To establish the Minority Business Development Agency of the Department of Commerce and to support the economic resilience of minority business enterprises during and after the COVID–19 outbreak.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2020

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Budget, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Minority Business Development Agency of the Department of Commerce and to support the economic resilience of minority business enterprises during and after the COVID–19 outbreak.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Minority Business Resiliency Act of 2020”.

4 SEC. 2. DEFINITIONS.

5 In this Act:
(1) AGENCY.—The term “Agency” means the Minority Business Development Agency of the Department of Commerce.

(2) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Minority Business Development.

(3) COVERED ENTITY.—The term “covered entity” means a private nonprofit organization that—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(B) can demonstrate to the Agency that—

(i) the primary mission of the organization is to provide services to minority business enterprises, whether through education, making grants, or other similar activities; and

(ii) the organization is unable to pay financial obligations incurred by the organization, including payroll obligations; and

(C) due to the effects of COVID–19, is unable to engage in the same level of fundraising in the year in which this Act is enacted, as compared with the year preceding the year in
which this Act is enacted, including through
events or the collection of fees.

(4) MINORITY BUSINESS DEVELOPMENT CEN-
ter.—The term “minority business development
center” means a Business Center of the Agency, in-
cluding its Specialty Center Program.

(5) MINORITY BUSINESS ENTERPRISE.—The
term “minority business enterprise” means a for-
profit business enterprise—

(A) that is not less than 51 percent-owned
by 1 or more socially disadvantaged individuals;

and

(B) the management and daily business
operations of which are controlled by 1 or more
socially disadvantaged individuals.

(6) SOCIALLY DISADVANTAGED INDIVIDUAL.—

(A) IN GENERAL.—The term “socially dis-
advantaged individual” means an individual
who has been subjected to racial or ethnic prej-
udice or cultural bias because of the identity of
the individual as a member of a group, without
regard to any individual quality of the indi-
vidual that is unrelated to that identity.

(B) PRESUMPTION.—In carrying out this
Act, the Agency shall presume that the term
“socially disadvantaged individual” includes any individual who is—

   (i) Black or African American;
   (ii) Hispanic or Latino;
   (iii) American Indian or Alaska Native;
   (iv) Asian;
   (v) Native Hawaiian or other Pacific Islander; or
   (vi) a member of a group that the Agency determines under part 1400 of title 15, Code of Federal Regulations, as in effect on November 23, 1984, is a socially disadvantaged group eligible to receive assistance.

SEC. 3. MINORITY BUSINESS DEVELOPMENT AGENCY.

(a) ESTABLISHMENT.—The Minority Business Development Agency in the Department of Commerce is hereby established.

(b) ASSISTANT SECRETARY.—

   (1) APPOINTMENT AND DUTIES.—The Agency shall be headed by an Assistant Secretary of Commerce for Minority Business Development, who shall be—
(A) appointed by the President, by and with the advice and consent of the Senate; and

(B) except as otherwise expressly provided, responsible for the administration of this Act.

(2) COMPENSATION.—The Assistant Secretary shall be compensated at an annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) the organizational structure of the Agency;

(2) the organizational position of the Agency in the Department of Commerce; and

(3) a description of how the Agency shall function in relation to the operations carried out by each other component of the Department of Commerce.

(d) ADMINISTRATIVE POWERS AND OTHER POWERS OF THE AGENCY; MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—In carrying out the duties and the responsibilities of the Agency, the Assistant Secretary may—

(A) adopt and use a seal for the Agency, which shall be judicially noticed;
(B) hold hearings, sit and act, and take testimony as the Assistant Secretary may determine to be necessary or appropriate;

(C) acquire, in any lawful manner, any property that the Assistant Secretary may determine to be necessary or appropriate;

(D) make advance payments under grants, contracts, and cooperative agreements awarded by the Agency;

(E) enter into agreements with other Federal agencies;

(F) coordinate with the heads of the Offices of Small and Disadvantaged Business Utilization of Federal agencies;

(G) require a coordinated review of all training and technical assistance activities that are proposed to be carried out by Federal agencies in direct support of the development of minority business enterprises to—

(i) assure consistency with the purposes of this Act; and

(ii) avoid duplication of existing efforts; and
(H) prescribe such rules, regulations, and procedures as the Agency may determine to be necessary or appropriate.

(2) Employment of certain experts and consultants.—

(A) In general.—The Assistant Secretary may employ experts and consultants or organizations that are composed of experts or consultants, as authorized under section 3109 of title 5, United States Code.

(B) Renewal of contracts.—The Assistant Secretary may annually renew a contract for employment of an individual employed under subparagraph (A).

(3) Donation of property.—

(A) In general.—Subject to subparagraph (B), the Assistant Secretary may, without cost (except for costs of care and handling), donate for use by any public sector entity, or by any recipient nonprofit organization, for the purpose of the development of minority business enterprises, any real or tangible personal property acquired by the Agency.

(B) Terms, conditions, reservations, and restrictions.—The Assistant Secretary
may impose reasonable terms, conditions, reservations, and restrictions upon the use of any property donated under subparagraph (A).

SEC. 4. EMERGENCY GRANTS TO NONPROFITS THAT SUPPORT MINORITY BUSINESS ENTERPRISES.

(a) Purpose.—The purpose of this section is to make grants to covered entities in order to help those covered entities continue the necessary work of supporting minority business enterprises.

(b) Establishment.—Not later than 15 days after the date of enactment of this Act, the Agency shall establish a grant program for covered entities in accordance with the requirements of this section, under which the Agency shall make grants to covered entities as expeditiously as possible.

(c) Application.—

(1) In general.—A covered entity desiring a grant under this section shall submit to the Agency an application at such time, in such manner, and containing such information as the Agency may require.

(2) Priority.—The Agency shall—

(A) establish selection criteria to ensure that, if the amounts made available to carry out this section are not sufficient to make a grant
under this section to every covered entity that submits an application under paragraph (1), the covered entities that are the most severely affected by the effects of COVID–19 receive priority with respect to those grants; and

(B) give priority with respect to the grants made under this section to a covered entity that proposes to use the grant funds for—

(i) providing paid sick leave to employees of the covered entity who are unable to work due to the direct effects of COVID–19;

(ii) continuing to make payroll payments in order to retain employees of the covered entity during an economic disruption with respect to COVID–19;

(iii) making rent or mortgage payments with respect to obligations of the covered entity; or

(iv) repaying non-Federal obligations that the covered entity cannot satisfy because of revenue losses that are attributable to the effects of COVID–19.

(d) AMOUNT OF GRANT.—
(1) IN GENERAL.—A grant made under this section shall be in an amount that is not more than $300,000.

(2) SINGLE AWARD.—No covered entity may receive, or directly benefit from, more than 1 grant made under this section.

(e) USE OF FUNDS.—A covered entity that receives a grant under this section may use the grant funds to address the effects of COVID–19 on the covered entity, including by making payroll payments, making a transition to the provision of online services, and addressing issues raised by an inability to raise funds.

(f) PROCEDURES.—The Agency shall establish procedures to discourage and prevent waste, fraud, and abuse by applicants for, and recipients of, grants made under this section.

(g) PENALTIES FOR FRAUD AND MISAPPLICATION OF FUNDS.—An applicant for, or recipient of, a grant made under this section shall be subject to all applicable provisions of Federal law, including section 1001 of title 18, United States Code.

(h) NON-DUPLICATION.—The Agency shall ensure that covered entities do not receive grants under both this section and section 1108 of the Coronavirus Aid, Relief, and Economic Security Act.
(i) Inspector General Audit.—Not later than 180 days after the date on which the Agency begins making grants under this section, the Inspector General of the Department of Commerce shall—

(1) conduct an audit of grants made under this section, which shall seek to identify any discrepancies or irregularities with respect to the grants; and

(2) submit to Congress a report regarding the audit conducted under paragraph (1).

(j) Updates to Congress.—Not later than 30 days after the date of enactment of this Act, and once every 30 days thereafter until the date described in subsection (k), the Agency shall submit to Congress a report that contains—

(1) the number of grants made under this section during the period covered by the report; and

(2) with respect to the grants described in paragraph (1), the geographic distribution of those grants by State and county.

(k) Termination.—The authority to make grants under this section shall terminate on September 30, 2021.

SEC. 5. OUTREACH TO BUSINESS CENTERS.

(a) In General.—Not later than 10 days after the date of enactment of this Act, the Agency shall conduct
outreach to the business center network of the Agency to
provide guidance to those centers regarding other Federal
programs that are available to provide support to minority
business enterprises, including programs at the Depart-
ment of the Treasury, the Small Business Administration,
and the Economic Development Administration of the De-
partment of Commerce.

(b) ADDITIONAL STAFF.—The Agency may hire addi-
tional staff to carry out the responsibilities of the Agency
under subsection (a).

(c) OUTREACH TO NATIVE COMMUNITIES.—

(1) IN GENERAL.—In carrying out this section,
the Agency shall ensure that outreach is conducted
in American Indian, Alaska Native, and Native Ha-
waiian communities.

(2) DIRECT OUTREACH TO CERTAIN MINORITY
BUSINESS ENTERPRISES.—If the Assistant Secretary
determines that a particular American Indian, Alas-
ka Native, or Native Hawaiian community does not
receive sufficient grant amounts under section 4 of
this Act or section 1108 of the CARES Act, the As-
sistant Secretary shall carry out additional outreach
directly to minority business enterprises located in
that community to provide guidance regarding Fed-
eral programs that are available to provide support
to minority business enterprises.

(d) Use of Appropriated Funds.—If, after car-
rying out this section, there are remaining funds made
available to carry out this section from the amount appro-
priated under section 6, the Agency may use those remain-
ing funds to carry out other responsibilities of the Agency
under section 4.

SEC. 6. DIRECT APPROPRIATION.

(a) In General.—There is appropriated to the
Agency, in additional to any other amounts previously ap-
propriated for the Agency and out of amounts in the
Treasury not otherwise appropriated, for the fiscal year
ending September 30, 2020, to remain available until Sep-
tember 30, 2021, $60,000,000, of which—

(1) $10,000,000 shall be for carrying out sec-
tion 4 of this Act;

(2) $5,000,000 shall be for carrying out section
5 of this Act; and

(3) $10,000,000 shall be allocated to the White
House Initiative on Asian Americans and Pacific Is-
landers.

(b) Emergency Designation.—

(1) In General.—The amounts provided by
this Act are designated as an emergency require-
ment pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(2) DESIGNATION IN SENATE.—In the Senate, this Act is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

SEC. 7. AUDITS.

(a) RECORDKEEPING REQUIREMENT.—Each recipient of assistance under this Act shall keep such records as the Assistant Secretary shall prescribe, including records that fully disclose, with respect to the assistance received by the recipient under this Act—

(1) the amount and nature of that assistance;

(2) the disposition by the recipient of the proceeds of that assistance;

(3) the total cost of the undertaking for which the assistance is given or used;

(4) the amount and nature of the portion of the cost of the undertaking described in paragraph (3) that is supplied by a source other than the Agency; and

(5) any other records that will facilitate an effective audit of the assistance.
(b) Access by Government Officials.—The Assistant Secretary, the Inspector General of the Department of Commerce, and the Comptroller General of the United States, or any duly authorized representative of any such individual, shall have access, for the purpose of audit, investigation, and examination, to any book, document, paper, record, or other material of a recipient of assistance.

SEC. 8. REVIEW AND REPORT BY COMPTROLLER GENERAL.

Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a thorough review of the programs carried out under this Act; and

(2) submit to Congress a detailed report of the findings of the Comptroller General of the United States under the review carried out under paragraph (1), which shall include—

(A) an evaluation of the effectiveness of the programs in achieving the purposes of this Act;

(B) a description of any failure by any recipient of assistance under this Act to comply with the requirements under this Act; and
(C) recommendations for any legislative or administrative action that should be taken to improve the achievement of the purposes of this Act.

SEC. 9. ANNUAL REPORTS; RECOMMENDATIONS.

(a) ANNUAL REPORT.—Not later than 90 days after the last day of each fiscal year, the Assistant Secretary shall submit to Congress, and publish on the website of the Agency, a report of each activity of the Agency carried out under this Act during the fiscal year preceding the date on which the report is submitted.

(b) RECOMMENDATIONS.—The Assistant Secretary shall periodically submit to Congress and the President recommendations for legislation or other actions that the Assistant Secretary determines to be necessary or appropriate to promote the purposes of this Act.

SEC. 10. EXECUTIVE ORDER 11625.

The powers and duties of the Agency shall be determined—

(1) in accordance with this Act and the requirements of this Act; and

(2) without regard to Executive Order 11625 (36 Fed. Reg. 19967; relating to prescribing additional arrangements for developing and coordinating
a national program for minority business enterprise).


Section 7104(c) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644a(c)) is amended by striking paragraph (2) and inserting the following:

“(2) The Assistant Secretary of Commerce for Minority Business Development.”.