

Full Time Control

Issue: Must I work full-time for the applicant firm? Can I hold outside employment?

The Regulations

38 CFR § 74.4

- (c)(1) An applicant or participant must be controlled by one or more veterans or service-disabled veterans who possess requisite management capabilities. Owners need not work full-time but must show sustained and significant time invested in the business. An owner engaged in employment or management outside the applicant concern must submit a written statement supplemental to the application which demonstrates that such activities will not have a significant impact on the owner's ability to manage and control the applicant concern.
- (c)(3) One or more veterans or service-disabled veteran owners who manage the applicant or participant must devote full-time to the business during the normal working hours of firms in the same or similar line of business.

What This Means

- While other outside employment is not necessarily a bar to establishing control of the applicant, the applicant must demonstrate that a Veteran owner's employment in another business will not interfere with his/her control of the applicant business, per 38 CFR § 74.4(c)(1). The applicant must provide a written statement clearly demonstrating how the other employment does not impact the ability to manage and control the applicant company. It is important to note that the burden of proof lies with the applicant and the ability to control the applicant firm while employed by another entity will not be presumed.
- The Government Accountability Office has flagged this issue, and it issued a report which found that a Veteran cannot control a business when he concurrently has a separate full-time job which operates during the same normal business hours as the applicant firm. See U.S. Gov't Accountability Office, *Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts*, GAO-10-108 (Oct. 2009). This example often results in a denial because of the high standard for control by the Veteran owner required by the Vet First program. , The Veteran must provide CVE with a written explanation as to how this outside employment does not affect his/her ability to control the applicant. This statement should be extremely detailed providing examples of how the Veteran is able to show responsibility without delegating material elements of control. Failure to provide any explanation will result in denial.
- The determination as to whether outside employment will bar inclusion in VIP based upon lack of control is decided on a case-by-case basis, evaluating the particular facts and circumstances presented.
- One common example that will prohibit an applicant from receiving verified status: if the Veteran lists on his/her résumé that he/she currently holds a position other than that in the applicant, and the Veteran has not provided a written explanation to CVE regarding this employment.

Excerpts from Current Denial Letters

“During the site visit and document review, it was determined that you are engaged in a number of other businesses. You were asked to provide a statement which demonstrates that your other business activities do not have a significant impact on your ability to manage and control the applicant concern. Since you have not provided this statement along with other requested documentation, CVE cannot conclude that you “show sustained and significant time invested in the business.” Therefore, CVE finds that you are not in compliance with 38 CFR § 74.4(c)(1).”

Center for Veterans Enterprise Verification Facts Sheet - *"Full Time" Control Requirement*