

116TH CONGRESS  
2D SESSION

# H. R. 6869

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.

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## 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

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## 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 Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Minority Business Re-  
5 siliency Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) AGENCY.—The term “Agency” means the  
2           Minority Business Development Agency of the De-  
3           partment of Commerce.

4           (2) ASSISTANT SECRETARY.—The term “Assist-  
5           ant Secretary” means the Assistant Secretary of  
6           Commerce for Minority Business Development.

7           (3) COVERED ENTITY.—The term “covered en-  
8           tity” means a private nonprofit organization that—

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

12                  (B) can demonstrate to the Agency that—

13                          (i) the primary mission of the organi-  
14                          zation is to provide services to minority  
15                          business enterprises, whether through edu-  
16                          cation, making grants, or other similar ac-  
17                          tivities; and

18                          (ii) the organization is unable to pay  
19                          financial obligations incurred by the orga-  
20                          nization, including payroll obligations; and

21                  (C) due to the effects of COVID–19, is un-  
22                  able to engage in the same level of fundraising  
23                  in the year in which this Act is enacted, as  
24                  compared with the year preceding the year in

1           which this Act is enacted, including through  
2           events or the collection of fees.

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

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

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

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

16           (6) SOCIALLY DISADVANTAGED INDIVIDUAL.—

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

24                   (B) PRESUMPTION.—In carrying out this  
25                   Act, the Agency shall presume that the term

1 “socially disadvantaged individual” includes any  
2 individual who is—

3 (i) Black or African American;

4 (ii) Hispanic or Latino;

5 (iii) American Indian or Alaska Na-  
6 tive;

7 (iv) Asian;

8 (v) Native Hawaiian or other Pacific  
9 Islander; or

10 (vi) a member of a group that the  
11 Agency determines under part 1400 of title  
12 15, Code of Federal Regulations, as in ef-  
13 fect on November 23, 1984, is a socially  
14 disadvantaged group eligible to receive as-  
15 sistance.

16 **SEC. 3. MINORITY BUSINESS DEVELOPMENT AGENCY.**

17 (a) ESTABLISHMENT.—The Minority Business Devel-  
18 opment Agency in the Department of Commerce is hereby  
19 established.

20 (b) ASSISTANT SECRETARY.—

21 (1) APPOINTMENT AND DUTIES.—The Agency  
22 shall be headed by an Assistant Secretary of Com-  
23 merce for Minority Business Development, who shall  
24 be—

1 (A) appointed by the President, by and  
2 with the advice and consent of the Senate; and

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

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

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

12 (1) the organizational structure of the Agency;

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

15 (3) a description of how the Agency shall func-  
16 tion in relation to the operations carried out by each  
17 other component of the Department of Commerce.

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

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

23 (A) adopt and use a seal for the Agency,  
24 which shall be judicially noticed;

1 (B) hold hearings, sit and act, and take  
2 testimony as the Assistant Secretary may deter-  
3 mine to be necessary or appropriate;

4 (C) acquire, in any lawful manner, any  
5 property that the Assistant Secretary may de-  
6 termine to be necessary or appropriate;

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

10 (E) enter into agreements with other Fed-  
11 eral agencies;

12 (F) coordinate with the heads of the Of-  
13 fices of Small and Disadvantaged Business Uti-  
14 lization of Federal agencies;

15 (G) require a coordinated review of all  
16 training and technical assistance activities that  
17 are proposed to be carried out by Federal agen-  
18 cies in direct support of the development of mi-  
19 nority business enterprises to—

20 (i) assure consistency with the pur-  
21 poses of this Act; and

22 (ii) avoid duplication of existing ef-  
23 forts; and

1 (H) prescribe such rules, regulations, and  
2 procedures as the Agency may determine to be  
3 necessary or appropriate.

4 (2) EMPLOYMENT OF CERTAIN EXPERTS AND  
5 CONSULTANTS.—

6 (A) IN GENERAL.—The Assistant Sec-  
7 retary may employ experts and consultants or  
8 organizations that are composed of experts or  
9 consultants, as authorized under section 3109  
10 of title 5, United States Code.

11 (B) RENEWAL OF CONTRACTS.—The As-  
12 sistant Secretary may annually renew a con-  
13 tract for employment of an individual employed  
14 under subparagraph (A).

15 (3) DONATION OF PROPERTY.—

16 (A) IN GENERAL.—Subject to subpara-  
17 graph (B), the Assistant Secretary may, with-  
18 out cost (except for costs of care and handling),  
19 donate for use by any public sector entity, or by  
20 any recipient nonprofit organization, for the  
21 purpose of the development of minority business  
22 enterprises, any real or tangible personal prop-  
23 erty acquired by the Agency.

24 (B) TERMS, CONDITIONS, RESERVATIONS,  
25 AND RESTRICTIONS.—The Assistant Secretary

1           may impose reasonable terms, conditions, res-  
2           ervations, and restrictions upon the use of any  
3           property donated under subparagraph (A).

4 **SEC. 4. EMERGENCY GRANTS TO NONPROFITS THAT SUP-**  
5 **PORT MINORITY BUSINESS ENTERPRISES.**

6           (a) **PURPOSE.**—The purpose of this section is to  
7           make grants to covered entities in order to help those cov-  
8           ered entities continue the necessary work of supporting  
9           minority business enterprises.

10          (b) **ESTABLISHMENT.**—Not later than 15 days after  
11          the date of enactment of this Act, the Agency shall estab-  
12          lish a grant program for covered entities in accordance  
13          with the requirements of this section, under which the  
14          Agency shall make grants to covered entities as expedi-  
15          tiously as possible.

16          (c) **APPLICATION.**—

17                (1) **IN GENERAL.**—A covered entity desiring a  
18                grant under this section shall submit to the Agency  
19                an application at such time, in such manner, and  
20                containing such information as the Agency may re-  
21                quire.

22                (2) **PRIORITY.**—The Agency shall—

23                    (A) establish selection criteria to ensure  
24                    that, if the amounts made available to carry out  
25                    this section are not sufficient to make a grant

1 under this section to every covered entity that  
2 submits an application under paragraph (1),  
3 the covered entities that are the most severely  
4 affected by the effects of COVID–19 receive  
5 priority with respect to those grants; and

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

9 (i) providing paid sick leave to em-  
10 ployees of the covered entity who are un-  
11 able to work due to the direct effects of  
12 COVID–19;

13 (ii) continuing to make payroll pay-  
14 ments in order to retain employees of the  
15 covered entity during an economic disrup-  
16 tion with respect to COVID–19;

17 (iii) making rent or mortgage pay-  
18 ments with respect to obligations of the  
19 covered entity; or

20 (iv) repaying non-Federal obligations  
21 that the covered entity cannot satisfy be-  
22 cause of revenue losses that are attrib-  
23 utable to the effects of COVID–19.

24 (d) AMOUNT OF GRANT.—

1           (1) IN GENERAL.—A grant made under this  
2 section shall be in an amount that is not more than  
3 \$300,000.

4           (2) SINGLE AWARD.—No covered entity may re-  
5 ceive, or directly benefit from, more than 1 grant  
6 made under this section.

7           (e) USE OF FUNDS.—A covered entity that receives  
8 a grant under this section may use the grant funds to ad-  
9 dress the effects of COVID–19 on the covered entity, in-  
10 cluding by making payroll payments, making a transition  
11 to the provision of online services, and addressing issues  
12 raised by an inability to raise funds.

13          (f) PROCEDURES.—The Agency shall establish proce-  
14 dures to discourage and prevent waste, fraud, and abuse  
15 by applicants for, and recipients of, grants made under  
16 this section.

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

22          (h) NON-DUPLICATION.—The Agency shall ensure  
23 that covered entities do not receive grants under both this  
24 section and section 1108 of the Coronavirus Aid, Relief,  
25 and Economic Security Act.

1 (i) INSPECTOR GENERAL AUDIT.—Not later than  
2 180 days after the date on which the Agency begins mak-  
3 ing grants under this section, the Inspector General of the  
4 Department of Commerce shall—

5 (1) conduct an audit of grants made under this  
6 section, which shall seek to identify any discrep-  
7 ancies or irregularities with respect to the grants;  
8 and

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

11 (j) UPDATES TO CONGRESS.—Not later than 30 days  
12 after the date of enactment of this Act, and once every  
13 30 days thereafter until the date described in subsection  
14 (k), the Agency shall submit to Congress a report that  
15 contains—

16 (1) the number of grants made under this sec-  
17 tion during the period covered by the report; and

18 (2) with respect to the grants described in para-  
19 graph (1), the geographic distribution of those  
20 grants by State and county.

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

23 **SEC. 5. OUTREACH TO BUSINESS CENTERS.**

24 (a) IN GENERAL.—Not later than 10 days after the  
25 date of enactment of this Act, the Agency shall conduct

1 outreach to the business center network of the Agency to  
2 provide guidance to those centers regarding other Federal  
3 programs that are available to provide support to minority  
4 business enterprises, including programs at the Depart-  
5 ment of the Treasury, the Small Business Administration,  
6 and the Economic Development Administration of the De-  
7 partment of Commerce.

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

11 (c) OUTREACH TO NATIVE COMMUNITIES.—

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

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

1       eral programs that are available to provide support  
2       to minority business enterprises.

3       (d) USE OF APPROPRIATED FUNDS.—If, after car-  
4       rying out this section, there are remaining funds made  
5       available to carry out this section from the amount appro-  
6       priated under section 6, the Agency may use those remain-  
7       ing funds to carry out other responsibilities of the Agency  
8       under section 4.

9       **SEC. 6. DIRECT APPROPRIATION.**

10       (a) IN GENERAL.—There is appropriated to the  
11       Agency, in addition to any other amounts previously ap-  
12       propriated for the Agency and out of amounts in the  
13       Treasury not otherwise appropriated, for the fiscal year  
14       ending September 30, 2020, to remain available until Sep-  
15       tember 30, 2021, \$60,000,000, of which—

16               (1) \$10,000,000 shall be for carrying out sec-  
17       tion 4 of this Act;

18               (2) \$5,000,000 shall be for carrying out section  
19       5 of this Act; and

20               (3) \$10,000,000 shall be allocated to the White  
21       House Initiative on Asian Americans and Pacific Is-  
22       landers.

23       (b) EMERGENCY DESIGNATION.—

24               (1) IN GENERAL.—The amounts provided by  
25       this Act are designated as an emergency require-

1       ment pursuant to section 4(g) of the Statutory Pay-  
2       As-You-Go Act of 2010 (2 U.S.C. 933(g)).

3               (2) DESIGNATION IN SENATE.—In the Senate,  
4       this Act is designated as an emergency requirement  
5       pursuant to section 4112(a) of H. Con. Res. 71  
6       (115th Congress), the concurrent resolution on the  
7       budget for fiscal year 2018.

8       **SEC. 7. AUDITS.**

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

14              (1) the amount and nature of that assistance;

15              (2) the disposition by the recipient of the pro-  
16      ceeds of that assistance;

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

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

23              (5) any other records that will facilitate an ef-  
24      fective audit of the assistance.

1 (b) ACCESS BY GOVERNMENT OFFICIALS.—The As-  
2 sistant Secretary, the Inspector General of the Depart-  
3 ment of Commerce, and the Comptroller General of the  
4 United States, or any duly authorized representative of  
5 any such individual, shall have access, for the purpose of  
6 audit, investigation, and examination, to any book, docu-  
7 ment, paper, record, or other material of a recipient of  
8 assistance.

9 **SEC. 8. REVIEW AND REPORT BY COMPTROLLER GENERAL.**

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

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

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

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

22 (B) a description of any failure by any re-  
23 cipient of assistance under this Act to comply  
24 with the requirements under this Act; and

1 (C) recommendations for any legislative or  
2 administrative action that should be taken to  
3 improve the achievement of the purposes of this  
4 Act.

5 **SEC. 9. ANNUAL REPORTS; RECOMMENDATIONS.**

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

12 (b) RECOMMENDATIONS.—The Assistant Secretary  
13 shall periodically submit to Congress and the President  
14 recommendations for legislation or other actions that the  
15 Assistant Secretary determines to be necessary or appro-  
16 priate to promote the purposes of this Act.

17 **SEC. 10. EXECUTIVE ORDER 11625.**

18 The powers and duties of the Agency shall be deter-  
19 mined—

20 (1) in accordance with this Act and the require-  
21 ments of this Act; and

22 (2) without regard to Executive Order 11625  
23 (36 Fed. Reg. 19967; relating to prescribing addi-  
24 tional arrangements for developing and coordinating

1 a national program for minority business enter-  
2 prise).

3 **SEC. 11. AMENDMENT TO THE FEDERAL ACQUISITION**  
4 **STREAMLINING ACT OF 1994.**

5 Section 7104(e) of the Federal Acquisition Stream-  
6 lining Act of 1994 (15 U.S.C. 644a(e)) is amended by  
7 striking paragraph (2) and inserting the following:

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

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