



Normal Business Hours

Issue:

This brief explains the rebuttable presumption in cases where the Veteran does not work normal business hours.

(For purposes of this brief, the regulations when referring to Service-Disabled Veterans applies equally to Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulations:

13 CFR § 125.13(k) provides:

Normal business hours. There is a rebuttable presumption that a service-disabled veteran does not control the firm when the service-disabled veteran is not able to work for the firm during the normal working hours that businesses in that industry normally work. This may include, but is not limited to, other full-time or part-time employment, being a full-time or part-time student, or any other activity or obligation that prevents the service-disabled veteran from actively working for the firm during normal business operating hours.

What This Means:

- If a Veteran is not working during normal business hours and/or has outside employment, it will be presumed that the Veteran is not controlling the firm and the firm is being managed by another.
- This is not a full-time devotion requirement as was required under prior regulation.
- This regulation creates a rebuttable presumption that persons not working during normal working hours do not control the firm.

- If there is a question as to whether the Veteran, upon whom control is predicated, may not be working normal business hours, the presumption is triggered, and the applicant is required to come forward with evidence that the Veteran actually controls the firm.
- In evaluating this requirement, the following information is needed:
 1. **Applicant's operating hours** (e.g., M-F, 8 a.m.-5 p.m.)
 - Obtained from the applicant or public research
 2. **Veteran's schedule for the applicant** (e.g., M-F, 8 a.m.-5 p.m.)
 - Obtained from the applicant
 3. **Industry standard normal working hours** for firms in the same or similar line of business
 - Assumed to be 8 a.m.-4 p.m. or 9 a.m.-5 p.m. unless public research reveals otherwise.

In conducting its examination, the Center for Verification and Evaluation (CVE) may request the following information:

- Resumes
- E-mail/phone logs showing active and regular business engagement during the applicant's hours of operation
- Client interaction records showing active and regular business engagement during the applicant's hours of operation

- A job description indicating that flexibility to conduct personal matters while “on the clock” is allowed
- Letter(s) from other employer(s) outlining job flexibility and work schedule

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**VA Office of Small and Disadvantaged
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