

DATE: February 24, 2015

TO: Council Member Chris Ford, Chair & Members of the General Government & Social Services Committee

FROM: Council Member Shevawn Akers, 2<sup>nd</sup> District

RE: Inclusion of Veterans in Disadvantaged Business Enterprise Program

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### **Existing LFUCG Policy**

- The Lexington-Fayette Urban County Government (LFUCG) passed Resolution No. 167-91 in April 1991, adopting an Administrative Plan for Implementation of DBE 10% Minimum Goal for Construction Contracts and Professional Services (Plan).
- The Plan set a goal that not less than ten percent (10%) of the total value of purchasing contracts be subcontracted to Disadvantaged Business Enterprises (DBE), which are defined by the Plan as "majority owned and controlled by an individual or combination or individuals who are disadvantaged...", and are further defined as follows:
  1. Disadvantaged Individual – Any legal resident of the United States having ethnic origin in the Black racial groups of Africa or any legal resident of the USA who is a member of an economic, religious, ethnic, cultural, racial, or national origin group which has a history of nonparticipation in government contracts.
  2. Disadvantaged Individual – May also be a handicapped person...with a physical or mental disability.
  3. Disadvantaged Individual – May also be a female resident of the United States.

According to the LFUCG MBE website, current certification defines minority & women-owned businesses as:

- 51% or more owned, controlled, operated & managed by a minority or woman with U.S. or permanent citizenship;
- Current minority categories include:
  - African-American
  - Hispanic-American
  - Asian-American/Pacific Islander
  - Native-American/ Native Alaskan
  - Non-Minority Female

### **Definitions**

*Veteran*, as defined in 38 CFR §74.1, as amended, is a person who is presently serving or who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard also qualify.

*Veteran-owned business (VOB)*, as specified in 38 CFR §74.1, as amended, is a business that is not less than 51% owned by one or more veterans, or in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and, the management and daily business operations of which are controlled by one or more veterans.

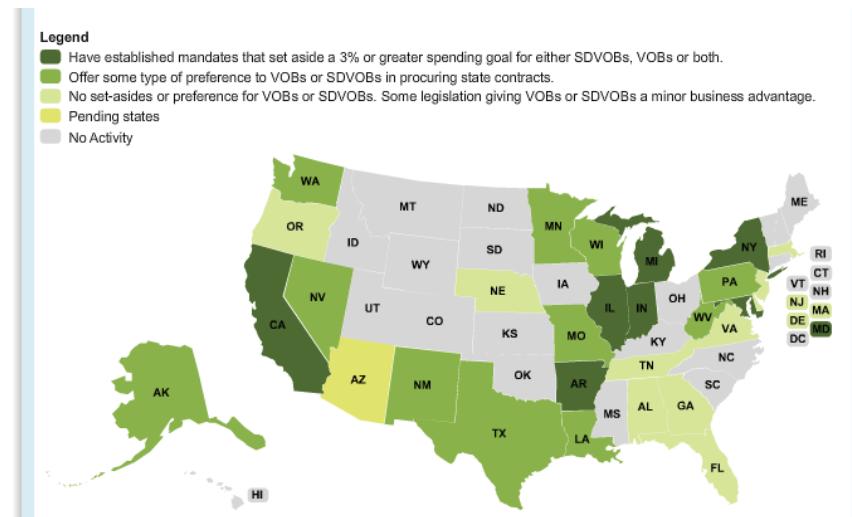
According to the Kentucky Department of Veteran Affairs, there are...

- **339,000** veterans in Kentucky;
- **162,000** veterans in the state workforce;
- **19,995** veterans in Fayette County (as of 2013); and
- **254** veteran-owned businesses registered in Ky. and **20** registered in Fayette

County. (<http://www.veteranownedbusiness.com/ky>)

### Federal and State Actions

A number of federal and state programs have been implemented to provide for veterans preference through the government purchasing/procurement process.



1. In 1989, California was among the first states to pass legislation requiring that three percent (3%) of state government contracts be awarded to small businesses owned by disabled American military veterans.
2. The federal government passed the **Veterans Entrepreneurship and Small Business Development Act of 1999**, requiring that 3% of federal contracts be awarded to disabled military veterans.
3. Since that time, **more than half the states** have adopted policies providing preference for veteran-owned businesses.
4. **Kentucky is currently considering a bipartisan bill, HB 497, that would provide preference for veteran-owned businesses.**

HB 497 (BR 1396) - D. Schamore, R. Webber, J. DuPlessis, D. Floyd, J. Greer, T. Moore

#### **AN ACT relating to disabled veteran-owned businesses.**

Create a new section of KRS Chapter 42 to provide for a disabled veteran-owned business certification program; define "disabled veteran" and "disabled veteran owned business"; require the Office of Equal Employment Opportunity and Contract Compliance to establish guidelines for the certification program and application process through the promulgation of administrative regulations

**Examples of Municipal Legislation & Policy**

The following municipalities have enacted legislation that provides preference through purchasing and procurement requirements:

<b><u>MUNICIPALITY</u></b>	<b><u>PREFERENCE</u></b>	<b><u>DATE OF LEGISLATION</u></b>
Indianapolis, IN	3%	2008
Albuquerque, NM	5%	2013
Pembroke Pines, FL	2.5%	
San Antonio, TX	5%	2013
County of Los Angeles	8%	2013
Prince George's County, MD	10% (in-county); 5% (outside county)	

*Sample language for revised Resolution...*

**WHEREAS**, the Lexington-Fayette Urban County Government (LFUCG) desires to honor the extraordinary service rendered to the United States by current service members and veterans who served in the active service of the Nation's military, naval or air service, including reserve components thereof, and of the National Guard; and

**WHEREAS**, LFUCG wishes to acknowledge this honor by giving a preference to businesses owned and controlled by veterans in the award of certain contracts;

**THEREFORE**, the Urban County Council hereby amends Resolution No. 167-91 to include current service members and veterans of the Armed Forces in its definition of a Disadvantaged Individual.