and so -- and I think what we look for is really sort of a diversity in terms of industries represented and geographies.
And I think the only -- sort of from a, I think, standpoint, the only thing that precludes people from service is if there’s, one, ethical issues, and then two is if they’re a current beneficiary of SBA services. If they’re a current, you know, 8(a) or HUBZone, but then they’re not eligible or have a loan, but it’s after a certain sort of period that they become eligible again, so each case will be evaluated by the attorneys on a case-by-case basis in our vetting.

MR. O’FARRELL: Um-hum.

MS. DUNCAN: But if you know of people who are, I think, interested and passionate about regulatory issues to sort of be our eyes and ears out in their respective regions, and industries, and we would be happy to bring them in for the administrator’s consideration.

MR. O’FARRELL: And vice versa.

MS. DUNCAN: Um-hum.

MR. O’FARRELL: This is Jim O’Farrell. If you know of people who are passionate about veteran businesses, and starting them, and growing them, we’d be happy to hear from you with nominations.

MS. DUNCAN: Great.

MR. O’FARRELL: All right.
MS. DUNCAN: Thank you. Thank you. And so I think with -- slide 15. So in terms of -- sorry, 16. So in terms of our '18 Way Ahead, really we want to continue to expand our reach and impact upon a greater number of small businesses, and continue to build that trust with the regulators, and so any time I have an opportunity to speak with -- for instance, like, with regulators, I’m happy to do that to kind of give them a more balanced view of, okay, why there’s a need to kind of take into account these concerns of small businesses when they take these enforcement actions.

So I think, fortunately, having built relationships with our points of contact, it’s led to opportunities to educate regulators that work within their departments, and so we’ll continue to -- I think, in addition to, you know, filling more vacancies, it’s really -- I think the issues that are kind of near and dear to, you know, OVBD and some of the small business veterans with whom we spoke, does this address the board of the DOD to address this issue around, like, cyber reporting requirements for DOD contractors that are small business.

So there’s this thing called the DOD NIST 800-171 rule, that’s been something -- I don’t know if you are familiar with that, but it took effect on January
1st, and so the number of small business veterans, as well as other small business contractors, are struggling to comply with these DOD requirements. There’s no sort of set penalty to fine and -- or fine in terms of dollars, but it’s written into their contracts. So that if we don’t comply, it’s considered a breach of contract.

So it’s pretty exquisitely complex and so what we -- what we are doing now is -- been working with NSBA as well as Department of Defense and -- on this and on March 15th at 2:00 p.m. NSBA is hosting a call for its members on this issue where we bring in the DOD subject-matter expert, and we’ll also go through kind of the work of our office and how we can help, and so I have kind of struck an agreement with NSBA that if you guys want to attend that call and to provide a few seats to be able to do that, if it’s of interest to you.

MR. O’FARRELL: This is Jim O’Farrell and it is definitely of interest to me as a veteran business owner. We have -- are in discussions right now with a couple of contractors to provide that service to our company, because it is something that is so kind of esoteric.

MS. DUNCAN: Um-hum.
MR. O’FARRELL: And if you can imagine, it’s -- they’re looking at the tens of thousands of dollars to charge us to come and be in compliance.

MS. DUNCAN: Yes.

MR. O’FARRELL: So --

MS. DUNCAN: So hopefully this will provide some -- an overview and kind of look at -- have them look at it from sort of a small business standpoint, so --

MR. O’FARRELL: -- um-hum.

MR. LOWDER: Natalie, I have one last question --

MS. DUNCAN: Yes.

MR. LOWDER: -- if --

MS. DUNCAN: Uh-huh.

MR. LOWDER: -- I can.

MS. DUNCAN: Sure.

MR. LOWDER: Lynn Lowder, from One Vet at a Time.

MS. DUNCAN: Uh-huh.

MR. LOWDER: Communication running both ways. Do you -- the other departments here, DOD and what have you, do you get calls from them occasionally asking you what’s happening out there in the field, what are the issues that your small business owners are facing, do
they ever do that with you?

MS. DUNCAN: I would say less, like, calls, but what I do get are, like, when we have forms. So, for instance, when we had a national hearing back in August --

MR. LOWDER: Um-hum.

MS. DUNCAN: -- and when we had our annual meeting, Dr. James Galvin, the acting director of the small business programs at DOD, came not only to speak at our invitation, but he decided to come early to listen in to hear about the concerns. So, no, I haven’t gotten sort of random calls, but when we do have something kind of scheduled, he made that effort to come, which was really great.

MR. LOWDER: That’s good.

MS. DUNCAN: He was the only one who did that, by the way.

MR. LOWDER: Well, I -- you know, that’s -- then that’s it.

MS. DUNCAN: Yes.

MR. LOWDER: That’s really what I’m driving at.

MS. DUNCAN: Um-hum.

MR. LOWDER: Is that, you know, sometimes information flow is one direction, and you’re trying to
find out if there’s anybody on the other end hearing, and are they coming back to you proactively and saying, Natalie, what are you experiencing in the compliance issue, that kind of thing. I think you’d be a valuable piece of information if I was on that end of it, I’m just curious how that’s been working.

MS. DUNCAN: Yeah. So I think oftentimes, like in our world, we -- I mean, I always kind of view that we have to kind of take the initiative.

MR. LOWDER: Okay.

MS. DUNCAN: And so when we take the initiative, then people will think of us.

MR. LOWDER: Got it.

MS. DUNCAN: And so it’s -- it’s like in -- it’s like in sales, right. It’s like the ball is always in your court, right. Sometimes I kind of feel that way, so --

MR. LOWDER: Thank you.

MS. DUNCAN: -- to move things to the next step. So in closing really -- just next slides. I just have two requests, so if you are aware of small business owners that have issues that -- on the regulatory front, please bring them our -- send them our way and also we’re actively soliciting nominations for board memberships.
MR. ZACCHEA: Um-hum.

MS. DUNCAN: And also if anyone’s interested in this call next week, please -- it’s not sort of an -- open to all, so -- but do send me your name and I will get you on the list.

So in closing, you know, we’re really -- this office stands ready to work in collaboration with federal agencies to advance the President and the Administrator’s goal of creating a favorable environment for small businesses to grow and thrive, and to level the regulatory playing field.

So our contact information is on the very last slide, so if you need to get a hold of Nat or me, that’s how you reach us and that’s our website. Thank you very much, and thanks for all your questions, and very informative questions.

MR. ZACCHEA: This is Mike. Thank you, Natalie, that was a very excellent, important presentation. The time on deck I have is 10:10, so what I’d like to do is call a break now for 10 minutes. I’d like to ask everybody to be back here at 10:20.

Thank you.

(Recess.)

MR. ZACCHEA: All right, everybody, I’d like to ask you to take your seats. Okay. The time on deck
is 10:23. Can we take our seats, please? Thank you.
Okay. This is Mike Zacchea, we’re back in session.
What I’d like to do is now ask -- Chris, is it?
MR. CLARKE: Yes, it’s Christopher Clarke.
MR. ZACCHEA: Okay. We’re ready for you.
MR. CLARKE: Well, thanks. Thanks for having me, I’m really happy to present today. I am not Ken Dodds, he couldn’t make it today, but I am Christopher Clarke. I work in SBA’s Office of General Counsel and I’m going to go through a new proposal rule that SBA just published in consultation with the Department of Veteran Affairs, it has to do with service-disabled, veteran-owned ownership and control.
A little background before I start, just in case people aren’t aware. But just a little background, I’ll go through it quickly. And also if anyone has questions, you don’t have to wait until the end, please feel free to interrupt. It’s a pretty dense subject as you go through, it will be nice to have, like, little breaks.
So the background is, is that since about 2010 SBA and Department of Veteran Affairs basically have been running parallel a service-disabled, veteran-owned small business government contracting program and they had separate regulations, and separate rules, separate
requirements, and separate statutes.

So what this proposed rule is, is an attempt by SBA and VA to harmonize part of those regulations, specifically the ownership and control regulations. So we’ll still have two separate programs running parallel at the two separate agencies, but we’re going to be using one common set of regulations to determine ownership and control, so we don’t have different language between the programs, so here we go.

MS. SIMMS: No?

MR. CLARKE: No.

MS. SIMMS: Press it hard again.

MS. CARSON: Just go ahead and role it, Cheryl. Okay.

MS. SIMMS: Mine. One moment.

MR. CLARKE: Oh, yeah. So while we’re going through that, I’ll also --

MS. CARSON: They all have briefs, so you can ask.

MR. CLARKE: -- yeah, I’m just going to go through. I’ll just keep going. So the first thing that you’re going to see is just where the rule is. You can see the federal citation, everything, we published it on January 28th. The comment period is still open, so if anyone has any comments, we’re
listening today, but formal comments that are published
is the easily best way to comment on the rule. So
that’s the first one.

I’ll talk a little bit, even before I start
getting into it, about what we’re doing here and kind
of -- like, it’s in the proposed rule and you can read
it, but just generally what the -- if you’re making a
comment, you can see what SBA’s trying to do.

What we’re trying to do is make a rule that
provides guidance to businesses that want to be in our
program, and how to be eligible, and we want to follow
Congress’ intention and Congress’ language when we do
it. So generally, Congress requires that a business
that participates in the program be owned and
controlled by a service-disabled veteran. On its face,
that usually sounds very simple, because we all know
people that own a business, and they own it, and it’s
them, and they run it, and in that case they’re
eligible.

For the most part if you read these rules, or
our old rules, or VA’s old rules, the overwhelming
majority of service-disabled veteran and veteran-owned
firms are going to easily meet and fit the definitions
that we supply.

So when we’re talking -- when we’re going
through these rules and we’re going through the other stuff, we’re really talking about the guidance for firms that are slightly different than average, meaning they have a slightly different organizational structure, stuff like that, but we still want to have rules to give them guidance. So you can think of these rules, at least from SBA’s point of view, as more of guidance to the businesses on how to be eligible more than as a strict yes-or-no, up-and-down type regulation.

Okay. So we’re going to start out, the first thing that we started to do is we added a few extra definitions to SBA’s rules, and most of these are just done to add clarity. Like, if you look at this, the first thing we have is a definition from daily business -- for daily business operations. We used to have the term, daily business operations, in our rule, we kind of -- we just use it as, like, a -- a term of art. We added a definition so people just understood what we mean elsewhere in the rules when we say that.

Same thing for ESOP. It comes up often, what is an ESOP, how does it apply. We added a definition, so it’s very clear.

You can go to the next slide. Did I give it away? Okay. This one is very new, this is going to
come up later when we get into control. There’s always a lot of issues with control. So what we’re doing here is basically defining what an extraordinary circumstance is, so later on we can give a slight exception to controlling all decisions.

So when you say a service-disabled veteran controls a firm, generally SBA’s view is that means they control the firm, anything that needs to be done requires that the SBA, SDVO can do it by himself or herself.

As you may know, if any of you are in business, that’s not normally how, like, all business structures are set up, so we wanted to, like, take that into account and basically add, like, a little provision that may grow over time, may not, but start out with exceptions to that general policy that the service-disabled veteran control all decisions. So we define it here and then you’ll see it later when we get to it where it first comes into play.

So we can go to the next slide, still doing definitions. If you weren’t aware of it, SBA and VA have different definitions for permanent caregiver and surviving spouse. What we’re doing here is just harmonizing the two regulations, so that they’re exactly the same. So if you have any questions about
what this is or why we’re changing it, that’s the reason, SBA’s definition was different than VAs.

If you go to the next slide, more information about permanent caregiver, basically when it’s appropriate to have one, how you have one, how you register. And there’s more than just having -- it goes back to this, SBA had the term, now we’re giving more details so people have more guidance about when the term applies.

Next slide. This is just an overall definition of, like, what a small business concern owned by a service -- so you can think of this as a general definition and then later on in the regulations we’re going to -- we’re basically going to explain what those different things mean.

So I can go through this if you want or we can get into the more detail. It doesn’t change much from before in terms of -- it’s basically the definition as it comes from the different statutes, but clarified a little bit in the rules.

So the next slide, this is just the same -- the same thing, still the definition.

And then the next slide, this is one that’s new for SBA. We’ve always had the term, unconditional ownership. So what this means is, like, when we say a
service-disabled veteran owns the firm, SBA has two main requirements, one that they directly own the firm themselves, not through one, or three, or our four, or five intervening entities, such as trusts, holding companies. There’s a variety of different reasons for that. One of the main reasons is, it’s so we know what service-disabled veteran owns the firm, because if they directly own it, it’s very easy and clear, the chain of ownership for us to -- to see.

And then the unconditional is the next part. It can tend to be a little bit difficult for people to grasp, but what -- basically what it means is, like, you own it and there’s not a condition on your ownership, meaning, like -- I guess I can give some of the worst-case examples of one is, like, you own it, and it says you have a share, but when it sells you get $5 even if your company’s worth a billion, that seems like a condition subsequent.

So what we -- what we basically -- and this outlines, like, SBA’s thought process on this on what we mean by unconditional, which is you basically own the shares, or membership interest, or whatever, like, unfettered in a way that doesn’t hurt your ability to run the business, or if the business sells, enjoy the benefits of it, so it’s -- you have to own it not just
on paper, but actually be able to derive the benefits of that ownership now and in the future, does that make sense to people?

AUDIENCE: Um-hum.

MR. CLARKE: It can be a little confusing in the specifics, but we didn’t used to have, like, a regulatory definition, so we’re adding it, once again, to provide clarity.

Next slide. So we’re changing, now we’re getting into the actual, like, meat of the rules, which is before it was, like, the general definition. So now we get into our -- how we determine if someone controls the firm, this is changing. So you can see these two -- these two new, B and D. One is we have a new term for 51 percent of the aggregate voting interest must be unconditionally owned.

Before we had a -- each share, each percentage of each -- say you had two classes of voting stock, you’d have to have 51 percent of each. Now it’s just you have to have 51 percent of the aggregate of all voting shares, provided that splitting the shares doesn’t create some type of super majority.

A lot of this -- and you’ll see we added it for partnerships, too, when we get there. We had a provision where we split it to general limited
partnerships, it kind of meant you also had to be a general limited partner. That wasn’t our intention, that isn’t what we meant. We basically just want you to be able to control the firm.

MR. ZACCHEA: Chris?

MR. CLARKE: Sure.

MR. ZACCHEA: Oh, sorry. Chris, this is Mike Zacchea. So I just want to make sure I understand. Would a veteran be able to create a special class of shares, for instance, just for the sake of argument, called V shares that have a sole voting right, but be able to sell off equity as long as he retains special voting rights or sole voting rights?

MR. CLARKE: It depends on how many nonvoting shares he issued.

MR. ZACCHEA: Okay.

MR. CLARKE: So we require that they -- I’ll have to read -- so current, one, we don’t know how they’ll turn up, but one of the things is generally we wouldn’t allow them to take -- to basically sell 80 percent of the equity, meaning turn 80 percent of the equity into nonvoting, and then only have 30 percent -- own, like, 30 percent, 100 percent of the voting shares. That would be problematic, because then if you sold the company, the nonvoting shares would get 80
1 percent of the sale value.

MR. ZACCHEA: Right, that’s what I’m trying to get to.

MR. CLARKE: Yeah, you --

MR. ZACCHEA: Okay.

MR. CLARKE: -- wouldn’t be able to do that.

MR. ZACCHEA: Okay.

MR. CLARKE: You’d still have to maintain a 51-percent share of the proceeds of the sale. So, yes, if you had 30 percent of the firm was nonvoting shares and you didn’t own any of it, that would probably be fine. I can’t say yes or no in any instance, but you -- we wouldn’t want -- we -- our rules is not designed to enable, like, the nonvoting share to own most of the company.

MR. ZACCHEA: Okay. That’s helpful, thank you.

MR. CLARKE: Okay.

MR. FIELDER: Chris, Ed Fielder.

(Microphone feedback.)

MR. FIELDER: I don’t know why it’s doing that, but -- I was going to hold this question to the end, but you’re getting into this granular detail of how this is going to work, and I’m sort of seeing similarities, and I’d have to go back to make a -- a
more detailed comparison to some of the 8(a) requirements that have been in law, in policy, and in rulings for a couple decades now.

MR. CLARKE: Um-hum.

MR. FIELDER: Just a brief compare and contrast, if there’s -- this looks to be about the same, is -- am I -- am I wrong or --

MR. CLARKE: No, you’re not wrong at all.

MR. FIELDER: Okay.

(Microphone feedback.)

MR. CLARKE: It’s actually -- if you’re -- I think it’s your -- so if you press it, it will stop echoing.

MR. FIELDER: Yeah, I don’t know why it’s doing that.

MR. CLARKE: Are we done echoing? That’s not your fault, I think it was just your thing. So that’s intentional, that -- and it’s something that the VA had already done, the VA had adopted some of 8(a)’s policy positions in its rules.

The SBA had adopted most of the 8(a) policy positions in its regulations as well, we just didn’t articulate them in the rules. Basically we had very broad rules in which we said we would look to 8(a) rules for guidance, but we didn’t articulate it. So
what we’re doing here is being much more specific that
we are and it’s even in the rule that we’re officially,
like, putting in the rule that we’re applying these
policies from 8(a) that we think are useful.

(Microphone feedback.)

MR. CLARKE: So if --

MS. CARSON: So turn yours off.

MR. CLARKE: So if you turn yours off, it will
stop that echoing.

MS. CARSON: There you go.

MR. ZACCHEA: Okay.

MR. CLARKE: There we go.

MR. FIELDER: So let me just auger down on
that and see if I can get more clarity and definition.
Are you now saying -- don’t let me put words in your
mouth, but I think I’m hearing you say that this brings
the service-disabled veteran business to be not only
similar, but to be the same?

MR. CLARKE: No, I’m definitely not saying
that.

MR. FIELDER: Then tell me what’s the
difference.

MR. CLARKE: There will be slight differences
between the rules, just because the statutory basis for
each rule is slightly different, and there’s different,
like, requirements. Like, 8(a) has a full-time
requirement, there’s some -- generally, yes, but in
specific -- I can’t say yes in all cases.

MR. FIELDER: So where would be the nos that
we might take exception to?

MR. CLARKE: Well, in terms of what?

MR. FIELDER: More restrictive.

MR. CLARKE: Are you asking is the SDVO more
restrictive than 8(a) or less restrictive?

MR. FIELDER: I would say more.

MR. CLARKE: No, I’d say based on -- its less
restrictive. There’s no, like, good character
requirement, there’s no full-time devotion requirement
in SDVO type thing, so there’s less, like, specific
statutory requirements that have to be reviewed for
SDVO. So we adopted the similar language from 8(a)
where we thought it was appropriate, but it’s not
identical.

MR. FIELDER: Is there any chance that you can
provide the committee a compare and contrast between
the two?

MR. CLARKE: Compare and contrast in terms of
how?

MR. FIELDER: These are the 8(a) requirements
for ownership and structure, these are the service-
disabled veterans. We’ve always been concerned that -- frankly we’ve been working under self-certification for so long and it’s been kind of sketchy for some time, now you’re trying to put some meat around it and we want to make sure that that meat is consistent with what others are having to deal with.

And we’re certainly not minorities, but we are a group of some size and some importance, and I just want to be able to say, okay, the similarities are this and where they’re different, there’s a sound reason for that difference.

MR. CLARKE: To something different than the actual, just, published regulations? I’m a little just confused. Like, I would think, like, if we published a regulation -- like, if you read the regulation -- if you read the proposed regulation, we pointed out where the similarities with 8(a) were, and where they weren’t, and why they were different in the actual proposed regulation.

MR. FIELDER: Um-hum.

MR. CLARKE: So, like, if you look on page -- like, I’ll just read, like, “FDA is proposing to add several new paragraphs to 120 --” we haven’t gone to 125.13 yet. “These proposed paragraphs incorporate provisions from SBA’s 8(a) B and D program,” so we
1 actually say which --
2 MR. FIELDER: Where are you reading from?
3 MR. CLARKE: -- I’m reading from the Federal
4 Register, the page 4,007.
5 MR. FIELDER: Okay.
6 MR. CLARKE: Section 125.13.
7 MR. FIELDER: Okay. I’ll --
8 MR. CLARKE: So --
9 MR. FIELDER: -- I’ll read through that while
10 you --
11 MR. CLARKE: -- if --
12 MR. FIELDER: -- continue.
13 MR. CLARKE: -- but if we can give more
14 guidance on it. I would really like to help and
15 provide the guidance that I just was a little confused.
16 MR. FIELDER: Okay.
17 MR. CLARKE: So we do want to --
18 MR. FIELDER: I’m a very simple conceptual
19 guy. If you’re saying that they’re similar, I want to
20 see mapped out here’s where they’re exactly the same,
21 and here’s where they’re different, and there’s some
22 justification of why they’re different.
23 MR. CLARKE: Okay.
24 MR. FIELDER: Very simple.
25 MR. CLARKE: It was SBA’s -- like, I’m -- I’m
MR. FIELDER: And you’re telling me that 125.13 will tell me that?

MR. CLARKE: -- the proposed rule does lay out where we incorporated language directly from 8(a). Like, it will say, like, “We incorporated this provision from 8(a).” And if we said that, it’s usually word for word from 8(a).

MR. FIELDER: But as I scan down and look at that, it’s -- it’s -- it’s in a narrative paragraph and I would have to understand all of the 8(a) regulations. And what I’m asking you to do, put them on the same piece of paper and let me map that.

MR. CLARKE: Okay.

MS. CARSON: And this is Barb Carson, just a quick question. The public comment period’s open through the 12th, right?

MR. CLARKE: Yes.

MS. CARSON: Which is Monday.

MR. CLARKE: Um-hum.

MS. CARSON: And there are two places where we can look at the -- you’re right, you -- we’re not going to have a slide that -- that would simplify the CFR, but you could tell us the CFR -- where you could find the 8(a) definitions and you’ve provided here the
proposed rule plus additional information?

MR. CLARKE: Yes.

MS. CARSON: So we just -- we don’t have it in exactly the format that you’re asking for, but we could get the direction on where --

MR. CLARKE: Oh, yeah.

MS. CARSON: --- where --

MR. CLARKE: Yes.

MS. CARSON: -- CFR to CFR?

MS. TORRES: Barb?

MR. CLARKE: So --

MS. CARSON: Come on, can you come up here?

MS. TORRES: Yes.

MS. CARSON: Oh. Excuse me, we have one more comment and question.

MS. TORRES: Actually, I was just going to say the comment period on this rule is open through the 20th.

MR. CLARKE: -- um-hum.

MS. TORRES: The VA rule is open through the 12th.

MR. FIELDER: Thank you, ma’am.

MS. TORRES: Um-hum.

MR. FIELDER: And I’ll -- I promise Chris this will be the last one and I’ll let you continue, but
short of a side-by-side comparison, which seems to be
too difficult to produce, your point -- and please
don’t let me put words in your mouth, your point is, is
that they’re similar, but the service-disabled vet
requirements are less, is that correct?
  MR. CLARKE: In some areas.
  MR. FIELDER: Where would they -- where would
they be more?
  MR. CLARKE: They have to be a veteran, a
service-disabled veteran, so that’s --
  MR. FIELDER: Okay.
  MR. CLARKE: -- more restrictive. And so one
of these things is, like, yes, it’s very nice to have a
slide here and here. I -- and while that might be
helpful in some ways, it can be deceptive in other
ways. I don’t think it would be as informative as
possible, because it’s misleading. That just because
they’re similar language, doesn’t mean for -- so you
have to remember 8(a)’s a business development program.
  MR. FIELDER: Um-hum.
  MR. CLARKE: So the core principal of what
they’re trying to accomplish there is different, and
the way they’re going to interpret those regulations
for their program are going to be different, and the
way they’re going to approach that program is going to
be different.

So we’re trying to have the regulations as similar as possible. Not to make it so that all people that are eligible for one program are automatically eligible for the other, it’s so that the guidance is the same and for the majority of companies they’ll be the same.

There’s always going to be, like, outliers and how those outliers are treated by the different programs is going to be different, because the programs are different and they have different goals.

MR. FIELDER: So if I was an 8(a) certified company at this time and I decided that I wanted to be an 8(a) service-disabled veteran company, I would be clearly in, because its less restrictive?

MR. CLARKE: I can’t say, I’d have to look at the -- I’d have to look.

MR. FIELDER: Okay.

MR. CLARKE: I’d say more than likely you would eligible.

MR. FIELDER: That’s the question I’ve been asking for five minutes and we’ve been dancing on it, but never mind, go on.

MR. CLARKE: I know everyone would like that answer to be yes, that if you’re eligible for 8(a)
you’re automatically eligible for all the other programs. I am telling you in the overwhelming majority of the cases the answer is yes, but it’s just -- like, it would be -- like, as a lawyer it would be -- it would be -- I would be doing you a disservice by saying in every instance the answer’s going to be yes.

I know that’s an answer people would like, but it’s just not -- it’s just never going to -- it’s not going to work out that way, because they are two different programs with two different goals. And it would be nice if the answer was clean, but we try and make it as easy as possible for people to end up in the buckets that they’re supposed to end up in if they follow the guidance, but I hope that answers the question.

We want most people that are eligible for 8(a) under those guidelines to be eligible for this program, that’s the goal, but we can’t say with 100-percent certainty that every company will be.

MR. ZACCHEA: Chris, Mike Zacchea again. What I understand you’re saying is that there’s no categorical answer, that’s basically -- the bottom line is you can’t say categorically yes or categorically no?

MR. CLARKE: Yeah, it’s not that the answer is
no and it’s not that the answer is yes. The answer is
the policy is for the programs to be as similar as
possible with as similar a guidance as possible, given
that they’re two different programs, but the end result
is that there’s statutory differences and regulatory
differences between the two programs that are going to
result in different outcomes.

MR. ZACCHEA: Right. Got it. Thank you.

MR. CLARKE: The next slide. So this is also
going to be new for SBA regulations, and it comes
slightly from VA, and just general. Oh, so this is
also somewhere where it’s going to be different from --
different than 8(a).

So if you look at this like -- likely
issues -- the answers should be similar between the two
programs, so we’re -- what we’re looking at here is --
also this goes back to unconditional, it’s a -- when
you say someone owns a firm, this is like what we would
be looking at. If you look at it this way, it’s a
policy where -- what we’re going to say is we’re going
to look at this type of information to determine
control and what we’re looking at here is distributions
and dividends.

Our assumption is, is if you say you own 51
percent of a company, when that company pays
distributions and when it issues dividends, you should probably be getting 51 percent of the cash. If you’re not, we’re going to have questions about that and that’s what this rule is about. So what we’re saying is we have a policy that this is what we want, here’s the guidance of what we’re looking for, here’s why we’re looking for it.

The next is community property. We currently don’t apply community property laws and we’re going to just be clear that we’re not doing that.

Next slide. So this is where we come in. We had a definition for surviving spouse, and this is where we lay out how we’re going to determine ownership when a surviving-spouse issue arises, it’s conceptually similar to what we had before. Once again, we just added more detail to bring in, in accordance with VA’s regs, and really just to provide more guidance to community on how we’re going to adjudicate these issues.

Next slide. So if you’re going to ask, this is -- 13 is probably where the biggest number of changes are coming in, this is when we’re talking about control. For the most part, once again, the rules are not fundamentally different than they are previously, they’re just more detailed and provide more guidance.
Yeah, so corporations. I think when we get to the next slide I might go a little bit into board of directors’ issues that people have. So this comes up a lot, of issues with board of directors and how this works.

So if you think about it, when we say control, you have to not just control -- like, if you organize yourself as a corporation, you have to control the corporation through shares, owning enough shares to make decisions, because it’s a corporation, actually controlling the board of directors, because technically the board of directors sets long-term policy, hires people for senior officers positions, and be the officer in charge of, like, the day to day. So it’s a couple of different stages that you have to control and you have to control all of them.

A lot of questions come up with boards of directors and control necessarily, because a lot of times people aren’t thinking about it in terms of program eligibility when they set it up. So if you have multiple shareholders and all this other stuff, how you set up your board of directors can be problematic for our rules, depending on quorum and everything. So what these rules are designed to do is just kind of add more clarity of what we’re looking
If anyone wants an example of one that was, like, weirdly bad, I can give it. I got yelled at for, like, an hour on the phone, but I’ll give it. We had a firm come in that they were a California firm, majority-owned by a service-disabled veteran, minority owner not a service-disabled veteran, they set it up with two shareholders -- two shareholders, two board of directors.

Under California’s law -- and California’s law is not that different than a number of other states that have mandatory cumulative voting for shareholders. It’s somewhat common, but everyone’s a little bit different.

So basically what the California law said is no matter what happens, if you set it up this way, that other shareholder’s always going to be on the board of directors and you need more than one board of director to do something. So we said, “Yeah, you’re not eligible,” and the person and their lawyer got really angry. They’re, like, “This is what California told us to do, we have to do it this way.”

So I listened to them and I was, like, “I understand, I understand,” and they’re, like, “Well, what are we supposed to do?,” I was, like, “California
doesn’t prevent you from having three board -- three board members,” they’re, like, “What?” And I was, like, the answer to your solution isn’t to yell at me. Like, I didn’t say this, but the answer to those -- sometimes the solution is you do have to change your corporate structure.

So in that case their default corporate structure under California law just wasn’t eligible. The change wasn’t that difficult, they just add another director, and so that’s -- one of the issues that we run into in this program is sometimes our rules run afoul of what you would consider just a default thing, so that’s one of the areas where it comes up. We hope with extra guidance people will notice that they may need to make a change and that’s what these will hope to apply.

All right. Next one. So this also gets into -- we give a -- our current rules have, like, just a word or two that says super majority, like, don’t do this if there’s a super majority. What these rules are going to do is give more guidance on when the super majority becomes an issue and how to resolve that.

So if you read these, they say when you have a super-majority requirement, do this. Our rules didn’t currently have that. Our rules previously just said
don’t -- if you have a super majority, it’s a problem, which could lead to confusion, but providing more guidance is usually helpful.

Next slide. This is more -- like I said, the board of directors is problematic, it comes up a lot, so we went into a lot -- currently we only have a paragraph in SBA’s rules about board of directors, we found that it was problematic. People had trouble understanding what SBA’s policy was, so we work with VA and we have adopted a lot of, like, VA’s best practice is in terms of, like, informing the community about how we’re going to evaluate board of director control and we’re incorporating that into the rule.

MS. PEREZ-WILHITE: Excuse me, I have a question.

MR. CLARKE: Oh.

MS. PEREZ-WILHITE: Let me see if I understand this properly. I have a client, SDVOSB, he recently -- his board of directors did not allow him to hire someone he wanted to, is that saying then he is not following these guidelines with that board or am I misunderstanding that?

MR. CLARKE: So I always caveat this with I cannot answer the question yes or no without reviewing everything.
MS. PEREZ-WILHITE: Um-hum.

MR. CLARKE: But I’ll give you -- it’s problematic if the rule requires that an SDVO control the firm and control the board of directors.

MS. PEREZ-WILHITE: Um-hum.

MR. CLARKE: The fact that the SDVO could -- the service-disabled veteran couldn’t hire the person that he wanted to hire --

MS. PEREZ-WILHITE: Um-hum.

MR. CLARKE: -- and apparently couldn’t remove the board of directors --

MS. PEREZ-WILHITE: Um-hum.

MR. CLARKE: -- to hire the -- that’s a problem. It could be that he could remove the board of directors if -- is it a he? You said, "He?"

MS. PEREZ-WILHITE: It’s a he.

MR. CLARKE: Yeah. It could be that he could remove the board of directors if he wanted to and for whatever reason chose not to, that’s not a problem.

What we look at is does -- would he -- would the service-disabled veteran have the power to execute on that decision if the service-disabled veteran wanted to.

The decision not to is -- should be the -- the decision not to remove the board or to challenge the
board should be the service-disabled veteran solely is
how the rule reads. So it’s not that the board has to
do everything that the service-disabled veteran wants.

MS. PEREZ-WILHITE: Right.

MR. CLARKE: It’s that if the board does
something the service-disabled veteran doesn’t like,
the service-disabled veteran can unilaterally, like,
change the board to meet the needs.

MS. PEREZ-WILHITE: Um-hum.

MR. CLARKE: Does that make sense?

MS. PEREZ-WILHITE: Yes.

MR. CLARKE: All right. Next slide. Once
again, more -- we are getting a lot -- like, as you saw
right here, these issues with board of directors come
up a lot.

One of the things that we might end up seeing
after comment period is maybe some examples. In our
rules lately, we’ve been giving more examples.
Sometimes we put them in the preamble, but more likely
this is -- like, this is just generally SBA. We’ve
been putting more examples into our rules for people to
follow, because people have said that they’re helpful.
So given that I had a question here about board of
directors and just based on comments, we might end up
clarifying with some examples.
MR. O’FARRELL: This is Jim O’Farrell. I think if you turn your -- yeah. So do you ever give examples related to S Corp., C Corp., LLC, I think that’s what I see where people have questions too, specifically on the VA verification program?

MR. CLARKE: Can you -- can you clarify exactly what you mean by --

MR. O’FARRELL: Well, how you structure an LLC, versus an S Corp., versus a C Corp. So an S Corp. might require bylaws, an LLC might just require an operating agreement, things like that. And I know from talking to veterans in the community that bylaws become -- can become a sticking point for VA verification and since you’re moving toward a common process and -- and it -- it also begs -- a follow-on question is, so you are working directly with the VA, the CVE Office and those folks to get lessons learned that they’ve learned the hard way over the past many years?

MR. CLARKE: Yes, but to answer all your questions I’ll start with the last question first about working with VA. Yes, we’ve worked with VA closely in developing these rules, learning from what they’ve learned and what they might have been planning to make changes in the future. And we did, we consulted with them throughout the entire process to learn what
they’ve learned.

The second part, the differences between. So you basically have corporations, limited-liability companies and partnerships, and, yeah, we have separate rules for each. In terms of the documentation requirement, you have to be able to demonstrate that you control and meet the requirements.

So if you don’t have a bylaw or an operating agreement governing your entity, it becomes difficult to demonstrate that you meet the requirements. I’m not saying it’s required in every instance, it just becomes more difficult to demonstrate that you meet the requirements.

I’ll give an example. If you go through some -- a lot of cases -- in a lot of states you’re not -- it’s -- there’s very few states that don’t require corporations to have bylaws, most states do. I don’t have a list in my head of all the ones that don’t, but there’s a couple.

And most states don’t require limited liability companies to have operating agreements, but what almost universally all states do have is if you don’t opt to create your own, they give you a default set that you have to follow.

And sometimes if you’re a sole owner or
something, it’s not problematic. But if you’re not a sole owner, those default -- relying on the state of whatever to determine how to run your company is -- it’s likely that you’re going to not meet the requirements of the program, just because the legislatures weren’t taking into account the program when they wrote the default rules.

MR. O’FARRELL: Jim O’Farrell again. Right.

I think one of the areas that I’ve seen a lot of problems with is when you have a board of directors that is mixed between veterans and nonveterans and that there’s the potential there that the nonveterans could create a super majority. So kind of a sidebar, but are -- is that an example that you’ve -- that you would give in the rules?

MR. CLARKE: So, it depends on what comes up. I know the questions come up all the time. Under SBA’s interpretation of the rule and our policy, we do not require that the actual directors, the member of the board all be service-disabled veterans. You can have -- we require that one of them be and it doesn’t have to be the same service-disabled veteran that actually owns the shares.

What we do require is, as the example that was given earlier, if there’s an action that’s before the
board, there has to be mechanisms that the service-disabled vet -- that a service-disabled veteran who owns the majority of the shares has the ability to control the decisions of the board either through actually just all being service-disabled veterans or through the ability to remove and replace directors in a reasonably easy manner type thing.

There are problems though if there’s, like, quorum issues, they’re addressed here. Yeah, but it does raise problems. The more nonservice-disabled veteran board members you have and the more difficult it is to remove them, the more problems that can occur. So the simplest way is to have as -- you know, mostly service-disabled veteran board members, but it’s not a requirement.

MR. ZACCHEA: I’d just like to recognize our chairman emeritus, Mike Phipps.

MR. PHIPPS: Thank you, Mike, I appreciate it. So, Chris, as you were talking through these default set of rules that occur on a state-by-state basis, SBA has liaisons with every state for the default, you know, with every state agency. Is that correct, that SBA interacts with the state agency -- with every state agency, especially with business formation in how the states go through that process?
MS. CARSON: Our district directors are, as a matter --

MR. PHIPPS: District directors.

MS. CARSON: -- of fact, the contact there, but I don’t know if there’s a specific activity that they would be required to do. Chris, perhaps you know more than I.

MR. CLARKE: Well, this isn’t specific to service-disabled veteran companies. This is, like, every limited liability company in a state, always the same rules. So, like, they follow the rules, then they’re usually -- it’s in -- it’s not even in a regulation. It’s usually in a law, so it wouldn’t be interacting with another state agency. It would be -- interacting with another state legislature would be the issue.

MR. PHIPPS: Perfect. So if that’s the case, then it would be really great to see -- this would -- because the SBA has all this resource knowledge in house, when the final rule is passed by default, like California, that set of laws, that’s -- you know, that’s not like we’re dealing with three sets of laws for an LLC for the default setting of State of California.

When this final rule is passed, what list of
states with their default laws to form an LLC are going
to be automatically not eligible as a service-disabled
program, it would be -- it would save veteran-owned
businesses millions of dollars in legal fees just to
say, oh, California’s not -- we’re not going to be in
compliance and maybe a possible solution or if -- we
don’t want to give legal advice from the SBA, and you
can just simply let those companies know that they’re
not going to be in compliance just by the passing of
this rule.

And it’s just -- it would be a huge -- a huge
boost that can be consolidated here, because all the
resources are actually here for those default set of
rules for -- you know, for all states.

MR. CLARKE: So I have -- I’m not an expert on
every state, but I’ll give -- this is -- once again,
like when the question was brought up about comparing,
doing that for veterans would be doing them a
disservice, because the true answer is in every state
the default rule will be eligible for most firms.
Like, they’ll be eligible, because it’s a single owner.
The only time that it comes up is when you get
more complicated ownership and control structures, so
the best advice, if I was giving someone advice and if
you wanted to be eligible for a government contracting
program and its benefits, is to read the regulations and the rules and to craft your operating agreement to comply.

The default rules for the State of Florida will sometimes apply, so we can’t -- we would never be able to say -- like, it’s just such a case-by-case basis that the real truth is every single entity in the country that drafts its own operating agreement has a different operating agreement.

So I can’t say all firms in California are eligible if they meet -- because every firm in -- in California probably has a different operating agreement that needs to be reviewed. So the best advice that I would give to people and that I do give on a regular basis is if -- is write bylaws, write an operating agreement and make sure it complies with our rules.

And that’s what these rules hopefully are going to be providing, more guidance on what are the key issues that we’re looking at and where some issues might come up. That’s why there’s a lot more detail on board of directors, because we knew that was -- an issue for many firms was the control of the board of directors, so we’re hoping that the extra guidance provides help.

MR. PHIPPS: So it seems a lot of this applies
to sole proprietorships where, for example, right now
the way I understood your explanation of this, in
California sole proprietorship, just by the default
settings -- the legal default settings when you form an
entity, you are not eligible, the -- which would be the
current set of guidelines to be a service-disabled,
veteran-owned business.

   MR. CLARKE: No, that is not true. So you
have to -- a sole proprietorship is technically an
unincorporated entity, so the entity that I was talking
about was limited -- it was --

   MR. PHIPPS: Analyses.

   MR. CLARKE: -- it was analyses, it was a
corporation organized under their -- California. If it
was a single-owner corporation under California, it
would have been eligible. In order -- it added a
second minority owner under California law, that
triggers automatic cumulative voting.

   So it’s -- a multi-owner corporation in
California can run into problems and any state that has
mandatory cumulative voting you can run into problems
once you add more than one board, one -- you can have a
single board member, three board members, so it -- none
of -- in no state are you -- is there any rule that
prevents you from being eligible, they give you the
flexibility to structure your business any way you want.

MR. PHIPPS: Are VBOCs going to get specific training to give guidance to small -- to veteran businesses on this issue, because this seems like a perfect VBOC issue?

MS. CARSON: This is Barbara Carson. They will get guidance, but it is not necessarily their expertise, that’s not their role. As we were talking about earlier, transition assistance, feasibility, and being able to refer to the right places to get the information is the role of the VBOC, but absolutely this is a big change in our ecosystem with a lot of impact.

So they’re going to know more about it than they have in the past, but they must go to other resources within the ecosystem, including procurement technical assistance centers, talking with their SBA procurement center representatives, and the small business development centers.

MR. PHIPPS: So it’s great that we’re getting one rule.

MS. CARSON: Yeah.

MR. PHIPPS: Is the office -- is OVBD doing anything to -- is there anything on the agenda to
prepare for once this rule is passed for specific -- I
-- I guess that’s where I’m getting to, is there going
to be some specific guidance, or directives, or
assistance from this office to the business -- to the
veteran business community once this final rule is
passed to help?

    MS. CARSON:  It’s Barb again and we are
supporting, but not the lead.  So we’ll be working with
our Office of Hearing and Appeals, Office of Government
Contracting, Office of General Counsel, and we will
stay obviously in coordination with Department of
Veteran Affairs.

    As you’ll hear later in this presentation, I
believe the rollout date, we’re trying to aim for the
same time so that there isn’t a period of different
rules and that has impact in a few places.  So
absolutely we are developing that plan, we’ve talked
about what it would look like, and the outreach that
should be done, it’s just not ready to present that to
you right here.

    MR. PHIPPS:  Oh, that’s great.  Thanks, Barb.

    MR. ZACCHEA:  Real quick, I just want to make
a comment from the Chair here.  So it’s after 11:00, I
think this is a real important issue, so I’d like to
give it until about 11:15, and then we’d like to ask
Derrick to give his presentation. We’re going to have to truncate you a little bit and we’re going to encroach on the public comment time.

MR. CLARKE: Okay. I’ll keep going. So if you can go to the next slide. So this is another where I pointed out before. We’ve run into issue with super majorities, like SBA has a rule stating there’s problems with super majorities. What this is, is just extra guidance on how we’re -- our policy with regard to how we’re going to evaluate super majority issues.

The next slide. So this is more detail.

Like, we have it -- once again, this comes up a lot where a business is supposed to be licensed to do a certain type of business, and they don’t have that, and nobody at the business has it, but other people have it, it becomes a weird issue with, like, who actually is, like, able to actually do the business of the business.

So what -- what this rule says is it’s something that we’re going to be looking at to determine eligibility, which is if you’re -- if the type of business you’re in requires a license, we’re going to ask to see that you actually have it so you’re able to do the business you claim to be able to do.

So this actually comes up a lot and it’s not
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not. And when you read these, none of these are by themselves, like disqualifying factors, it’s guidance. These are things that we will be looking at, they raise a concern.

So the first one is, and it’s a -- that we’ve seen is you used to work for somebody that’s in -- pick a business, in the same line of business that your new business is in, that’s one factor, like -- and they’re now a minority owner in your firm, that’s one factor. That might not be by itself anything, but it’s something that we’re going to look at when we’re considering.

And then we go to the next one, next slide, and you just kind of add these all up. And none of them are themselves -- they’re not dispositive, they’re just factors that we’re looking at. So we went back to the other one, I’ll just give you, like, an example of -- at the end and we’ll run through all of them.

So the next one. So now you’re kind of seeing what we’re looking at here. So you used to work for somebody who runs a firm; you are basically sitting in the same office that you used to sit in when you worked for them; you don’t actually have any of your own employees, you share receptionists, salespeople, all these other things; you got financing from them to
start the firm; you’re paying them back, those type of
issues is what we’re looking at and what we’re trying
to do is clearly highlight that that’s why we’re
looking at them and that we’re looking at them.

Okay. And then the next one. Earlier we had
the -- we mentioned the license. So, one, we require
that the business have a license, we are going to look.
If someone that isn’t the owner, or the president, or
the service-disabled veteran is the individual that
holds that critical license, that can sometimes be a
problem, because you kind of necessarily have to have
that person around to do your business, so if they walk
away that’s problematic.

It limits your ability to actually control in
some instances, not all. Sometimes they’re just a
regular employee, but sometimes your former employer
you have an office in their office. We look at
everything and that -- this is giving an idea that this
is -- we are looking at everything.

MR. FIELDER: So, Chris, going back to my
experience in government in 2001/2002, those same
series of rules were being applied against service-
disabled veterans. What’s different in the sense that
-- is it just that -- does this mean, if you will,
codified in a policy and -- but these are longstanding,
MR. CLARKE: Yes, the best way I can put it is we were already applying these principles.

MR. FIELDER: Okay.

MR. CLARKE: We had -- we were very general. We said, “Here’s our rules,” and then we applied these principles and we adopted them from 8(a), but we didn’t have them clearly in our rules, and this is really a move to make the policy much more clear on its face what we’re applying.

MR. FIELDER: Okay.

MR. O’FARRELL: Jim O’Farrell. So if you -- if that -- if that entity, the startup entity, let’s call it, that sits in the same office space and there are concerns about affiliation, for example, if that entity forms -- goes -- joins the All Small Mentor Protégé program with that larger firm and forms a JV, does that negate what has been said here?

MR. CLARKE: Without stepping on Derrick’s presentation, but technically they’d both be small. So for just small business contracts we don’t really -- it’s not an issue, but for the individual socioeconomic programs, if that company wanted to bid on a service-disabled veteran contract, the entity claiming to be a
service-disabled veteran company has to actually be one.

So, yeah, they can do mentor protégé, all small, they’re both small businesses. Yes, they’re affiliated, but when we add them together they’re still small. Obviously, they can do that, but they do have to -- when you -- for the socioeconomic set-asides, the entity claiming to be service-disabled veteran would have to be.

And this comes up, you brought up a thing. The issue with that -- there is an issue with affiliation there, but that’s a size issue. What we’re looking at here is not a size issue, it’s a control issue.

So the terms seem similar, but at least, according to our Office of Hearing and Appeals, SBA keeps those two worlds separate when we’re evaluating eligibility. When we’re looking at affiliation criteria, we’re only looking at that to determine if the businesses are small. So that’s the other reason that we put these in those rules is to be clear that you’re evaluating this criteria for your control issues, not for your affiliation issues.

If you want to go to the next slide. This is more of the same examples. If you’re familiar with
8(a), this comes directly from 8(a).

Next slide. Also straight from 8(a). Like I said, when I brought out the -- brought up the proposed rule there and I said we were incorporating language from 8(a), these are the provisions that we’re incorporating from 8(a). We were already applying the policies behind these, but we hadn’t formally put them in our rule and I think it’s better to have them in the rule and so does everybody else. Next slide.

MR. ZACCHEA: Just real -- did somebody on the line say something?

MR. MCADAMS: Oh, my goodness. This is Rich, I’ve got a quick question. We covered ESOP breakdown, I want to make sure I understand that. And as a service-disabled, veteran-owned small business as the ESOP piece grows, as long as -- the remaining part that’s not owned by the ESOP, as long as that remainder is 51 percent or more service-disabled, veteran-owned, according to all the rules we covered, then the company remains service-disabled, veteran-owned, correct?

MR. CLARKE: Not necessarily. The issue with ESOPs --

MR. BROWN: There’s no yes or nos.

MR. CLARKE: -- there are no yes and nos, because everything is structured differently. The
issue that can arise with the way ESOPs are structured, especially if there’s a single -- it depends on how you do the tiers, but the issue that can account -- and this was brought up before with the nonvoting, everything is mixed.

When we brought up before -- like if you convert your ESOP shares into nonvoting shares, but eventually, like, one of the issues with ESOPs is they don’t stop growing, they indefinitely get bigger. So unless you have a mechanism to increase the voting shares of the -- so you have to have another mechanism, because we will -- like, if you read our rules, we consider everything.

So if you’re issuing -- if your terms of your ESOP issue either convertible debt, nonvoting, or voting -- I’m getting really dense here, that’s why I said it’s not easy. The problem -- the best problem is it’s a monster that eats the hole.

Technically, as ESOPs are set up, they grow exponentially with time, but the results are already -- we consider the results that will happen 10 years in the future to already have happened, because you said they were going to happen. So what you’d have to do is -- because you realize that the results in the ESOP are eventually going to happen, you’d have to create a
MR. MCADAMS: Let me ask you this. Let me ask it this way. There is a way to establish the ESOP knowing the requirements of the service-disabled, veteran-owned policy program so that you can stay compliant and stay service-disabled, veteran-owned small business while enjoying the benefits of an ESOP and your employees enjoying the benefits of an ESOP if it’s structured, correct?

MR. CLARKE: Yes, 100 percent. There’s nothing preventing you from having an ESOP and being eligible for the program. It’s not as simple as a normal one, just because, like, ESOPs aren’t simple, but it’s -- there’s nothing preventing from a company with an ESOP shareholder from participating in the program. It does have to be structured specifically for the program though.

MR. MCADAMS: Okay. Thank you.

MR. CLARKE: Here we’re adding something, this is more to the guidance. This does not come from 8(a), but it comes from just something that we’re already applying. It’s like a policy, but without clear guidance, there’s a couple of them here. So what we’re
saying here is that normal business hours, so if someone says they control a firm, but they don’t ever work when the firm is operating, but someone else does, type thing.

So there’s usually a presumption that whoever’s at the office all day is actually controlling the firm, just generally, that’s just a presumption, but it’s a presumption that a service-disabled veteran can -- it’s not a yes or no. Very few things are yes or no, it’s a rebuttable presumption.

And this is just giving the community the awareness that we’re basically already applying this principal, because it’s a basic, common-sense principal that if there’s someone at a firm that everyone looks to for answers on a daily basis, we’re going to assume that that person controls. And if that person isn’t a service-disabled veteran, we’re going to have issues with control.

So that’s what this one is meant to address, is that issue, and to provide basically public notice that this is the policy that SBA thinks is the best approach.

MS. PEREZ-WILHITE: Can you still have that presumption -- this is Fran, by the way. Can you still have that presumption even though a lot of businesses
work remotely now?

MR. CLARKE: It’s a rebuttable presumption. So the presumption is, yeah, you don’t, then you -- you’d provide a written statement saying -- which is under -- like, is if you lie to us then, it’s a false statement to the government, it’s a crime. So we assume if you write it to us and tell it to us, we just believe you, because you should be telling us the truth.

You tell us your business is circumstances, which is nobody -- but, yes, I work remotely, this is what I do, I travel to all my sites, it’s a -- it -- you know, it’s a countrywide business and I travel around, that’s a very standard, common business practice and there’s nothing wrong with that.

The only thing is, a lot of times that’s the case. And I’ll be honest, people get upset when we ask the question. So now what we’re going to do is we’re saying this is why we’re asking the question. We don’t have a specific concern about your firm, we just have a specific concern about this issue and we’re collecting a piece of paper from you demonstrating that there’s no problem.

Next one. This is the same question, it comes up all the time, which is you get a contract, it’s in
San Diego, and you are in, like, New York, and someone files a protest or something saying how can they do that, and then we ask, and it’s the same thing.

The presumption is that whoever’s closest to the site where work is being done is controlling it on a day-to-day basis, that’s just a presumption. It’s a rebuttable presumption that’s -- if you’re actually doing work and controlling the firm is easily rebuttable, we believe, and it’s something that we see common, and it’s, once again, just laying out and -- you know, what our policy is.

Next one. A really long time ago at the very beginning of this I had a definition from extraordinary circumstances. This is where that definition comes into play, which is an exception where we will now find that lack of control exists where the service-disabled veteran doesn’t have unilateral power to exercise control in extraordinary circumstances and we listed them out.

That’s like if you’re putting the company into bankruptcy, you’re selling all the company, or stuff like that, the enumerated list of extraordinary circumstances, there’s an exception that multiple owners might be required to execute those extraordinary circumstances. Technically, it’s a policy that we are
favorable towards already in some -- it’s not been
clear what SBA’s position on this issue has been, we’re
trying to make that clear here, and it’s a limited
exception to begin with.
I think is -- next, that might be the last.
The last one is -- I don’t think VA had an exception
for this either before.

MS. TORRES:  No, we wanted to add it.
MR. CLARKE:  And so we -- both programs wanted
to add this exception.  So this is an exception for
reservists, if they’re called to duty that it doesn’t
affect their control negatively.

MS. CARSON:  I have a clarification question,
this is Barb, that to -- and we may have to just do
this internally, but make sure that there are words --
if they were meant to include the Guard, include
National Guard, rather than just the Reserve components
of the active duty forces.  It’s something we can
followup on.

MR. CLARKE:  Yeah, let’s -- and we’ve -- I’m
not going to guarantee that we’re going to get a
comment on that, but we’ll probably either get a
comment or can address it, but at least from SBA’s
point of view the intent was to cover everybody that
was called to service --
MS. CARSON: Um-hum.

MR. CLARKE: -- regardless of the branch of the military or National Guard. Next. That’s just more on that. And then the next one I think we’ve done.

MR. BROWN: Yeah.

MR. CLARKE: That’s it.

MR. FIELDER: Thank you, Chris. Ed Fielder.

(Microphone feedback.)

MR. FIELDER: Somebody else’s fault.

MR. CLARKE: This is still on.

MR. FIELDER: Thank you very much.

MR. CLARKE: Sorry about that.

MR. FIELDER: At the risk of going down the rabbit hole that’s right next to the one that I took you down just about 15 minutes ago, if I was to stack up -- and I love what you’re doing here. I may sound overly critical, but putting structure and putting rules out there that we can all look at, understand, grasp, build our organizations around them, rather than have them kind of come up on us and sneak up on us, this is great work, Chris.

And so the Vet First program, some people over at the VA call it the platinum certification program. If I was to stack up this, I see similarities there,
too. And, again, I don’t want to go down that rabbit hole that’s right next to the line I took you down the last time, are they copestic and so if a company complies with all of these, would we therefore be complying with all of the Vet First certification requirements?

MR. CLARKE: The Vet First requirements are going away and being replaced by these. And so if the question is -- if you’re currently in the veteran -- Vet First program, do you comply with the new regulations is a question that’s going to come up. It’s SBA’s -- and I don’t like to speak for VA, but we did discuss, we think most firms that are already eligible for both programs will remain eligible under these new regulations.

And then if the question is are these going -- are these new regulations similar or the same as VA’s old regulations, they’re similar, they’re very similar. If anything, what we think they’re doing is just highlighting and providing more guidance, not making major changes to the underlying eligibility.

And, yes, the VA’s old ownership-and-control regulations are going away. And Barb mentioned it earlier, the goal is for theirs to go away and the joints to go up at the same time. I’ll defer to --
MR. FIELDER: And you’re saying that you have agreement on that with the VA?

MS. TORRES: This is VA.

MR. FIELDER: Oh. Hello, VA.

MS. TORRES: Hi. Yes, what -- we actually have published a proposed rule --

MR. ZACCHEA: Oh.

MS. TORRES: -- at the same time.

MR. ZACCHEA: Could you identify yourself, please?

MS. TORRES: Oh, this is -- I’m Beth Torres from VA and we have published a proposed rule on January 10th. Our comment period closes March 12th, Monday. We have removed the ownership-and-control portions of our regulations. What is currently in part 74.3 and 74.4 are being replaced by a direction of saying, you know, see the SBA regulation on ownership and control.

However, all the other ancillary things around verification about how the process works, where to go for appeals, and how long you can be, and who you have to notify, and things like that, those -- that is included in the new version of 38 CFR part 74, so the -- we just have removed the ownership and control and we’ve basically said anything that applies to the
SDVOSB ownership-and-control portions from the SBA regulation we also apply to veteran-owned businesses that are not service-disabled.

MR. FIELDER: Thank you. I can only speak for myself, but that’s refreshing to hear that.

MR. CLARKE: Okay. So if there are no other question, then I’m done. Thank you. Once again, thank you very much, I was very happy to have presented here.

MR. ZACCHEA: Thank you, Chris. That was great and I hope to be able to continue to engage with you on this, it’s a really important issue. Next up we have Derrick from the protégé program.

MR. BROWN: Good morning. My name is Derrick, Derrick Brown, I’m just going to give you a quick update on the Mentor Protégé program.

Next slide. All right. We have 451 approved mentor protégé agreements in our portfolio, our average turnaround for review and approval is -- the average is about 10 days. Really, eight to 10 days. We have 102 All Small B clients -- application B clients and they’re soft B clients. Basically it’s because -- I mean, if we decline you, it’s because you haven’t sent in any information that we requested and to keep our processing times within 10 days we have to make that decline, we have to make a decision on it.
The lessons learned since the inception of our program is we continue to work with federal agencies partners to increase the awareness of our program, work to enhance program evaluation and annual evaluation report process. That’s starting up now, because a lot of firms -- I mean, whether -- early part of the firms are starting to approach toward the year of being in our program, so we now are asking them to report to us the successes so far in the program.

Opportunities in our program, we’re working to enhance customer experience, and we do provide a protégé community of practice, and we are developing additional joint venture resources for firms. We will have a joint venture template up on our website soon and, excuse me, we’re working on facilities security clearances for firms, particularly when they joint venture. Next slide.

MR. O’FARRELL: Jim O’Farrell. Just a quick question for you, Derrick. What is the percentage of the SDVOSBs? I see the 38 percent, what is the percentage of those that have JV agreements in place now?

MR. BROWN: That’s a good question. Well, we -- I -- now, that number I can get for you. We haven’t pulled that number out, but they are starting to -- the
joint ventures they have to report once they set up
their joint venture. So they’re starting before, but I
can get that number for you --

MR. O’FARRELL: Okay.

MR. BROWN: -- so I can give an exact number.

Right now I know that 38 percent of all of the firms in
our portfolio consist of SDVOBs, which is about 171 of
them for our 51 -- 451 accounts, but it’s been --
SDVOBs have -- ever since we started they’ve always
commanded a large percentage, which is a great thing.

What I will suggest and I -- as I stated and I
stated before is that before you get into this program
you need to date your mentor a little better. We are
having some people who are -- well, they got into this
dating thing, and they got married, and realized the
marriage is not working out the way that they need it
to work out, you know, and really it’s for the
betterment of their business. So if you tried to
increase longevity and profitability, then I would
probably date my mentor a little more. And that’s it,
that’s just my quick update.

MR. O’FARRELL: Another quick question. This
is Jim O’Farrell again. So if -- if you have an
existing joint venture agreement that’s not -- and
you’re not part of the All Small Mentor Protégé
program, is it possible to take that existing JV and --
and back it into the All Small Mentor Protégé?
If you go through the All Small Mentor Protégé
application process and you’re accepted with that
mentor, is it possible to then put that JV agreement in
place?

MR. BROWN: Well, no, you need to become --
you need to -- first of all, we have to look at your
mentor protégé agreement, so the answer to your
question is no. Based on what you’re telling me, no,
we need to look at the relationship and look at your
mentor protégé agreement, what you’re planning to do.
And then after you’re approved in the program, then you
can form your JV, you know, and then the JV, you know,
then you can do business with the JV.

MR. O’FARRELL: Okay. You’re saying you’d
need to look at the mentor protégé agreement, but there
-- it would -- there isn’t a mentor protégé agreement,
there’s a JV agreement. In other words, the JV is
untethered to any mentor protégé program. You’re going
to enter the All Small Mentor Protégé program, so
that’s going to be GSA’s mentor protégé agreement, so
to speak. You see what I’m saying, there’s a JV
agreement already in existence.

MR. CLARKE: Can I answer that?
MR. BROWN: Yes, you can.

MR. O’FARRELL: I was wondering if he might have something to say about that --

MR. BROWN: Right.

MR. O’FARRELL: -- given our --

MR. CLARKE: Okay. This is going to, like, go really well with everything else I said, not necessarily, but almost --

MR. O’FARRELL: -- yeah.

MR. CLARKE: -- the real answer is almost no. It’s actually a really -- it’s a -- I don’t like to give advice all the time, but the advice is it’s a really bad idea if you’re planning to enter into a mentor protégé with somebody.

The issue is, the joint venture agreement. If you’re drafting it, there are specific requirements for the mentor protégé program that have to be in the joint venture agreement. So the likelihood that you drafted a joint venture agreement before being in the mentor protégé program that’s compliant with the mentor protégé program is really small, unless you did it on purpose before, but there -- it’s unlikely that the one that you drafted prior to being in the program’s going to be complaint with the one you need while you’re in the program.
MR. O’FARRELL: Right, so we all know the -- so if you -- just for a second. It’s -- we all know the -- there are administrative burdens on the small business as they -- and the large for that -- that matter to put a JV agreement in place, the tax is -- and registration, and sam.gov, and get a tax ID number, and all of that. So if you put that together, and then -- and the All Small Mentor Protégé program was not in existence at the time, and you’ve not used up your three contracts, you could be awarded under that JV agreement.

I know there are a lot of -- and you’re going to come back and say it -- it depends, but if you’ve gone through that process of putting that JV agreement in place, you could then, because it’s the All Small Mentor Protégé program.

Step one is to go through the mentor protégé application process. If you went through that process and then you decided to attach that existing joint venture to the mentor -- the All Small Mentor Protégé program, you could conceivably modify that JV agreement to be in compliance rather than start all over going through the -- forming a joint venture.

MR. CLARKE: That is -- so the advice that I’ve given on this exact question is exactly one you
just said, which is modifying the already-existing agreement.

MR. O’FARRELL: I got it, thanks.

MR. CLARKE: So you do -- you will have to do something --

MR. O’FARRELL: Right.

MR. CLARKE: -- to the agreement. One of the issues that people -- so just --

(Applause.)

MR. O’FARRELL: Yeah, clap.

MR. CLARKE: -- I’m going to give you, like, just another little piece of advice that people have run into is the structure of the modification. I don’t know if it’s a formal recommendation of SBA yet, but a recommendation that I have is to make the modification as an addendum, because you’re already performing contracts under the previous agreement that you provided to the government and said you were going to perform in this manner.

So you might -- like, you run into problems when you modify an agreement in the middle of a contract with the government, so -- but an addendum where you address those -- basically, an addendum specifically addressing the mentor protégé is probably a nice way to modify it, rather than restructuring and
redoing the entire agreement.

MR. O’FARRELL: Thanks very much.

MR. FIELDER: Derrick, Eddie Fielder. Flip back to the slide with the -- with the bar graph on it, please. I think I know the answer to this, but I’d like to hear some dialogue around how that’s working. If you add that up, it’s 160 percent.

And so I’m assuming that there are companies that are applying under two categories, or even three, or four categories, and so that’s always an issue to me. And so when I was with government, I used to call those double, triple word scores in the sense of the Scrabble game. And you become much more attractive to an agency that’s looking at goaling, because now you’re -- now you’re being able to count, we’re still able to -- tell me this, Chris, are we still able to count in more than one category, yeah, exactly?

MR. CLARKE: Yes, though -- just so it’s recorded, yep.

MR. FIELDER: Okay. Good. And so tell me how that’s going, Derrick, in the sense of how the application occurs when someone’s coming in for a double certification, or a triple certification, and I think every once in a while probably a quadruple certification.
MR. BROWN: Yeah.

MR. FIELDER: A woman-owned, HUBZone, service-disabled vet, minority.

MR. BROWN: Yes, sir. Thanks for that question. Yeah, we have firms coming in. The process, as far as how we evaluate the firm, is still the same, we’re going to evaluate the firm, evaluate the MPA agreement, but we look -- we have firms that come in, the 8(a), HUBZone, SDVOBs, we have some that’s WOSBs, EDWOSBs, so we make sure that we identify each category that they’re identifying themselves as. So -- but still when you break it, out however you want to break it out, SDVOBs still lead the pack.

MR. FIELDER: Okay. So when you count up from the second page, 451 approved mentor protégé agreements?

MR. BROWN: Right.

MR. FIELDER: Are you double counting when you do that or are you only counting that -- that firm, and so --

MR. BROWN: Well --

MR. FIELDER: -- one time?

MR. BROWN: -- we’re only counting that firm one time, that’s all we’re doing. We’re only counting the firm one time, but that firm -- that one firm could
have -- could be an 8(a), a VOB, an SDVOB.

MR. FIELDER: So you guys have been at this
for less than a year?

MR. BROWN: And I -- we started October 1st,
2017 -- I mean, 2016. I’m sorry.

MR. FIELDER: ’16?

MR. BROWN: ’16.

MR. FIELDER: So a little bit more than a
year. So 18 months?

MR. BROWN: Yes, sir.

MR. FIELDER: And 451 approved?

MR. BROWN: Yes, sir.

MR. FIELDER: And those 451 without counting
doubles and triples?

MR. BROWN: That’s right.

MR. FIELDER: That’s amazing --

MR. BROWN: Yes.

MR. FIELDER: -- guys. And when you compare
that to the Vet First program and how that thing
sputtered for eight, 10, 12 years, great job.

MR. BROWN: Thank you.

MR. LOWDER: Derrick, Lynn Lowder from One Vet
at a Time. I’m right where Ed’s at, I -- the thing
that caught my eye probably more than anything you’ve
talked about on what the average of 10-days turn around
MR. BROWN: Yes, sir.

MR. LOWDER: That’s kind of astonishing.

MR. BROWN: Thank you. What -- the reason why we are able to keep that is because of declines. And don’t look at declines as a bad thing, we’re looking at the declines in this sense as get your -- can you get your stuff in for us so we can make a determination, but we do decline -- like, if -- we’ll give you 10 days.

Like, if I’m asking for you to send in your business plan, because some business plans -- we need to see the projections and financials in your business plan and sometimes agencies are sending those projections -- I mean, sending business plans, but they don’t have the projections.

So let’s say I go out and I request that from you, but you don’t send it in, I have to make the determination within that 10 days so that we can get that -- keep that processing time where we are.

MR. LOWDER: A followup question for you. We’re in the business around here trying to get veterans in business, do you need more work?

MR. BROWN: Oh, yeah. Yeah, I love -- I -- we love to have the work, yes, sir, as far as doing what
we do, because this program is -- it’s an excellent program and I think veterans need to take advantage of it.

MR. LOWDER: That’s where I’m getting at. I mean, it is. I think everybody believes it’s a good program, your turnaround time is wonderful. What can we do to get more people into your program?

MR. BROWN: If you could just market our program. And really -- we never really had a -- we really had a -- a soft launch. We didn’t really just push it --

MR. LOWDER: Right.

MR. BROWN: -- out there --

MR. LOWDER: Right.

MR. BROWN: -- because --

MR. LOWDER: Right.

MR. BROWN: -- we had some things that we were trying, some processes that we -- you’ve got to understand this is a program -- something that I tell everybody, a lot of people can work for SBA for a while, but this is a very -- I mean, I can say that I helped upstart a new program, which is amazing.

So we had a soft launch, you know, we kind of got out there, and now it’s starting to build. And what we do is we met with other agencies, so that we
can market our program, and it’s actually phenomenal.

MR. LOWDER: You know, I raised three kids.

I’m a big believer in training wheels, it teaches them

to ride a bike.

MR. BROWN: Yes.

MR. LOWDER: This is business on training
wheels. I -- and veterans, you know, we’re taught --
Marine Corp, especially, you know, before we learn
how to do something we talk to an NCO, someone who’s
been around, shows us what to do, tells us how to do
it, has some suggestions, so I’m a big believer in
this. You know, I just think it’s a wonderful
approach philosophically. Especially for veterans,
we get this kind of thing.

MR. BROWN: Yes.

MR. LOWDER: The more people we can get
involved in here, the more we can get the word out. I
think it would be great and I’m all -- I actually --
obviously have big ears, so I am all ears when it comes
to this. I’d like -- I’d be very curious as to how we
can get more veterans into this, that’s -- we’re just
tweaked that way.

MR. BROWN: Yes, sir.

MR. O’FARRELL: Jim O’Farrell, so following up
to Ed’s question before and some of the comments Lynn
1 has made. So in terms of being outcome based, do you
2 have any metrics yet on how many of the 451 MP
3 agreements have results in contracts and what’s the
4 dollar amount of those awarded contracts are --
5     MR. BROWN: That’s a --
6     MR. O’FARRELL: -- supposed to be?
7     MR. BROWN: That’s a good question. General
8 O’Farrell?
9     MR. O’FARRELL: Jim.
10     MR. BROWN: Jim. Jim. Okay. I thought you
11 were a general, I’m sorry. We’re right now getting
12 that information for you, because we’re at a point
13 where a lot of our firms are starting to report back on
14 our annual evaluation, so we should be able to get you
15 some metrics roughly around June 1st, that time.
16     MR. O’FARRELL: So we’d love to have you come
17 back. I think Mike Zacchea, our Chairman, would be
18 glad to invite you through Barb to come back and give
19 that. And as a quick followup, I would also highly
20 recommend that for that VA Small Business Conference
21 that they have each year that you plan to attend that.
22     MR. BROWN: Um-hum.
23     MR. O’FARRELL: I’m sure they would want to
24 have you there and have a couple of your kind of rock
25 stars of the mentor protégé program who have won
contracts, who’s learned lessons, come in and share
their perspective on being part of the program.

MR. BROWN: Yes, sir.

MR. FIELDER: Eddie Fielder again. Lynn sort
of leaned in on this and you responded, the -- about
your soft start and we understood why you did that.
And now that you’ve kind of gone beyond that soft start
and have significant numbers having measurable metrics
at the other end, as Jim has alluded, is -- is -- is --
is critical, but when -- what can we do, is what Lynn
said, and you said, “Marketing, help us market.”

MR. BROWN: Um-hum.

MR. FIELDER: The biggest marketing tool that
you will have is to be able to tell the success stories
within those 451.

AUDIENCE: Amen.

MR. FIELDER: And I -- I can’t remember if it
was Jim or Lynn said be at the VA conference --

MR. BROWN: Um-hum.

MR. FIELDER: -- be a speaker, and have two,
or three, or five, I don’t care, people standing there
ready to do two, or three, to five minutes of, and this
is what it meant to me, and we’ve already got our first
contract, or we’ve got our second contract, and because
of the resources that my protégé -- my mentor partner
brought to me, I was able to grow my business in a way
that I could not resource or grow in the past either
due to lack of experience, or qualifications, or lack
of money resources. And you get a couple of those
success stories coming out in the VA conference, then
your marketing is there, Derrick.

    MR. BROWN: Yes.

    MR. O’FARRELL: And I would follow on also
that, it’s not just -- you’re not just appealing to the
small business, the veteran-owned small business, but
actually the large business, and they’re -- as you
know, I’m telling you stuff you know, but they need to
be -- they need to see there’s something to whiff --
you know, what’s in it for me kind of thing.

    MR. BROWN: Right.

    MS. PEREZ-WILHITE: Getting a little too much
detail here probably, but when you know -- when you go
to that conference, you’re only allowed to sign up for
sessions that are based in your NAICS code. I would
hope that your session is open to everyone that attends
the conference.

    MR. BROWN: Okay.

    MS. PEREZ-WILHITE: You have to sign up ahead
of time for these sessions --

    MR. BROWN: Yes.
MS. PEREZ-WILHITE: -- based on NAICS codes. There should not be any NAICS codes assigned to your presentation.

MR. O’FARRELL: Right, because it’s kind of all encompassing.

MS. PEREZ-WILHITE: And it should be all-size companies, too.

MR. ZACCHEA: Mike Zacchea, Derrick. So there are a lot of these veteran business conferences around the country regionally. Potentially we could, you know, fill up your dance card for an entire year, obviously, but there’s a lot of tremendous opportunities out of reach --

MR. BROWN: Yes.

MR. ZACCHEA: -- is the takeaway there.

MR. BROWN: Yes, sir.

MR. ZACCHEA: So thank you. It is very, very impressive. Barb has something she’d like to add.

MS. CARSON: One more measurement, because I know this is important to the Board and we discussed it yesterday, the Interagency Task Force. As you get these one-year evaluations, if you could tell the Board at the next meeting what kind of assistance are the proteges seeking when they make those agreements.

MR. BROWN: Um-hum.
MS. CARSON: And then what are you seeing in their one-year report about whether they received that support, and what the compliance aspect is, and that might be the -- too-strong a word, but what do we -- what does SBA say about that?

MR. BROWN: Okay.

MR. MCADAMS: Derrick, Rich McAdams.

MR. BROWN: Yes.

MR. MCADAMS: Question for you and this is a little out of your lane, but I’m just curious if you happen to know, have the data, do you know how many -- of those 38 percent, how many actually form JV have you heard is a success for contract wins by JVs, because I think Jim O’Farrell alluded to it, that’s where -- the rubber meets road is where -- what’s going to drive the path to the program.

MR. BROWN: Sir, I can get those numbers for you, but right -- what I can research those numbers for you. Right now we are pulling those numbers as far as the JVs -- the percentage of JVs formed out of the SDVOBs. So if you would -- if you could e-mail the All Small MPP at sba.gov I can followup with you on that.

MR. MCADAMS: Okay. I sure will. Thank you.

MR. BROWN: Yes, sir.

MR. FIELDER: Derrick, Eddie Fielder again.
I’ve been working this part of the -- in the sense of matching small and large businesses through the 8(a) mentor protégé program for years and had some -- few success. There was a requirement in this and I’m just asking, did it go away, is it still there?

But as I remember, there was an annual review that literally questioned the protégé in the sense that the agreement -- there generally are -- it’s boilerplated and there generally were five or six things that the mentor needed.

And then the second part of the agreement would be those five or six things the protege’s saying -- excuse me, the -- that the protégé needed, and then the mentor would then sign off that these five or six things that they were willing to provide, and it was typically marketing, qualifications, and experience, money resources, lending resources, and they would be, like, four or five of those, and -- but they would be checked, I want to say, on an annual basis.

And so those of us that were working that in the sense of making that work for large and small businesses in a very altruistic way we always were excited about the 8(a) program, because it has substance and teeth.

And frankly we’re always discouraged about the
individual agency programs that worked outside of the 8(a) program that had no substance or teeth to make sure that there was a -- if you will, a rigor to the process to make sure that whatever the protégé was requesting and the mentor was saying they were going to provide was, in fact, validated on a periodic basis and there’s a question.

MR. BROWN: All right. Yeah, what you’re speaking is, is the areas of assistance --

MR. FIELDER: Um-hum.

MR. BROWN: -- provided?

MR. FIELDER: Yeah.

MR. BROWN: All right. Which there are six areas, management and technical assistance --

MR. FIELDER: Okay.

MR. BROWN: -- financial assistance, contracting assistance. We call it trade education, which is international trade, if you want to do business overseas.

MR. FIELDER: Um-hum.

MR. BROWN: General and -- and/or administrative assistance in business development.

Now, we -- like I said, when they -- it’s a form that’s already on our website where you have to pull down and you have to do your annual review, the mentor has to
report as well as the protégé.

And then what they’re doing is they’re taking the qualitative information and pulling that, as well as the quantitative information. And by June we should have some information for you, but what we’re doing is looking at whether or not -- from the qualitative side, whether or not they state that they are going to provide management -- let’s just say for example management and training assistance --

MR. FIELDER: Um-hum.

MR. BROWN: -- and what they say. If they’re going to do X, Y, and Z, then we look at what their report based on that year. Now, we have some firms -- I can say we have a particular one firm which I did where they’ve already met their goals in the mentor protégé agreement for that year, so they have to turn around and basically adjust their mentor protégé agreement so that they can add more goals to help develop --

MR. FIELDER: Okay.

MR. BROWN: -- the company.

MR. FIELDER: Good. So the rigor’s still there?

MR. BROWN: Right.

MR. LOWDER: One last question, Derrick. Is
there an eHarmony.com out there for mentor proteges so
somebody can say, I’m looking for this or I’m looking
for that?
MR. BROWN: Currently we’re not a matchmaking
program.
MR. LOWDER: Right.
MR. BROWN: But, you know, we -- I just want
to say it this way. We’re not a matching program, but
we have had so many questions on it --
MR. LOWDER: Right.
MR. BROWN: -- and people requesting it, that
we have, you know, kind of thought about it, thrown it
out a little bit, maybe putting them in the same room
together type of thing, but don’t hold me to it just
yet.
MR. LOWDER: No. No, I’m just --
MR. BROWN: Okay.
MR. LOWDER: -- I’m just thinking about that.
It’s all about the art of the possible and we get the
word out there to the veteran community, hey, there’s a
way that maybe you could get rolling. And if I’m a
good Marine corporal, I’m going to go, where are they?
MR. BROWN: Right.
MR. LOWDER: Where can I find one of those
guys, you know.
MR. BROWN: Yes, sir.

MR. LOWDER: Just a thought.

MR. FIELDER: Derrick, Eddie Fielder.

Historically some of the agencies, GSA is one of them, Interior’s another, have hosted conferences, small business conferences, where SBA has been a participating partner and the more significant ones -- once they get through the small business 101 generic training, whatever, the more significant conferences will spend at least an -- if it’s a one-day conference, at least an afternoon of four hours where they invite large businesses to then host in different-room situations.

MR. LOWDER: Um-hum.

MR. FIELDER: And they call it matchmaking.

MR. LOWDER: Excellent.

MR. FIELDER: And so I would encourage you, if you’ve not dipped into that and been part of that, check out the small business utilization unit at GSA. They’re doing it in a very large way and 50 percent of their conferences are set aside for time to be matchmaking sessions between large and small just for these reasons.

MR. LOWDER: And Lynn Lowder. Can you go -- come back -- so what departments are invested in this
MR. FIELDER: I know DOD’s doing it, I know Interior’s doing it. And some of my information may be dated, but I -- if you’re looking for a prototype to find out how it’s being done, check out the GSA’s Small Business Utilization Office and their particular page on gsa.gov.

And it sounds like I’m doing an advertisement for GSA, but that happens to be where I was the chief of staff and I know their program more than --

MR. LOWDER: Sure.

MR. FIELDER: -- I know the others. But I do know that every time we hosted a major conference, and they would be 2,000, 3,000 sometimes, the other agencies that were in that location were more than willing participants, they wanted to be part of it.

MR. ZACCHEA: Thank you. This -- so this is Mike Zacchea. The time on deck I have is 11:52 and I’d like to open it up for public comment if anybody -- the audience would like to come up to the microphone. Please state your name and I need you to have your sign.

(No response.)

MR. ZACCHEA: Okay. Well, I’m going to take silence as nobody has anything to offer. So great
presentation, great, great conversation here. I think really, really created a lot value and especially the -- the programs from the presentation we had from Natalie, and Chris, and Derrick really was very, very impressive.

So that’s that. And I want to thank everybody for your attendance at the meeting and I’m going to turn it over to Barb.

MS. CARSON: Thank you, and congratulations again, and thank you for your service. Welcome to our new members and a farewell to those who have served us in the past.

I will remind you that our next meeting of the advisory committee on veteran business affairs is on Thursday, June 7th. And thank you very much, that concludes this meeting.

(Whereupon, at 11:53 a.m. the meeting was adjourned.)
CERTIFICATE OF REPORTER

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