



Understanding Verification Requirements for Applicants Owned Through Trusts

Issue:

This brief explains how an applicant can be eligible for verification if a Veteran owns the concern through a trust.

(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 § 125.11 provides:

Veteran owned small business concern means a small business concern:

(1) Not less than 51 percent of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans. All of the provisions of subpart B of this part apply for purposes of determining ownership and control.

13 CFR § 125.12(a) provides “[o]wnership by one or more service disabled veterans must be direct ownership. A concern owned principally by another business entity that is in turn owned and controlled by one or more service-disabled veterans does not meet this requirement. Ownership by a trust, such as a living trust, may be treated as the functional equivalent of ownership by service-disabled veterans where

the trust is revocable, and service-disabled veterans are the grantors, trustees, and the current beneficiaries of the trust.”

What This Means:

- Subpart B as referred to in 13 CFR § 125.11 is saying that anywhere in the regulations where the term Service-Disabled Veteran is used, it is equally applicable to Veterans for purposes of determining eligibility.
- In order for one or more Veteran(s) who own a firm or a portion of a firm through a trust, to qualify for the Veterans First Contracting Program the trust must meet certain legal requirements: (1) the trust must be revocable; and (2) the Veteran/Service-Disabled Veteran(s) must be the grantor(s), trustee(s), and the current beneficiary(ies) of the trust.
- Documentation must be provided which makes it clear that all of these requirements have been met. If ownership is based on a trust, the trust agreement must be provided.
- Because the trust must be revocable, the Veteran(s) must be able to cancel the trust at any time. In addition, Veterans must be the grantors, trustees, and the current beneficiaries of the trust.
- Under prior regulation, it was not required that all trustee(s) be Veterans. However, that is no longer the case. Under 13 CFR § 125.12(a), all trustee must be Veterans.

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For more information about VA Small and Veteran Business Programs, visit
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VA Office of Small and Disadvantaged Business Utilization

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