

DEVELOPING THE NEXT GENERATION OF SMALL
BUSINESSES ACT OF 2016

APRIL 25, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. CHABOT, from the Committee on Small Business,
submitted the following

R E P O R T

[To accompany H.R. 207]

The Committee on Small Business, to whom was referred the bill (H.R. 207) to amend the Small Business Act to provide for improvements to small business development centers, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Developing the Next Generation of Small Businesses Act of 2016”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS DEVELOPMENT CENTERS IMPROVEMENTS

- Sec. 101. Short title.
- Sec. 102. Use of authorized entrepreneurial development programs.
- Sec. 103. Marketing of services.
- Sec. 104. Data collection.
- Sec. 105. Fees from private partnerships and cosponsorships.
- Sec. 106. Equity for small business development centers.
- Sec. 107. Confidentiality requirements.
- Sec. 108. Limitation on award of grants to small business development centers.

TITLE II—WOMEN'S BUSINESS CENTERS PROGRAM IMPROVEMENTS

- Sec. 201. Short title.
- Sec. 202. Office of Women's Business Ownership.
- Sec. 203. Women's Business Center Program.
- Sec. 204. Matching requirements under Women's Business Center Program.

TITLE III—SCORE PROGRAM REAUTHORIZATION

- Sec. 301. Short title.
- Sec. 302. SCORE Reauthorization.
- Sec. 303. SCORE program.
- Sec. 304. Online component.
- Sec. 305. Study and report on the future role of the SCORE program.
- Sec. 306. Technical and conforming amendments.

TITLE I—SMALL BUSINESS DEVELOPMENT CENTERS IMPROVEMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the “Small Business Development Centers Improvement Act of 2016”.

SEC. 102. USE OF AUTHORIZED ENTREPRENEURIAL DEVELOPMENT PROGRAMS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by adding at the end the following:

“SEC. 48. USE OF AUTHORIZED ENTREPRENEURIAL DEVELOPMENT PROGRAMS.

“(a) EXPANDED SUPPORT FOR ENTREPRENEURS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator shall only use the programs authorized in sections 7(j), 7(m), 8(a), 8(b)(1), 21, 22, 29, and 32 of this Act, and sections 358 and 389 of the Small Business Investment Act to deliver entrepreneurial development services, entrepreneurial education, support for the development and maintenance of clusters, or business training.

“(2) EXCEPTION.—This section shall not apply to services provided to assist small business concerns owned by an Indian tribe (as such term is defined in section 8(a)(13)).

“(b) ANNUAL REPORT.—Beginning on the first December 1 after the date of enactment of this subsection, the Administrator shall annually report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate on all entrepreneurial development activities undertaken in the current fiscal year. This report shall include—

“(1) a description and operating details for each program and activity;

“(2) operating circulars, manuals, and standard operating procedures for each program and activity;

“(3) a description of the process used to award grants under each program and activity;

“(4) a list of all awardees, contractors, and vendors (including organization name and location) and the amount of awards for the current fiscal year for each program and activity;

“(5) the amount of funding obligated for the current fiscal year for each program and activity; and

“(6) the names and titles for those individuals responsible for each program and activity.”.

SEC. 103. MARKETING OF SERVICES.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

“(o) NO PROHIBITION OF MARKETING OF SERVICES.—The Administrator shall not prohibit applicants receiving grants under this section from marketing and advertising their services to individuals and small business concerns.”.

SEC. 104. DATA COLLECTION.

(a) IN GENERAL.—Section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)) is amended—

(1) by striking “as provided in this section and” and inserting “as provided in this section,”; and

(2) by inserting before the period at the end the following: “, and (iv) governing data collection activities related to applicants receiving grants under this section”.

(b) ANNUAL REPORT ON DATA COLLECTION.—Section 21 of the Small Business Act (15 U.S.C. 648), as amended by section 103 of this Act, is further amended by adding at the end the following:

“(p) ANNUAL REPORT ON DATA COLLECTION.—The Administrator shall report annually to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate on any data collection activities related to the Small Business Development Center program.”.

(c) WORKING GROUP TO IMPROVE DATA COLLECTION.—

(1) ESTABLISHMENT AND STUDY.—The Administrator of the Small Business Administration shall establish a Data Collection Working Group consisting of members from entrepreneurial development grant recipients associations and organizations and Administration officials, to carry out a study to determine the best way to capture data collection and create or revise existing systems dedicated to data collection.

(2) REPORT.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Data Collection Working Group shall issue a report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate containing the findings and determinations made in carrying out the study required under paragraph (1), including—

- (A) recommendations for revising existing data collection practices; and
- (B) a proposed plan for the Small Business Administration to implement such recommendations.

SEC. 105. FEES FROM PRIVATE PARTNERSHIPS AND COSPONSORSHIPS.

Section 21(a)(3) of the Small Business Act (15 U.S.C. 648(a)(3)(C)), as amended by section 104, is further amended by adding at the end the following:

“(D) FEES FROM PRIVATE PARTNERSHIPS AND COSPONSORSHIPS.—Participation in private partnerships and cosponsorships with the Administration shall not limit small business development centers from collecting fees or other income related to the operation of such private partnerships and cosponsorships.”.

SEC. 106. EQUITY FOR SMALL BUSINESS DEVELOPMENT CENTERS.

Subclause (I) of section 21(a)(4)(C)(v) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(v)) is amended to read as follows:

“(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section not more than \$600,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section 20(a)(1).”.

SEC. 107. CONFIDENTIALITY REQUIREMENTS.

Section 21(a)(7)(A) of the Small Business Act (15 U.S.C. 648(a)(7)(A)) is amended by inserting after “under this section” the following: “to any State, local or Federal agency, or third party”.

SEC. 108. LIMITATION ON AWARD OF GRANTS TO SMALL BUSINESS DEVELOPMENT CENTERS.

(a) IN GENERAL.—Section 21 of the Small Business Act (15 U.S.C. 648), as amended by section 104, is further amended—

- (1) in subsection (a)(1), by striking “any women’s business center operating pursuant to section 29,”;
- (2) by adding at the end the following:

“(q) LIMITATION ON AWARD OF GRANTS.—Except for not-for-profit institutions of higher education, and notwithstanding any other provision of law, the Administrator may not award grants (including contracts and cooperative agreements) under this section to any entity other than those that received grants (including contracts and cooperative agreements) under this section prior to the date of the enactment of this subsection, and that seek to renew such grants (including contracts and cooperative agreements) after such date.”.

(b) RULE OF CONSTRUCTION.—The amendments made by this section may not be construed as prohibiting a women’s business center from receiving a subgrant from an entity receiving a grant under section 21 of the Small Business Act (15 U.S.C. 648).

TITLE II—WOMEN’S BUSINESS CENTERS PROGRAM IMPROVEMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the “Women’s Business Centers Improvements Act of 2016”.

SEC. 202. OFFICE OF WOMEN’S BUSINESS OWNERSHIP.

Section 29(g) of the Small Business Act (15 U.S.C. 656(g)) is amended—

- (1) in paragraph (2), by striking subparagraphs (B) and (C) and inserting the following:

“(B) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women’s Business Ownership.

“(C) DUTIES.—The Assistant Administrator shall perform the following functions with respect to the Office of Women’s Business Ownership:

- “(i) Recommend the annual administrative and program budgets of the Office and eligible entities receiving a grant under the Women’s Business Center Program.

“(ii) Review the annual budgets submitted by each eligible entity receiving a grant under the Women’s Business Center Program.

“(iii) Select applicants to receive grants to operate a women’s business center after reviewing information required by this section, including the budget of each applicant.

“(iv) Collaborate with other Federal departments and agencies, State and local governments, not-for-profit organizations, and for-profit enterprises to maximize utilization of taxpayer dollars and reduce (or eliminate) any duplication among the programs overseen by the Office of Women’s Business Ownership and those of other entities that provide similar services to women entrepreneurs.

“(v) Maintain a clearinghouse to provide for the dissemination and exchange of information between women’s business centers.

“(vi) Serve as the vice chairperson of the Interagency Committee on Women’s Business Enterprise and as the liaison for the National Women’s Business Council.”; and

(2) by adding at the end the following:

“(3) MISSION.—The mission of the Office of Women’s Business Ownership shall be to assist women entrepreneurs to start, grow, and compete in global markets by providing quality support with access to capital, access to markets, job creation, growth, and counseling by—

“(A) fostering participation of women entrepreneurs in the economy by overseeing a network of women’s business centers throughout States and territories;

“(B) creating public-private partnerships to support women entrepreneurs and conduct outreach and education to startup and existing small business concerns owned and controlled by women; and

“(C) working with other programs overseen by the Administrator to ensure women are well-represented and being served and to identify gaps where participation by women could be increased.

“(4) ACCREDITATION PROGRAM.—

“(A) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall establish standards for an accreditation program for accrediting eligible entities receiving a grant under this section, after notice and the opportunity for public comment of no less than 60 days.

“(B) TRANSITION PROVISION.—Before the date on which standards are established under subparagraph (A), the Administrator may not terminate a grant under this section absent evidence of fraud or other criminal misconduct by the recipient.

“(C) CONTRACTING AUTHORITY.—The Administrator may provide financial assistance, by contract or otherwise, to a relevant national women’s business center representative association to provide assistance in establishing the standards required under subparagraph (A) or for carrying out an accreditation program pursuant to such standards.”.

SEC. 203. WOMEN’S BUSINESS CENTER PROGRAM.

(a) DEFINITIONS.—Section 29(a) of the Small Business Act (15 U.S.C. 656(a)) is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

“(2) the term ‘eligible entity’ means—

“(A) an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

“(B) a State, regional, or local economic development organization, so long as the organization certifies that grant funds received under this section will not be co-mingled with other funds;

“(C) an institution of higher education, unless such institution is currently receiving a grant under section 21;

“(D) a development, credit, or finance corporation chartered by a State, so long as the corporation certifies that grant funds received under this section will not be co-mingled with other funds; or

“(E) any combination of entities listed in subparagraphs (A) through (D);”;

and

(4) by adding at the end the following:

“(5) the term ‘women’s business center’ means the location at which counseling and training on the management, operations (including manufacturing,

services, and retail), access to capital, international trade, Government procurement opportunities, and any other matter is needed to start, maintain, or expand a small business concern owned and controlled by women.”.

(b) AUTHORITY.—Section 29(b) of the Small Business Act (15 U.S.C. 656(b)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking “The Administration” and all that follows through “5-year projects” and inserting the following:

“(1) IN GENERAL.—There is established a Women’s Business Center Program under which the Administrator may provide a grant to any eligible entity to operate one or more women’s business centers”;

(3) by striking “The projects shall” and inserting the following:

“(2) USE OF FUNDS.—The women’s business centers shall be designed to provide counseling and training that meets the needs of women, especially socially or economically disadvantaged women, and shall”; and

(4) by adding at the end the following:

“(3) AMOUNT OF GRANTS.—

“(A) IN GENERAL.—The amount of a grant provided under this subsection to an eligible entity per project year shall be not more than \$185,000 (as such amount is annually adjusted by the Administrator to reflect the change in inflation).

“(B) ADDITIONAL GRANTS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to an eligible entity that has received \$185,000 in grants under this subsection in a project year, the Administrator may award an additional grant under this subsection of up to \$65,000 during such project year if the Administrator determines that the eligible entity—

“(I) agrees to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources of 1 non-Federal dollar for each Federal dollar;

“(II) is in good standing with the Women’s Business Center Program; and

“(III) has met performance goals for the previous project year, if applicable.

“(ii) LIMITATIONS.—The Administrator may only award additional grants under clause (i)—

“(I) during the 3rd and 4th quarters of the fiscal year; and

“(II) from unobligated amounts made available to the Administrator to carry out this section.

“(4) NOTICE AND COMMENT REQUIRED.—The Administrator may only make a change to the standards by which an eligible entity obtains or maintains grants under this section, the standards for accreditation, or any other requirement for the operation of a women’s business center if the Administrator first provides notice and the opportunity for public comment, as set forth in section 553(b) of title 5, United States Code, without regard to any exceptions provided for under such section.”.

(c) CONDITIONS OF PARTICIPATION.—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)) is amended—

(1) in paragraph (1)—

(A) by striking “the recipient organization” and inserting “an eligible entity”; and

(B) by striking “financial assistance” and inserting “a grant”;

(2) in paragraph (3)—

(A) by striking “financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and” and inserting “grants authorized pursuant to this section”; and

(B) in the second sentence, by striking “a recipient organization” and inserting “an eligible entity”;

(3) in paragraph (4)—

(A) by striking “recipient of assistance” and inserting “eligible entity”;

(B) by striking “during any project, it shall not be eligible thereafter” and inserting “during any project for 2 consecutive years, the eligible entity shall not be eligible at any time after that 2-year period”;

(C) by striking “such organization” and inserting “the eligible entity”; and

(D) by striking “the recipient” and inserting “the eligible entity”; and

(4) by adding at end the following:

“(5) SEPARATION OF PROJECT AND FUNDS.—An eligible entity shall—

- “(A) carry out a project under this section separately from other projects, if any, of the eligible entity; and
- “(B) separately maintain and account for any grants under this section.
- “(6) EXAMINATION OF ELIGIBLE ENTITIES.—
- “(A) REQUIRED SITE VISIT.—Each applicant, prior to receiving a grant under this section, shall have a site visit by an employee of the Administration, in order to ensure that the applicant has sufficient resources to provide the services for which the grant is being provided.
- “(B) ANNUAL REVIEW.—An employee of the Administration shall—
- “(i) conduct an annual review of the compliance of each eligible entity receiving a grant under this section with the grant agreement, including a financial examination; and
- “(ii) provide such review to the eligible entity as required under subsection (1).
- “(7) REMEDIATION OF PROBLEMS.—
- “(A) PLAN OF ACTION.—If a review of an eligible entity under paragraph (6)(B) identifies any problems, the eligible entity shall, within 45 calendar days of receiving such review, provide the Assistant Administrator with a plan of action, including specific milestones, for correcting such problems.
- “(B) PLAN OF ACTION REVIEW BY THE ASSISTANT ADMINISTRATOR.—The Assistant Administrator shall review each plan of action submitted under subparagraph (A) within 30 calendar days of receiving such plan and—
- “(i) if the Assistant Administrator determines that such plan will bring the eligible entity into compliance with all the terms of the grant agreement, approve such plan;
- “(ii) if the Assistant Administrator determines that such plan is inadequate to remedy the problems identified in the annual review to which the plan of action relates, the Assistant Administrator shall set forth such reasons in writing and provide such determination to the eligible entity within 15 calendar days of such determination.
- “(C) AMENDMENT TO PLAN OF ACTION.—An eligible entity receiving a determination under subparagraph (B)(ii) shall have 30 calendar days from the receipt of the determination to amend the plan of action to satisfy the problems identified by the Assistant Administrator and resubmit such plan to the Assistant Administrator.
- “(D) AMENDED PLAN REVIEW BY THE ASSISTANT ADMINISTRATOR.—Within 15 calendar days of the receipt of an amended plan of action under subparagraph (C), the Assistant Administrator shall either approve or reject such plan and provide such approval or rejection in writing to the eligible entity.
- “(E) APPEAL OF ASSISTANT ADMINISTRATOR DETERMINATION.—
- “(i) IN GENERAL.—If the Assistant Administrator rejects an amended plan under subparagraph (D), the eligible entity shall have the opportunity to appeal such decision to the Administrator, who may delegate such appeal to an appropriate officer of the Administration.
- “(ii) OPPORTUNITY FOR EXPLANATION.—Any appeal described under clause (i) shall provide an opportunity for the eligible entity to provide, in writing, an explanation of why the eligible entity’s plan remedies the problems identified in the annual review.
- “(iii) NOTICE OF DETERMINATION.—The determination of the appeal shall be provided to the eligible entity, in writing, within 15 calendar days from the eligible entity’s filing of the appeal.
- “(iv) EFFECT OF FAILURE TO ACT.—If the Administrator fails to act on an appeal made under this subparagraph within the 15 calendar day period specified under clause (iii), the eligible entity’s amended plan of action submitted under subparagraph (C) shall be deemed to be approved.
- “(8) TERMINATION OF GRANT.—
- “(A) IN GENERAL.—The Administrator shall issue regulations (after providing an opportunity for notice and comment) to provide that, if an eligible entity fails to comply with a plan of action approved by the Assistant Administrator under paragraph (7)(B)(i) or an amended plan of action approved by the Assistant Administrator under paragraph (7)(D) or approved on appeal under paragraph (7)(E), the Assistant Administrator shall terminate the grant provided to the eligible entity under this section.
- “(B) APPEAL OF TERMINATION.—An eligible entity that has a grant terminated under subparagraph (A) shall have the opportunity to challenge the termination on the record and after an opportunity for a hearing.

“(C) FINAL AGENCY ACTION.—The determination made pursuant to subparagraph (B) shall be considered final agency action for the purposes of chapter 7, title 5, United States Code.”.

(d) SUBMISSION OF 5-YEAR PLAN.—Section 29(e) of the Small Business Act (15 U.S.C. 656(e)) is amended—

- (1) by striking “applicant organization” and inserting “eligible entity”;
- (2) by striking “a recipient organization” and inserting “an eligible entity”;
- (3) by striking “financial assistance” and inserting “grants”; and
- (4) by striking “site”.

(e) APPLICATIONS AND CRITERIA FOR INITIAL GRANT.—Subsection (f) of section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

“(f) APPLICATIONS AND CRITERIA FOR INITIAL GRANT.—

“(1) APPLICATION.—Each eligible entity desiring a grant under subsection (b) shall submit to the Administrator an application that contains—

“(A) a certification that the eligible entity—

“(i) has designated an executive director or program manager, who may be compensated using grant funds under subsection (b) or other sources, to manage the women’s business center for which a grant under subsection (b) is sought;

“(ii) meets the accounting and reporting requirements established by the Director of the Office of Management and Budget;

“(B) information demonstrating that the eligible entity has the ability and resources to meet the needs of the market to be served by the women’s business center, including the ability to obtain the non-Federal contribution required under subsection (c);

“(C) information relating to the assistance to be provided by the women’s business center in the area in which the women’s business center is located;

“(D) information demonstrating the experience and effectiveness of the eligible entity in—

“(i) conducting the services described under subsection (a)(5);

“(ii) providing training and services to a representative number of women who are socially or economically disadvantaged; and

“(iii) working with resource partners of the Administration and other entities, such as universities; and

“(E) a 5-year plan that describes the ability of the eligible entity to provide the services described under subsection (a)(3), including to a representative number of women who are socially or economically disadvantaged.

“(2) REVIEW AND APPROVAL OF APPLICATIONS FOR INITIAL GRANTS.—

“(A) REVIEW AND SELECTION OF ELIGIBLE ENTITIES.—

“(i) IN GENERAL.—The Administrator shall review applications to determine whether the applicant can meet obligations to perform the activities required by a grant under this section, including—

“(I) the experience of the applicant in conducting activities required by this section;

“(II) the amount of time needed for the applicant to commence operations should it be awarded a grant;

“(III) the capacity of the applicant to meet the accreditation standards established by the Administrator in a timely manner;

“(IV) the ability of the applicant to sustain operations for more than 5 years (including its ability to obtain sufficient non-Federal funds for that period);

“(V) the location of the women’s business center and its proximity to other grant recipients under this section; and

“(VI) the population density of the area to be served by the women’s business center.

“(ii) SELECTION CRITERIA.—

“(I) RULEMAKING.—The Administrator shall issue regulations (after providing an opportunity for notice and comment) to specify the criteria for review and selection of applicants under this subsection.

“(II) MODIFICATIONS PROHIBITED AFTER ANNOUNCEMENT.—With respect to a public announcement of any opportunity to be awarded a grant under this section made by the Administrator pursuant to subsection (1)(1), the Administrator may not modify regulations issued pursuant to subclause (I) with respect to such opportunity unless required to do so by an Act of Congress or an order of a Federal court.

“(III) RULE OF CONSTRUCTION.—Nothing in this clause may be construed as prohibiting the Administrator from modifying the reg-

ulations issued pursuant to subclause (I) (after providing an opportunity for notice and comment) as such regulations apply to an opportunity to be awarded a grant under this section that the Administrator has not yet publicly announced pursuant to subsection (l)(1).

“(B) RECORD RETENTION.—

“(i) IN GENERAL.—The Administrator shall maintain a copy of each application submitted under this subsection for not less than 5 years.

“(ii) PAPERWORK REDUCTION.—The Administrator shall take steps to reduce, to the maximum extent practicable, the paperwork burden associated with carrying out clause (i).”

(f) NOTIFICATION REQUIREMENTS UNDER THE WOMEN’S BUSINESS CENTER PROGRAM.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by inserting after subsection (k) the following:

“(l) NOTIFICATION REQUIREMENTS UNDER THE WOMEN’S BUSINESS CENTER PROGRAM.—The Administrator shall provide—

“(1) a public announcement of any opportunity to be awarded grants under this section, and such announcement shall include the standards by which such award will be made, including the regulations issued pursuant to subsection (f)(2)(A)(ii);

“(2) the opportunity for any applicant for a grant under this section that failed to obtain such a grant a debriefing with the Assistant Administrator to review the reasons for the applicant’s failure; and

“(3) with respect to any site visit or evaluation of an eligible entity receiving a grant under this section that is carried out by an officer or employee of the Administration (other than the Inspector General), a copy of the site visit report or evaluation, as applicable, within 30 calendar days of the completion of such visit or evaluation.”

(g) CONTINUED FUNDING FOR CENTERS.—Section 29(m) of the Small Business Act (15 U.S.C. 656(m)) is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) APPLICATION AND APPROVAL FOR CONTINUATION GRANTS.—

“(A) SOLICITATION OF APPLICATIONS.—The Administrator shall solicit applications and award continuation grants under this subsection for the first fiscal year beginning after the date of enactment of this paragraph, and every third fiscal year thereafter.

“(B) CONTENTS OF APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit to the Administrator an application that contains—

“(i) a certification that the applicant—

“(I) is an eligible entity;

“(II) has designated an executive director or program manager to manage the women’s business center operated by the applicant; and

“(III) as a condition of receiving a grant under this subsection, agrees—

“(aa) to receive a site visit as part of the final selection process, at the discretion of the Administrator; and

“(bb) to remedy any problem identified pursuant to the site visit under item (aa);

“(ii) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women’s business center for which a grant under this subsection is sought, including the ability to obtain the non-Federal contribution required under paragraph (4)(C);

“(iii) information relating to assistance to be provided by the women’s business center in the geographic area served by the women’s business center for which a grant under this subsection is sought;

“(iv) information demonstrating that the applicant has worked with resource partners of the Administration and other entities;

“(v) a 3-year plan that describes the services provided by the women’s business center for which a grant under this subsection is sought—

“(I) to serve women who are business owners or potential business owners by conducting training and counseling activities; and

“(II) to provide training and services to a representative number of women who are socially or economically disadvantaged; and

“(vi) any additional information that the Administrator may reasonably require.

“(C) REVIEW AND APPROVAL OF APPLICATIONS FOR GRANTS.—

“(i) IN GENERAL.—The Administrator—

“(I) shall review each application submitted under subparagraph (B), based on the information described in such subparagraph and the criteria set forth under clause (ii) of this subparagraph; and

“(II) as part of the final selection process, may, at the discretion of the Administrator, conduct a site visit to each women’s business center for which a grant under this subsection is sought, in particular to evaluate the women’s business center using the selection criteria described in clause (ii)(II).

“(ii) SELECTION CRITERIA.—

“(I) IN GENERAL.—The Administrator shall evaluate applicants for grants under this subsection in accordance with selection criteria that are—

“(aa) established before the date on which applicants are required to submit the applications;

“(bb) stated in terms of relative importance; and

“(cc) publicly available and stated in each solicitation for applications for grants under this subsection made by the Administrator.

“(II) REQUIRED CRITERIA.—The selection criteria for a grant under this subsection shall include—

“(aa) the total number of entrepreneurs served by the applicant;

“(bb) the total number of new startup companies assisted by the applicant;

“(cc) the percentage of clients of the applicant that are socially or economically disadvantaged;

“(dd) the percentage of individuals in the community served by the applicant who are socially or economically disadvantaged;

“(ee) the successful accreditation of the applicant under the accreditation program developed under subsection (g)(5); and

“(ff) any additional criteria that the Administrator may reasonably require.

“(iii) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to make a grant under this subsection, the Administrator—

“(I) shall consider the results of the most recent evaluation of the women’s business center for which a grant under this subsection is sought, and, to a lesser extent, previous evaluations; and

“(II) may withhold a grant under this subsection, if the Administrator determines that the applicant has failed to provide the information required to be provided under this paragraph, or the information provided by the applicant is inadequate.

“(D) NOTIFICATION.—Not later than 60 calendar days after the date of each deadline to submit applications under this paragraph, the Administrator shall approve or deny each submitted application and notify the applicant for each such application of the approval or denial.

“(E) RECORD RETENTION.—

“(i) IN GENERAL.—The Administrator shall maintain a copy of each application submitted under this paragraph for not less than 5 years.

“(ii) PAPERWORK REDUCTION.—The Administrator shall take steps to reduce, to the maximum extent practicable, the paperwork burden associated with carrying out clause (i).”; and

(2) by striking paragraph (5) and inserting the following:

“(5) AWARD TO PREVIOUS RECIPIENTS.—There shall be no limitation on the number of times the Administrator may award a grant to an applicant under this subsection.”.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (h)(2), by striking “to award a contract (as a sustainability grant) under subsection (l) or”;

(2) in subsection (j)(1), by striking “The Administration” and inserting “Not later than November 1 of each year, the Administrator”;

(3) in subsection (k)—

(A) by striking paragraphs (1) and (4);

(B) by inserting before paragraph (2) the following:

“(1) IN GENERAL.—There are authorized to be appropriated to the Administration to carry out this section, to remain available until expended, \$21,750,000 for each of fiscal years 2017 through 2020.”; and

(D) in paragraph (2), by striking subparagraph (B) and inserting the following:

“(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, costs associated with maintaining an accreditation program, and post-award conference costs:

“(i) For the first fiscal year beginning after the date of the enactment of this subparagraph, 2.65 percent.

“(ii) For the second fiscal year beginning after the date of the enactment of this subparagraph and each fiscal year thereafter through fiscal year 2020, 2.5 percent.”; and

(4) in subsection (m)—

(A) in paragraph (2), by striking “subsection (b) or (l)” and inserting “this subsection or subsection (b)”;

(B) in paragraph (4)(D), by striking “or subsection (l)”.

(i) EFFECT ON EXISTING GRANTS.—

(1) TERMS AND CONDITIONS.—A nonprofit organization receiving a grant under section 29(m) of the Small Business Act (15 U.S.C. 656(m)), as in effect on the day before the date of enactment of this Act, shall continue to receive the grant under the terms and conditions in effect for the grant on the day before the date of enactment of this Act, except that the nonprofit organization may not apply for a continuation of the grant under section 29(m)(5) of the Small Business Act (15 U.S.C. 656(m)(5)), as in effect on the day before the date of enactment of this Act.

(2) LENGTH OF CONTINUATION GRANT.—The Administrator of the Small Business Administration may award a grant under section 29(m) of the Small Business Act to a nonprofit organization receiving a grant under section 29(m) of the Small Business Act (15 U.S.C. 656(m)), as in effect on the day before the date of enactment of this Act, for the period—

(A) beginning on the day after the last day of the grant agreement under such section 29(m); and

(B) ending at the end of the third fiscal year beginning after the date of enactment of this Act.

SEC. 204. MATCHING REQUIREMENTS UNDER WOMEN'S BUSINESS CENTER PROGRAM.

(a) IN GENERAL.—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)), as amended by section 204 of this Act, is amended—

(1) in paragraph (1), by striking “As a condition” and inserting “Subject to paragraph (6), as a condition”; and

(2) by adding at the end the following:

“(9) WAIVER OF NON-FEDERAL SHARE.—

“(A) IN GENERAL.—Upon request by an eligible entity, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for counseling and training activities of the eligible entity carried out using a grant under this section for a fiscal year. The Administrator may not waive the requirement for an eligible entity to obtain non-Federal funds under this paragraph for more than a total of 2 consecutive fiscal years.

“(B) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

“(i) the economic conditions affecting the eligible entity;

“(ii) the impact a waiver under this paragraph would have on the credibility of the Women's Business Center Program under this section;

“(iii) the demonstrated ability of the eligible entity to raise non-Federal funds; and

“(iv) the performance of the eligible entity.

“(C) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the Women's Business Center Program.

“(10) SOLICITATION.—Notwithstanding any other provision of law, eligible entity may—

“(A) solicit cash and in-kind contributions from private individuals and entities to be used to carry out the activities of the eligible entity under the project conducted under this section; and

“(B) use amounts made available by the Administrator under this section for the cost of such solicitation and management of the contributions received.

“(11) EXCESS NON-FEDERAL DOLLARS.—The amount of non-Federal dollars obtained by an eligible entity that is above the amount that is required to be obtained by the eligible entity under this subsection shall not be subject to the requirements of part 200 of title 2, Code of Federal Regulations, or any successor thereto, if such amount of non-Federal dollars—

“(A) is not used as matching funds for purposes of implementing the Women’s Business Center Program; and

“(B) was not obtained using funds from the Women’s Business Center Program.”.

(b) REGULATIONS.—

(1) IN GENERAL.—The Administrator of Small Business Administration shall—

(A) except as provided in paragraph (2), and not later than 270 days after the date of enactment of this Act, publish in the Federal Register proposed regulations by the Administrator to carry out the amendments made to section 29 of the Small Business Act (15 U.S.C. 656) by this title; and

(B) accept public comments on such proposed regulations for not less than 60 days.

(2) EXISTING PROPOSED REGULATIONS.—Paragraph (1)(A) shall not apply to the extent proposed regulations by the Administrator have been published on the date of enactment of this Act that are sufficient to carry out the amendments made to section 29 of the Small Business Act (15 U.S.C. 656) by this title.

TITLE III—SCORE PROGRAM REAUTHORIZATION

SEC. 301. SHORT TITLE.

This title may be cited as the “SCORE for Small Business Act of 2016”.

SEC. 302. SCORE REAUTHORIZATION.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by redesignating subsection (j) as subsection (f); and

(2) by adding at the end the following:

“(g) SCORE PROGRAM.—There are authorized to be appropriated to the Administrator to carry out the SCORE program authorized by section 8(b)(1) such sums as are necessary for the Administrator to make grants or enter into cooperative agreements in a total amount that does not exceed \$10,500,000 in each of fiscal years 2017 and 2018.”.

SEC. 303. SCORE PROGRAM.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(1) in subsection (b)(1)(B), by striking “a Service Corps of Retired Executives (SCORE)” and inserting “the SCORE program described in subsection (c)”; and

(2) by striking subsection (c) and inserting the following:

“(c) SCORE PROGRAM.—

“(1) DEFINITION.—In this subsection:

“(A) SCORE ASSOCIATION.—The term ‘SCORE Association’ means the Service Corps of Retired Executives Association or any successor or other organization who receives a grant from the Administrator to operate the SCORE program under paragraph (2)(A).

“(B) SCORE PROGRAM.—The term ‘SCORE program’ means the SCORE program authorized by subsection (b)(1)(B).

“(2) MANAGEMENT AND VOLUNTEERS.—

“(A) IN GENERAL.—The Administrator shall provide a grant to the SCORE Association to manage the SCORE program.

“(B) VOLUNTEERS.—A volunteer participating in the SCORE program shall—

“(i) based on the business experience and knowledge of the volunteer—

“(I) provide at no cost to individuals who own, or aspire to own, small business concerns personal counseling, mentoring, and coaching relating to the process of starting, expanding, managing, buying, and selling a business; and

“(II) facilitate low-cost education workshops for individuals who own, or aspire to own, small business concerns; and

“(ii) as appropriate, use tools, resources, and expertise of other organizations to carry out the SCORE program.

“(3) PLANS AND GOALS.—The Administrator, in consultation with the SCORE Association, shall ensure that the SCORE program and each chapter of the

SCORE program develop and implement plans and goals to more effectively and efficiently provide services to individuals in rural areas, economically disadvantaged communities, and other traditionally underserved communities, including plans for electronic initiatives, web-based initiatives, chapter expansion, partnerships, and the development of new skills by volunteers participating in the SCORE program.

“(4) ANNUAL REPORT.—The SCORE Association shall submit to the Administrator an annual report that contains—

“(A) the number of individuals counseled or trained under the SCORE program;

“(B) the number of hours of counseling provided under the SCORE program; and

“(C) to the extent possible—

“(i) the number of small business concerns formed with assistance from the SCORE program;

“(ii) the number of small business concerns expanded with assistance from the SCORE program; and

“(iii) the number of jobs created with assistance from the SCORE program.

“(5) PRIVACY REQUIREMENTS.—

“(A) IN GENERAL.—Neither the Administrator nor the SCORE Association may disclose the name, address, or telephone number of any individual or small business concern receiving assistance from the SCORE Association without the consent of such individual or small business concern, unless—

“(i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

“(ii) the Administrator determines such a disclosure to be necessary for the purpose of conducting a financial audit of the SCORE program, in which case disclosure shall be limited to the information necessary for the audit.

“(B) ADMINISTRATOR USE OF INFORMATION.—This paragraph shall not—

“(i) restrict the access of the Administrator to program activity data;

or

“(ii) prevent the Administrator from using client information to conduct client surveys.

“(C) REGULATIONS.—

“(i) IN GENERAL.—The Administrator shall issue regulations to establish standards for—

“(I) disclosures with respect to financial audits under subparagraph (A)(ii); and

“(II) conducting client surveys, including standards for oversight of the surveys and for dissemination and use of client information.

“(ii) MAXIMUM PRIVACY PROTECTION.—The regulations issued under this subparagraph shall, to the extent practicable, provide for the maximum amount of privacy protection.”

SEC. 304. ONLINE COMPONENT.

(a) IN GENERAL.—Section 8(c) of the Small Business Act, as added by section 303, is further amended by adding at the end the following:

“(6) ONLINE COMPONENT.—In carrying out this subsection, the SCORE Association shall make use of online counseling, including by developing and implementing webinars and an electronic mentoring platform to expand access to services provided under this subsection and to further support entrepreneurs.”

(b) ONLINE COMPONENT REPORT.—

(1) IN GENERAL.—At the end of fiscal year 2018, the SCORE Association shall issue a report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate on the effectiveness of the online counseling and webinars required as part of the SCORE program, including—

(A) how the SCORE Association determines electronic mentoring and webinar needs, develops training for electronic mentoring, establishes webinar criteria curricula, and evaluates webinar and electronic mentoring results;

(B) describing the internal controls that are used and a summary of the topics covered by the webinars; and

(C) performance metrics, including the number of small business concerns counseled by, the number of small business concerns created by, the num-

ber of jobs created and retained by, and the funding amounts directed towards such online counseling and webinars.

(2) DEFINITIONS.—For purposes of this subsection, the terms “SCORE Association” and “SCORE program” have the meaning given those terms, respectively, under section 8(c)(1) of the Small Business Act (15 U.S.C. 637(c)(1)).

SEC. 305. STUDY AND REPORT ON THE FUTURE ROLE OF THE SCORE PROGRAM.

(a) STUDY.—The SCORE Association shall carry out a study on the future role of the SCORE program and develop a strategic plan for how the SCORE program will evolve to meet the needs of America’s entrepreneurs over the course of the next 5 years, with markers and specific objectives for year 1, year 3, and year 5.

(b) REPORT.—Not later than the end of the 6-month period beginning on the date of the enactment of this Act, the SCORE Association shall issue a report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate containing—

(1) all findings and determination made in carrying out the study required under subsection (a);

(2) the strategic plan developed under subsection (a);

(3) an explanation of how the SCORE Association plans to achieve the strategic plan, assuming both stagnant and increased funding levels.

(c) DEFINITIONS.—For purposes of this section, the terms “SCORE Association” and “SCORE program” have the meaning given those terms, respectively, under section 8(c)(1) of the Small Business Act (15 U.S.C. 637(c)(1)).

SEC. 306. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 7(m)(3)(A)(i)(VIII) (15 U.S.C. 636(m)(3)(A)(i)(VIII)), by striking “Service Corps of Retired Executives” and inserting “SCORE program”; and

(2) in section 22 (15 U.S.C. 649)—

(A) in subsection (b)—

(i) in paragraph (1), by striking “Service Corps of Retired Executives” and inserting “SCORE program”; and

(ii) in paragraph (3), by striking “Service Corps of Retired Executives” and inserting “SCORE program”; and

(B) in subsection (c)(12), by striking “Service Corps of Retired Executives” and inserting “SCORE program”.

(b) OTHER LAWS.—

(1) Section 621 of the Children’s Health Insurance Program Reauthorization Act of 2009 (15 U.S.C. 657p) is amended—

(A) in subsection (a), by striking paragraph (4) and inserting the following:

“(4) the term ‘SCORE program’ means the SCORE program authorized by section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B));”;

(B) in subsection (b)(4)(A)(iv), by striking “Service Corps of Retired Executives” and inserting “SCORE program”.

(2) Section 337(d)(2)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6307(d)(2)(A)) is amended by striking “Service Corps of Retired Executives (SCORE)” and inserting “SCORE program”.

Amend the title so as to read:

A bill to make improvements to Small Business Development Centers, to reauthorize the Women’s Business Center Program, to reauthorize the SCORE Program, and for other purposes.

II. PURPOSE AND BILL SUMMARY

The purpose of H.R. 207, the “Developing the Next Generation of Small Businesses Act of 2016” is to amend the Small Business Act (the Act)¹ to improve the entrepreneurial development assistance provided to small businesses and entrepreneurs by the Small Business Administration (SBA) and its resource partners. Specifically, it provides improvements to the Small Business Development Cen-

¹ Originally, title II of the Act of July 30, 1953, c. 282, 67 Stat. 232 was designated as the Small Business Act of 1953. A plethora of amendments in subsequent Congresses led to a rewrite in 1958. Pub. L. No. 85–536, § 1, 72 Stat. 384 (1958). The Act is codified at 15 U.S.C. §§ 631–657s.

ter (SBDC) program, Women’s Business Center (WBC) program, and SCORE program. Small businesses² employ 56.8 million employees, or nearly half of the nation’s private sector workforce,³ are responsible for 63 percent of net new private sector jobs, and produce 46 percent of private sector GDP.⁴ In fact, nearly 90 percent of United States employers have less than 20 employees.⁵ In 2013, 1.1 million net new jobs were created by small businesses.⁶ New and young firms are particularly important as they account for almost all net new job creation and nearly 20 percent of gross job creation.⁷ In fact, over the past 30 years, firms that are less than one-year old have annually generated an average of 1.5 million jobs.⁸ Thus, ensuring that programs intended to foster new and emerging small businesses operate properly should benefit the overall economy.

III. NEED FOR LEGISLATION

H.R. 207, then titled as the “Small Business Development Centers Improvement Act of 2015” by Ranking Member Nydia Velázquez on January 8, 2015, and is substantially similar to H.R. 4121 which was introduced and passed out of Committee during the 113th Congress. This Chairman Chabot’s amendment in the nature of a substitute (ANS) includes further reforms on three of the SBA’s statutorily authorized entrepreneurial development (ED) programs to promote oversight of SBA, direct appropriated dollars, and ensure that the ED programs aid entrepreneurs as envisioned by Congress rather than based on the whims of the Administration.

The United States has consistently recognized the need to encourage entrepreneurship as a means to combat unemployment and promote economic development. Therefore, SBA’s mission, as evinced in the Act is to “aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns.”⁹ In carrying out its mission to provide small businesses with assistance, SBA oversees a number of programs that offer counseling to potential entrepreneurs and extant small business owners. SBA itself does not generally carry out this training; in most circumstances, the agency enters into a cooperative agreement with another orga-

²The Act uses the term “small business concern.” However, this report will use the terms “small business” and “small business concern” interchangeably unless the context requires a specific reference to the term “small business concern.” The United States Small Business Administration (SBA) Office of Advocacy defines small businesses as those with 500 employees or less. SBA, Office of Advocacy, Frequently Asked Questions 1 (2014) [hereinafter Small Business FAQ], available at https://www.sba.gov/sites/default/files/advocacy/FAQ_March_2014_0.pdf.

³SBA, Office of Advocacy, Small Business Profile: United States 1, 3 (2016) [hereinafter United States 2016 Profile], available at https://www.sba.gov/sites/default/files/advocacy/United_States.pdf. There are 28.8 million small businesses in the United States. Of that total, 5.8 million are employers, and 23 million are non-employers. *Id.* Non-employers are businesses that have no paid employees, \$1,000 or more in annual receipts, and pay federal income taxes. <https://www.census.gov/epcd/nonemployer/view/define.html>. Non-employers are found in almost every major industry sector and include a variety of small businesses such as manufacturers, construction firms, specialty trade contractors, real estate agents, physicians, retailers, and home-based businesses.

⁴Small Business FAQ, *supra* note 7, at 1.

⁵Of the total number of employers in the United States, 89.49 percent have less than 20 employees. This figure was calculated by using the firm data in the United States Census Bureau’s 2013 Statistics on U.S. Businesses. <https://www.census.gov/econ/sub/>.

⁶United States 2016 Profile, *supra* note 8, at 1.

⁷Ewing Marion Kauffman Foundation, Entrepreneurship Policy Digest: The Importance of Young Firms for Economic Growth 1 (2015), available at <http://www.kauffman.org/what-we-do/resources/entrepreneurship-policy-digest/the-importance-of-young-firms-for-economic-growth>.

⁸*Id.*

⁹15 U.S.C. § 631(a).

nization to offer such services. The cooperators are termed resource partners¹⁰ by SBA and are required to obtain a significant portion of their operating budgets from non-federal sources (be they private donors or state funds).

The largest such program is the SBDC program, set out in §21 of the Act.¹¹ The SBDC grantees operate service centers where small business owners and potential entrepreneurs can receive free counseling.¹² Typically, the grantee is an institution of higher education (but not always) and the grantee agrees to offer these services throughout a state or through a portion of the state.¹³ Although their missions and scope of service territories vary, the WBCs¹⁴ and Veteran Business Outreach Centers (VBOCs) operate in a fashion akin to that of the SBDCs.

The other major entrepreneurial outreach program, SCORE, operates somewhat differently. Although SCORE also offers free advice (from volunteer active and retired business executives), almost all of SCORE's funds are appropriated by Congress. The SBA also is required to provide offices and other ancillary services to SCORE at no charge to SCORE or their clients.

Despite this array of specifically authorized statutory ED programs,¹⁵ SBA has felt the need to create and request funds for new entrepreneurial training initiatives. In the FY 17 SBA's recent budget request, while the overall agency request for specifically authorized ED programs is reduced by \$500,000,¹⁶ SBA requested an increase of \$10 million from what was appropriated in FY 2016 or SBA-created initiatives.¹⁷ Thus, SBA continues to neglect the statutory ED programs in favor of its initiatives.

In response to this ever-burgeoning effort at the agency to create its own entrepreneurial outreach efforts, the Committee requested a complete list of all efforts initiated by the SBA to provide entrepreneurial training or outreach to small businesses.¹⁸ SBA's response included twenty-two various programs, with seventeen deemed by SBA as initiatives or partnerships and being created by the SBA without specific direction by Congress to develop any one of those nine initiatives.¹⁹ Of those programs, the SBA has focused

¹⁰In this case, resource partners refer to the non-federal partners that provide training authorized by the Small Business Act and funded, in part, by federal appropriations. These include SBDCs, WBCs, VBOCs, and SCORE.

¹¹15 U.S.C. §648.

¹²SBDCs are responsible for providing an array of services which are delineated in the Act. These include one-on-one counseling; aiding individuals awareness of credit practices and requirements; assisting in developing business plans, financial packages, credit applications, and contract proposals; as well as working with SBA to develop and provide information tools on starting or expanding a business or export planning. *Id.* at §648(c)(3).

¹³The grantee agrees to provide services throughout a state; two states—California and Texas—do not have statewide grantees.

¹⁴With respect to WBCs, it is important to note that at least 25 percent of their clients are men, according to testimony offered by the WBCs in hearings before this Committee.

¹⁵In addition to those already described, there are a number of other initiatives that are specifically recognized in statute by which the SBA educates small business owners. Under the Microloan Program (§7(m) of the Small Business Act), microloan intermediaries are appropriated funds to offer their borrowers education on operating a business. The agency also is authorized to contract with third parties to offer assistance to participants in the 8(a) government contracting program the authority for which is found not in §8(a) but in §7(j).

¹⁶SBA, FY 2017 Congressional Budget Justification and FY 15 Annual Performance Report 14 (2016), available at https://www.sba.gov/sites/default/files/FY17-CBJ_FY15-APR.pdf.

¹⁷*Id.* at 19.

¹⁸Letter from the Hon. Sam Graves, Chairman, Committee on Small Business, to the Hon. Karen Mills, Administrator, SBA (Aug. 7, 2013) (on file with Committee).

¹⁹Letter from the Hon. Karen Mills, Administrator, SBA, to the Hon. Sam Graves, Chairman, Committee on Small Business (Aug. 30, 2013) (on file with Committee).

most of its efforts and funding requests on four of its initiatives: Entrepreneurial Education; Growth Accelerators; Boots to Business; and Regional Innovation Clusters.²⁰

Consequently, while H.R. 207 does not prohibit new initiatives, it does refocus and strengthen statutory programs of the Act. Title I of H.R. 207 modernizes the SBDCs while increasing SBA's compliance with data collection. Title II reauthorizes the WBC program through FY 20 while making substantial reforms to enhance training to entrepreneurs and provide an accreditation process to ensure that no matter which WBC an entrepreneur goes to across the country each WBC will meet certain standards. Finally, title III of the bill reauthorizes the SCORE program until FY 18 while requiring that the SCORE program utilize its funding for online components and demonstrate a strategic plan for increased funding levels in the future.

IV. HEARINGS

In the 114th Congress, the Committee held four hearing that looked at the issues covered by H.R. 207. On February 25, 2015, the full Committee held a hearing titled "The SBA Budget for FY 2016: Does it Meet the Needs of America's Small Businesses?" that examined funding levels for the ED programs. Additionally, on February 2, 2016, the Subcommittee on Economic Growth, Tax and Capital Access held a hearing called "SBA Management Review: Oversight of SBA's Entrepreneurial Development Offices" that focused on key problems with the ED programs.

V. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on March 23, 2016 and ordered H.R. 207 reported, as amended, to the House by a voice vote at 10:13 am. During the markup, two amendments were offered, including an amendment in the nature of a substitute. All amendments were adopted. Disposition of the amendments is addressed below and is based on the order amendments were filed with the Clerk of the Committee and not necessarily in the order that they were considered at the markup.

The amendment in the nature of a substitute officer by Chairman Chabot (R-OH) was adopted by unanimous consent at 10:09 a.m. It added titles II and III to the bill, and made other technical corrections.

Amendment Number One was offered by Ms. Chu (D-CA). It amended section 203(e) of the bill to add a requirement that SBA consider population density as a factor when considering applications from new WBCs. The amendment passed by voice vote at 10:13 a.m.

²⁰Letter from Marianne Markowitz, Acting Administrator, SBA to the Hon. Sam Graves, Chairman, Committee on Small Business (Mar. 11, 2014) (on file with the Committee) [hereinafter SBA-created Initiatives Response Letter]. The letter from Acting Administrator Markowitz was in response to a joint request for more information on these programs sent by Chairman Graves and Ranking Member Velázquez.

VI. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes on H.R. 207.

VII. SECTION-BY-SECTION ANALYSIS OF H.R. 207 AS AMENDED

TITLE I: SMALL BUSINESS DEVELOPMENT CENTERS IMPROVEMENTS

Section 101. Short title

This section provides that the bill may be cited as the “Small Business Development Centers Improvement Act of 2016.”

Section 102. Use of authorized entrepreneurial development programs

This section amends the Small Business Act (15 U.S.C. §§ 631–57s) by creating a new section 48 of the Act.

Subsection (a)—Expanded support for entrepreneurs

Currently, the Administrator is creating and separately funding initiatives developed by the agency. Subsection (a) changes this practice to prohibit the Administrator from utilizing unauthorized programs to deliver entrepreneurial development (ED) services, and provides that Small Business Administration (SBA)-created initiatives must be delivered through those authorized programs specifically cross-referenced in this subsection. As resource partners are the only entities with specific statutory authority to deliver ED support through the SBA, this promotes operational efficiencies, benefitting both small businesses and the taxpayer. Further, given the abundance of ED programs across federal agencies as identified by Government Accountability Office duplication reports, the statutory restriction in new § 48 will help reduce overlapping and duplicative efforts without harming the ability of small businesses to obtain the necessary counseling and training they require. The only exception to this overall prohibition, in subsection (a)(2)(A), relates to assistance offered to small business concerns owned by an Indian tribe.

Subsection (b)—Annual report

Given that SBA-led initiatives are created under the SBA’s general authority to offer assistance to small businesses, these programs do not contain the appropriate performance metrics or operating standards that would result had Congress specifically provided for their establishment. This subsection makes an effort to fill that gap in part by requiring the SBA to issue a report to Congress delineating all ED activities during the current fiscal year. This subsection proscribes items which must be included within the report including: a description and operating details for each program and activity; operating circulars, manuals, and standard operating procedures for each program and activity; a list of all awardees, contractors, and vendors (including organization name and location) and the amounts of awards for the current fiscal year for each program and activity; the amount of funding obligated for the current fiscal year for each program and activity; and the

names and titles for those individuals responsible for each program and activity. The data required in the report will help ensure that the Committees of jurisdiction have the necessary information to ascertain whether taxpayer dollars are being spent wisely.

Section 103. Marketing of services

The Act is currently silent on the question of whether SBDCs can market and advertise their products and services. This section amends § 21 of the Act by adding a new subsection (o), which ensures the SBDCs are able to market and advertise their products and services. Greater awareness of the services available through the SBDCs will allow more small businesses to receive entrepreneurial assistance without imposing any more financial burdens on SBDCs, the SBA, or the taxpayer.

Section 104. Data collection

In order for the SBA to provide Congress with information to properly evaluate ED programs, SBA has been for the past few years engaged in updating its Entrepreneurial Development Management Information System (EDMIS) to gather better performance data. During this process, there have been several setbacks including a failed \$1 million upgrade to the EDMIS system in FY 2015, as well as concerns that some of the required information in a revised EDMIS form would force SBDCs to capture and report data that small businesses are reluctant to share. In cases where this information is of little value to the government, these requirements place an unnecessary burden on the SBDCs and will dissuade small businesses from seeking SBDC assistance.

To correct this problem, this section amends § 21(a)(3)(A) of the Act to require the Administrator to consult with the Association of Small Business Development Centers on the creation of documents governing data collection activities related to SBDCs. Section 21 is further amended by adding a new subsection (p) which requires the Administrator to provide an annual report on data collection activities related to the SBDC program to the appropriate Congressional committees. Further, this section establishes a working group on data collection consisting both of members of the SBA as well as representatives from each of the affected resource partners to develop a plan for data collection and submit this plan to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business within 180 days.

Section 105. Fees from private partnerships and cosponsorships

In order to obtain funding, SBDC grantees must match funds provided by the federal government with non-federal sources, such as private donations or state funds. Therefore, SBDCs often work alongside other community partners, such as a local chamber of commerce, to host events as a partnership or a co-sponsor. In these instances, a participation fee may be charged to businesses by the partnership or cosponsoring party. However, under current law SBDCs are not allowed to collect the necessary fee. Therefore, this section amends § 21(a)(3)(C) of the Act to permit SBDCs to collect fees or other income related to the operation of partnerships or cosponsorships. This authorization does not alter the no-cost counseling provided by SBDCs to individual small businesses.

Section 106. Equity for SBDCs

Under current law, up to \$500,000 of authorized funding to SBDCs could be utilized by the Administrator to pay \$500,000 to the ASBDC for the performance of accreditation services and an additional \$500,000 of authorized funding to SBDCs could be utilized by the Administrator for financial examination expenses associated with reviewing SBDCs. This section eliminates the award of \$500,000 of SBDC grant monies to reimburse the SBA for program administration while raising the amount of funding to \$600,000 to be provided to the ASBDC for accreditation. This promotes ongoing accreditation which is necessary to ensure strong SBDCs across the country, while promoting responsible spending as the SBA has sufficient resources in its salaries and expense account to cover the cost of administering the SBDC program.

Section 107. Confidentiality requirements

The SBA's current operational guidelines for the SBDC program require that SBDCs collect certain information on the businesses they counsel. This information is the basis for some of the performance metrics the agency uses to determine the effectiveness of the SBDCs in fulfilling their mission. Some of the information collected for this purpose, while relevant and necessary for the SBA and SBDCs, is sensitive information that small businesses wish to have treated as confidential. The Committee has become aware of instances in which the SBA is sharing this information with third parties. This sensitive information—such as the name of business—is not necessary to develop performance metrics. However, its forced disclosure could dissuade businesses from seeking assistance through the SBDCs, thereby undermining the intent of Congress when it created the SBDCs. Therefore, this section amends § 21(a)(7)(A) of the Act to prohibit the SBA from distributing and sharing SBDC client information with other parties. This reinforces the Committee's longstanding efforts to ensure the confidentiality of information that small businesses provide to SBDCs.

Section 108. Limitation on award of grants to SBDCs

A majority of SBDC grantees are partnered with higher education institutions which bolster SBDCs ability to obtain private matching funding as required under law. This section adds a new subsection (q) to § 21 of the Act by prohibiting entities other than institutions of higher education from becoming grantees under § 21.

An exception is provided for current SBDC grantees who are not institutions of higher education. These institutions may continue to renew their status as a grantee until they no longer wish to do so or the SBA determines that these grandfathered grantees are incapable of providing such services. Further, a rule of construction is added to make it clear that while Women's Business Centers may not be a lead center under the SBDC program, they are allowed to receive funds from lead centers and to act as subgrantees.

TITLE II: WOMEN'S BUSINESS CENTERS IMPROVEMENTS

Section 201. Short title

This section provides that the bill may be cited as the "Women's Business Center Improvements Act of 2016."

Section 202. Office of Women’s Business Ownership

This section amends Section 29(g) of the Small Business Act to improve the Office of Women’s Business Ownership (OWBO), which is responsible for overseeing the Women’s Business Center (WBC) program, among other things. OWBO is overseen by an Assistant Administrator and this section provides a mission for OWBO to assist women entrepreneurs while clarifying the responsibilities and duties of the individual serving as Assistant Administrator to ensure that mission is met. Specifically, this section directs the Office to work with Administration officials and collaborate with entities other than the Administration to ensure that the work of the Women’s Business Center program (maximizes taxpayer dollars) and coordinates effectively with the efforts of other Federal Government and private sector programs.

This section also requires the SBA Administrator to establish through notice and comment rulemaking an accreditation program for the WBC program and provide a contract or financial assistance to an association which represents a majority of WBCs. This model is based on the success of a similar model utilized within the Small Business Development Centers (SBDCs) program where the Association of Small Business Development Centers (ASBDC) receives a contract from SBA to run an accreditation program to ensure that SBDCs across the country meet strong standards. The ASBDC has an accreditation board, which includes both SBDC grant recipients and SBA officials. Currently, while OWBO provides grants to various institutions for the establishment of WBCs across the country, there is little consistency in standards aside from meeting the requirements of the grant. Given the success of the ASBDC and the growing concern that SBA mismanagement may lead to weaker WBCs, this section ensures that no matter which WBC an entrepreneur goes to across the country each WBC will meet certain accreditation standards. Additionally, this section provides transition time so that a current WBC grantee who does not engage in criminal activity or fraud has time to become accredited and comply with the standards.

Section 203. Women’s Business Center Program

WBCs were originally established as a three-year pilot program. In 1997, Congress kept the basic premise of the demonstration projects but redesignated the names to Women’s Business Centers, extended the time frame for the demonstration projects to five years, modified the matching contributions, and imposed review requirements to ensure that Women’s Business Centers were meeting the obligations of their grants. Currently, while the WBC program is mentioned in the Small Business Act, there is no specific designation of the program and little elaboration on how that program will function and what various terms mean.

Subsection (a)—Definitions

This subsection amends section 29(a) of the Act to provide definitions of various terms within the WBC program and align the Act with how the WBC program truly operates.

Subsection (b)—Authority

This subsection amends section 29(b) of the Act to raise the amount an eligible entity would be able to receive as a grant from SBA from \$150,000 to \$185,000, as annually adjusted for inflation. This is the first time since the program's creation that the cap is being raised and this modest increase in the cap simply allows the centers to continue receiving the same dollar funding as inflation and changes in cost-of-living have reduced the current value. Further, this section allows a WBC to receive an additional \$65,000 if they can provide a 1 for 1 match of funds during the fourth quarter of the fiscal year, and if the SBA has unobligated funds which are meant for WBC grantees that would otherwise go unused. For a standard WBC grant, WBCs are required to provide a 1 to 1 match, and given that the amount of the match is not always known until later in the fiscal year, the SBA each year has been ending up with over \$500,000 in unobligated funds which is it unable to carry over to the next year. This subsection ensures that these funds will be utilized as intended for WBCs and go to WBCs who can demonstrate a need and the requisite match. Further, this subsection requires SBA to promulgate rules through notice and comment rulemaking for any activity related to the WBC program.

Subsection (c)—Conditions of participation

Currently, the Act provides for certain conditions of participation. This subsection amends section 29(c) of the Act to expand upon those conditions to ensure strong oversight and careful use of scarce taxpayer dollars. Specifically this subsection prohibits eligible entities from co-mingling grant funds and requires site visits and annual reviews by the SBA to ensure compliance with grant agreements. Further, this subsection is amended to promote due process by requiring the SBA to establish a remediation plan through notice and comment rulemaking to ensure that if a problem is found with a WBC grant recipient, they have an opportunity to take corrective action and come into compliance with the law. Only after this remediation process may the SBA terminate the grant in accordance with the rules that SBA must promulgate under this subsection.

Subsection (d)—Submission of 5-year plan

This subsection amends section 29(e) of the Act to make technical corrections to language so that terms are consistent throughout the WBC program.

Subsection (e)—Applications and criteria for initial grant

This subsection amends section 29(f) of the Act to require an eligible entity that is applying for a first time WBC grant to: submit to the Administrator certification of designation of an executive director or program manager; submit information demonstrating that it has the ability and resources to meet the needs of the market to be served as well as information demonstrating its experiences and effectiveness in conducting required services; demonstrate the ability to obtain non-Federal contributions; and develop a five year plan demonstrating the ability of the WBC to serve women who are business owners or potential business owners and provide training

and services to women who are socially or economically disadvantaged.

This subsection adds requisites for the SBA's review and approval of applications which takes into account the experience, the time needed between grant award and operational commencement, sustainability after 5 years, location, population density, and the capacity to meet accreditation standards. Further, this subsection amends section 29(f) to require the SBA to establish regulations in accordance with the criteria to ensure that all eligible entities understand what would be required of them to receive a grant.

Subsection (f)—Notification requirements under the Women's Business Center program

Currently, the Act is silent on how eligible entities would learn about the WBC program grants and what the SBA should provide to eligible entities. This subsection amends Section 29 of the Act to add a new subsection (l) which requires the SBA to provide public announcements of the grants availability, the opportunity for anyone denied a grant to review with the Assistant Administrator of OWBO the reasons for denial, and for any eligible entity who receives a site visit or evaluation to receive a copy of that report within 30 days of completion.

Subsection (g)—Continued funding for centers

Under current practice, an initial grant is awarded to an eligible entity to serve as a WBC for 5 years. Following that time period, incumbent WBCs are eligible to apply for another 3 year grant that continues funding the eligible entity as a WBC. This subsection amends Section 29(m) of the Act, to formally put into statute what is already occurring and modifies it so that the continuation grant takes into account other changes made within this bill to ensure that an existing WBC becomes accredited, meets the requisite federal matching requirements, develops a 3 year plan that describes how it intends to continuing providing services, and thereby continues to meet the revised standards. This provision also requires the Administrator to look at prior evaluations and specific criteria such as: the total number of entrepreneurs served; total number of new startup companies assisted; percentage of clients socially or economically disadvantaged; percentage of individuals in the community socially or economically disadvantaged; successful participation under the accreditation program; and any additional criteria the Administrator reasonably requires. Further, this subsection establishes that there is no limitation on the number of times the Administrator may award a grant to an applicant.

Subsection (h)—Technical and conforming amendments

This subsection authorizes \$21,750,000 for each of fiscal years 2016 to 2020 to be appropriated to the Administration. Of the amount made available, the following amount shall be available for selection panel costs, costs associated with maintaining an accreditation program and post-award conference costs. For fiscal year 2016, 2.65 percent of total appropriated amount. For each of fiscal years 2017 to 2020, 2.5 percent.

Subsection (i)—Effect on existing grants

This subsection amends Section 29(m) to provide protections for existing WBCs and ensure that existing WBCs have adequate time to meet the new requirements provided within this bill.

Section 204. Matching requirements under Women’s Business Center program

The Small Business Jobs Act waived the 1 to 1 matching requirements temporarily for the WBC program during the economic downturn. While this waiver was seldom used, it provided flexibility within the program to ensure that WBCs who were adversely impacted but would be able to successfully resume operations once the economy rebounded were not forced to stop receiving their WBC grant. Given that, this section amends 29(c) of the Act to allow the Administrator to waive, in whole or in part, the requirement to obtain non-Federal funds for counseling and training activities of the recipient of financial assistance. The Administrator may not waive the requirement for a recipient organization to obtain non-Federal funds for more than a total of 2 consecutive fiscal years. This section also requires the Administrator to consider when determining whether to waive the requirement to obtain non-Federal funds: the economic conditions affecting the recipient; the impact of a waiver would have on the credibility of the women’s business center program; the demonstrated ability of the recipient to raise non-Federal funds; and the performance of the recipient. Further, to safeguard both the taxpayer and the other WBC grant recipients, it prohibits the Administrator from waiving the requirement to obtain non-Federal funds if granting the waiver would undermine the credibility of the WBC program.

Additionally, this section exempts the amount of non-Federal dollars obtained by the WBC grant recipient that is above the amount required to be obtained, and which is not used as matching funds for purposes of implementing the program, from part 200 of title 2, Code of Federal Regulations, or any successor. This corrects a longstanding compliance challenge by which WBCs would be reluctant to raise additional funds as the SBA would force them to include it as part of their budget even though that money was not being used for purposes of the match. In accordance with these changes, the section requires the SBA to issue regulations within 270 days.

TITLE III: SCORE PROGRAM REAUTHORIZATION

Section 301. Short title

This section provides that the bill may be cited as the “SCORE for Small Business Act of 2016.”

Section 302. SCORE reauthorization

This section reauthorizes the SCORE Program at \$10.5 million for Fiscal Years (FYs) 2017 and 2018, respectively. As SCORE received an appropriation funding level of \$10.5 million for FY 2016, this ensures that this valuable program continues to have the ability to meet the needs of small business owners with a continued level of funding for the next two FYs.

Section 303. SCORE program

This section amends Section 8 of the Small Business Act to officially change the name of SCORE from Service Corps of Retired Executives (SCORE) to SCORE. This change is reflective of how the SCORE program has grown beyond merely just utilizing retired executives for its volunteer base and today utilizes entrepreneurs who may still be actively engaged in running their businesses. This section also provides for the definitions of terms used within the SCORE program and requires the SCORE Association, which is defined as the entity who receives the SCORE grant from Small Business Administration (SBA), to provide an annual report on their activities. Further, this section creates parity for SCORE with the other entrepreneurial development (ED) programs within the SBA by requiring the SBA to promulgate privacy regulation to ensure that small businesses' valuable personal information is safeguarded and secure.

Section 304. Online component

This section amends Section 8(c) of the Small Business Act to require the SCORE Association to utilize webinars and electronic mentoring as a way to increase SCORE's presence across America. For FY 2017, the SCORE Association has requested \$1.3 million for technology, and this section ensures that will occur by making technology an integral piece of the SCORE program. Further, this section requires the SCORE Association to provide a report at the end of FY 2018, which coincides with the reauthorization of funds provided in this bill, to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business regarding the results of this online component, including performance metrics.

Section 305. Study and report on the future role of the SCORE program

This section requires the SCORE Association to provide a report to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business within six months after enactment of this bill on the future role and strategic plan for how the SCORE program will evolve to meet the needs of America's entrepreneurs over the next ten years with specific markers for year 1, year 3, and year 5.

Section 306. Technical and conforming amendments

This section makes technical and conforming amendments to the Small Business Act reflective of other changes made in this bill, such as the changing of the name of the program from Service Corps of Retired Executives (SCORE) to SCORE.

VIII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At the time H.R. 207 was reported to the House, the Congressional Budget Office had not provided a cost estimate.

IX. UNFUNDED MANDATES

H.R. 207 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, Pub. L.

No. 104-4, and would impose no costs on state, local or tribal governments.

X. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to 402 of the Congressional Budget Act of 1974, the Committee does not believe that any additional appropriation will be required due to the enactment of H.R. 207. H.R. 207 does not direct new spending, but instead continues the authorization levels currently in place while reallocating funds within the programs.

XI. OVERSIGHT FINDINGS

In accordance with clause 2(b)(1) of rule X of the Rules of the House, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 207 are incorporated into the descriptive portions of this report.

XII. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the authority for this legislation in Art. I, § 8, cls. 3 of the Constitution of the United States.

XIII. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 207 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of § 102(b)(3) of Pub. L. No. 104-1.

XIV. FEDERAL ADVISORY COMMITTEE ACT STATEMENT

H.R. 207 does not establish or authorize the establishment of any new advisory committees as that term is defined in the Federal Advisory Committee Act, 5 U.S.C. App. 2.

XV. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 207 does not contain any congressional earmarks, limited tax benefits or limited tariff benefits as defined in subsections (d), (e) or (f) of clause 9 of rule XXI of the Rules of the House.

XVI. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House, the Committee establishes the following performance-related goals and objectives for this legislation:

H.R. 207 includes a number of provisions designed to improve the provision of entrepreneurial development assist-

ance pursuant to the Small Business Act, and to improve agency compliance with the Small Business Act.

XVII. CHANGES TO EXISTING LAW

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * *

SEC. 7. (a) LOANS TO SMALL BUSINESS CONCERNS; ALLOWABLE PURPOSES; QUALIFIED BUSINESS; RESTRICTIONS AND LIMITATIONS.—The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this Act. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

(1) IN GENERAL.—

(A) CREDIT ELSEWHERE.—

(i) IN GENERAL.—No financial assistance shall be extended pursuant to this subsection if the applicant can obtain credit elsewhere. No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financing may be made unless it is shown that a participation is not available.

(ii) LIQUIDITY.—On and after October 1, 2015, the Administrator may not guarantee a loan under this subsection if the lender determines that the borrower is unable to obtain credit elsewhere solely because the liquidity of the lender depends upon the guaranteed portion of the loan being sold on the secondary market.

(B) BACKGROUND CHECKS.—Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act of 1958, the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.

(C) LENDING LIMITS OF LENDERS.—On and after October 1, 2015, the Administrator may not guarantee a loan under this subsection if the sole purpose for requesting the

guarantee is to allow the lender to exceed the legal lending limit of the lender.

(2) LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B), (D), and (E), in an agreement to participate in a loan on a deferred basis under this subsection (including a loan made under the Preferred Lenders Program), such participation by the Administration shall be equal to—

(i) 75 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance exceeds \$150,000; or

(ii) 85 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance is less than or equal to \$150,000.

(B) REDUCED PARTICIPATION UPON REQUEST.—

(i) IN GENERAL.—The guarantee percentage specified by subparagraph (A) for any loan under this subsection may be reduced upon the request of the participating lender.

(ii) PROHIBITION.—The Administration shall not use the guarantee percentage requested by a participating lender under clause (i) as a criterion for establishing priorities in approving loan guarantee requests under this subsection.

(C) INTEREST RATE UNDER PREFERRED LENDERS PROGRAM.—

(i) IN GENERAL.—The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, applicable to other loans guaranteed under this subsection.

(ii) EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.

(iii) PREFERRED LENDERS PROGRAM DEFINED.—For purposes of this subparagraph, the term “Preferred Lenders Program” means any program established by the Administrator, as authorized under the proviso in section 5(b)(7), under which a written agreement between the lender and the Administration delegates to the lender—

(I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

(II) complete authority to service and liquidate such loans without obtaining the prior specific approval of the Administration for routine servicing and liquidation activities, but shall not take any actions creating an actual or apparent conflict of interest.

(D) PARTICIPATION UNDER EXPORT WORKING CAPITAL PROGRAM.—In an agreement to participate in a loan on a de-

ferred basis under the Export Working Capital Program established pursuant to paragraph (14)(A), such participation by the Administration shall be 90 percent.

(E) PARTICIPATION IN INTERNATIONAL TRADE LOAN.—In an agreement to participate in a loan on a deferred basis under paragraph (16), the participation by the Administration may not exceed 90 percent.

(3) No loan shall be made under this subsection—

(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed \$3,750,000 (or if the gross loan amount would exceed \$5,000,000), except as provided in subparagraph (B);

(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed \$4,500,000 (or if the gross loan amount would exceed \$5,000,000), of which not more than \$4,000,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and

(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed \$350,000.

(4) INTEREST RATES AND PREPAYMENT CHARGES.—

(A) INTEREST RATES.—Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection shall not exceed a rate prescribed by the Administration, and the rate of interest for the Administration's share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per centum, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum: *Provided*, That for those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (10) of this subsection, the interest rate shall be 3 per centum per annum.

(B) PAYMENT OF ACCRUED INTEREST.—

(i) IN GENERAL.—Any bank or other lending institution making a claim for payment on the guaranteed portion of a loan made under this subsection shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.

(ii) LOANS SOLD ON SECONDARY MARKET.—If a loan described in clause (i) is sold on the secondary market, the amount of interest paid to a bank or other lending institution described in that clause from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.

(iii) APPLICABILITY.—Clauses (i) and (ii) shall not apply to loans made on or after October 1, 2000.

(C) PREPAYMENT CHARGES.—

(i) IN GENERAL.—A borrower who prepays any loan guaranteed under this subsection shall remit to the Administration a subsidy recoupment fee calculated in accordance with clause (ii) if—

(I) the loan is for a term of not less than 15 years;

(II) the prepayment is voluntary;

(III) the amount of prepayment in any calendar year is more than 25 percent of the outstanding balance of the loan; and

(IV) the prepayment is made within the first 3 years after disbursement of the loan proceeds.

(ii) SUBSIDY RECOUPMENT FEE.—The subsidy recoupment fee charged under clause (i) shall be—

(I) 5 percent of the amount of prepayment, if the borrower prepays during the first year after disbursement;

(II) 3 percent of the amount of prepayment, if the borrower prepays during the second year after disbursement; and

(III) 1 percent of the amount of prepayment, if the borrower prepays during the third year after disbursement.

(5) No such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty-five years, except that such portion of a loan made for the purpose of acquiring real property or constructing, converting, or expanding facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction, conversion, or expansion.

(6) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however, That—*

(A) for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (10) of this subsection any reasonable doubt shall be resolved in favor of the applicant;

(B) recognizing that greater risk may be associated with loans for energy measures as provided in paragraph (12) of this subsection, factors in determining “sound value” shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided further, That* such status

need not be as sound as that required for general loans under this subsection; and

On that portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: *Provided further*, That any authority conferred by this subparagraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.

(7) The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern.

(8) The Administration may make loans under this subsection to small business concerns owned and controlled by disabled veterans (as defined in section 4211(3) of title 38, United States Code).

(9) The Administration may provide loans under this subsection to finance residential or commercial construction or rehabilitation for sale: *Provided, however*, That such loans shall not be used primarily for the acquisition of land.

(10) The Administration may provide guaranteed loans under this subsection to assist any public or private organization for the handicapped or to assist any handicapped individual, including service-disabled veterans, in establishing, acquiring, or operating a small business concern.

(11) The Administration may provide loans under this subsection to any small business concern, or to any qualified person seeking to establish such a concern when it determines that such loan will further the policies established in section 2(c) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals.

(12)(A) The Administration may provide loans under this subsection to assist any small business concern, including start up, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures: *Provided, however*, That such loan proceeds shall not be used primarily for research and development.

(b) The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than \$1,000,000.

(13) The Administration may provide financing under this subsection to State and local development companies for the purposes of, and subject to the restrictions in, title V of the Small Business Investment Act of 1958.

(14) EXPORT WORKING CAPITAL PROGRAM.—

(A) IN GENERAL.—The Administrator may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.

(B) TERMS.—

(i) LOAN AMOUNT.—The Administrator may not guarantee a loan under this paragraph of more than \$5,000,000.

(ii) FEES.—

(I) IN GENERAL.—For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

(II) UNTAPPED CREDIT.—The Administrator may not assess a fee on capital that is not accessed by the small business concern.

(C) CONSIDERATIONS.—When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

(D) MARKETING.—The Administrator shall aggressively market its export financing program to small businesses.

(15)(A) The Administration may guarantee loans under this subsection to qualified employee trusts with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 per centum of the stock of the concern.

(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 per centum of the total stock of such concern shall be allocated to the accounts of at least 51 per centum of the employees of such concern who are entitled to share in such allocation,

(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

(iii) there will be adequate management to assure management expertise and continuity.

(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except in-

asmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.

(16) INTERNATIONAL TRADE.—

(A) IN GENERAL.—If the Administrator determines that a loan guaranteed under this subsection will allow an eligible small business concern that is engaged in or adversely affected by international trade to improve its competitive position, the Administrator may make such loan to assist such concern—

(i) in the financing of the acquisition, construction, renovation, modernization, improvement, or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade;

(ii) in the refinancing of existing indebtedness that is not structured with reasonable terms and conditions, including any debt that qualifies for refinancing under any other provision of this subsection; or

(iii) by providing working capital.

(B) SECURITY.—

(i) IN GENERAL.—Except as provided in clause (ii), each loan made under this paragraph shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan or on other assets of the small business concern.

(ii) EXCEPTION.—A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.

(C) ENGAGED IN INTERNATIONAL TRADE.—For purposes of this paragraph, a small business concern is engaged in international trade if, as determined by the Administrator, the small business concern is in a position to expand existing export markets or develop new export markets.

(D) ADVERSELY AFFECTED BY INTERNATIONAL TRADE.—For purposes of this paragraph, a small business concern is adversely affected by international trade if, as determined by the Administrator, the small business concern—

(i) is confronting increased competition with foreign firms in the relevant market; and

(ii) is injured by such competition.

(E) FINDINGS BY CERTAIN FEDERAL AGENCIES.—For purposes of subparagraph (D)(ii) the Administrator shall accept any finding of injury by the International Trade Commission or any finding of injury by the Secretary of Commerce pursuant to chapter 3 of title II of the Trade Act of 1974.

(F) LIST OF EXPORT FINANCE LENDERS.—

(i) PUBLICATION OF LIST REQUIRED.—The Administrator shall publish an annual list of the banks and participating lending institutions that, during the 1-year period ending on the date of publication of the list, have made loans guaranteed by the Administration under—

- (I) this paragraph;
- (II) paragraph (14); or
- (III) paragraph (34).

(ii) AVAILABILITY OF LIST.—The Administrator shall—

(I) post the list published under clause (i) on the website of the Administration; and

(II) make the list published under clause (i) available, upon request, at each district office of the Administration.

(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection.

(18) GUARANTEE FEES.—

(A) IN GENERAL.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender, and may be charged to the borrower, as follows:

(i) A guarantee fee not to exceed 2 percent of the deferred participation share of a total loan amount that is not more than \$150,000.

(ii) A guarantee fee not to exceed 3 percent of the deferred participation share of a total loan amount that is more than \$150,000, but not more than \$700,000.

(iii) A guarantee fee not to exceed 3.5 percent of the deferred participation share of a total loan amount that is more than \$700,000.

(iv) In addition to the fee under clause (iii), a guarantee fee equal to 0.25 percent of any portion of the deferred participation share that is more than \$1,000,000.

(B) RETENTION OF CERTAIN FEES.—Lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their

proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not affect any outstanding guarantee.

(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of \$50,000 or less in guarantees to eligible small business loan applicants, the Administration shall develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans.

(C) Authority to liquidate loans.—

(i) IN GENERAL.—The Administrator may permit lenders participating in the Certified Lenders Program to liquidate loans made with a guarantee from the Administration pursuant to a liquidation plan approved by the Administrator.

(ii) Automatic approval.—If the Administrator does not approve or deny a request for approval of a liquidation plan within 10 business days of the date on which the request is made (or with respect to any routine liquidation activity under such a plan, within 5 business days) such request shall be deemed to be approved.

(20)(A) The Administration is empowered to make loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis to small business concerns eligible for assistance under subsection (j)(10) and section 8(a). Such assistance may be provided only if the Administration determines that—

(i) the type and amount of such assistance requested by such concern is not otherwise available on reasonable terms from other sources;

(ii) with such assistance such concern has a reasonable prospect for operating soundly and profitably within a reasonable period of time;

(iii) the proceeds of such assistance will be used within a reasonable time for plant construction, conversion, or expansion, including the acquisition of equipment, facilities, machinery, supplies, or material or to supply such concern with working capital to be used in the manufacture of articles, equipment, supplies, or material for defense or civilian production or as may be necessary to insure a well-balanced national economy; and

(iv) such assistance is of such sound value as reasonably to assure that the terms under which it is provided will not be breached by the small business concern.

(B)(i) No loan shall be made under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower would exceed \$750,000.

(ii) Subject to the provisions of clause (i), in agreements to participate in loans on a deferred (guaranteed) basis, participa-

tion by the Administration shall be not less than 85 per centum of the balance of the financing outstanding at the time of disbursement.

(iii) The rate of interest on financings made on a deferred (guaranteed) basis shall be legal and reasonable.

(iv) Financings made pursuant to this paragraph shall be subject to the following limitations:

(I) No immediate participation may be purchased unless it is shown that a deferred participation is not available.

(II) No direct financing may be made unless it is shown that a participation is unavailable.

(C) A direct loan or the Administration's share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

(i) that is subordinated by its terms to all other borrowings of the issuer;

(ii) the rate of interest on which shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan and adjusted to the nearest one-eighth of 1 per centum;

(iii) the term of which is not more than twenty-five years; and

(iv) the principal on which is amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.

(21)(A) The Administration may make loans on a guaranteed basis under the authority of this subsection—

(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

(I) the closure (or substantial reduction) of a Department of Defense installation; or

(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

(ii) to a qualified individual or a veteran seeking to establish (or acquire) and operate a small business concern.

(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

(D) For purposes of this paragraph a qualified individual is—

(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.

(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

(i) have the greatest potential for—

(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.

(22) The Administration is authorized to permit participating lenders to impose and collect a reasonable penalty fee on late payments of loans guaranteed under this subsection in an amount not to exceed 5 percent of the monthly loan payment per month plus interest.

(23) YEARLY FEE.—

(A) IN GENERAL.—With respect to each loan approved under this subsection, the Administration shall assess, collect, and retain a fee, not to exceed 0.55 percent per year of the outstanding balance of the deferred participation share of the loan, in an amount established once annually by the Administration in the Administration's annual budget request to Congress, as necessary to reduce to zero the cost to the Administration of making guarantees under this subsection. As used in this paragraph, the term "cost" has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) PAYER.—The yearly fee assessed under subparagraph (A) shall be payable by the participating lender and shall not be charged to the borrower.

(C) LOWERING OF BORROWER FEES.—If the Administration determines that fees paid by lenders and by small business borrowers for guarantees under this subsection may be reduced, consistent with reducing to zero the cost to the Administration of making such guarantees—

(i) the Administration shall first consider reducing fees paid by small business borrowers under clauses (i) through (iii) of paragraph (18)(A), to the maximum extent possible; and

(ii) fees paid by small business borrowers shall not be increased above the levels in effect on the date of enactment of this subparagraph.

(24) NOTIFICATION REQUIREMENT.—The Administration shall notify the Committees on Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.

(25) LIMITATION ON CONDUCTING PILOT PROJECTS.—

(A) IN GENERAL.—Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

(B) PILOT PROGRAM DEFINED.—In this paragraph, the term “pilot program” means any lending program initiative, project, innovation, or other activity not specifically authorized by law.

(C) LOW DOCUMENTATION LOAN PROGRAM.—The Administrator may carry out the low documentation loan program for loans of \$100,000 or less only through lenders with significant experience in making small business loans. Not later than 90 days after the date of enactment of this subsection, the Administrator shall promulgate regulations defining the experience necessary for participation as a lender in the low documentation loan program.

(26) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this subsection shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing loans under this Act.

(28) LEASING.—In addition to such other lease arrangements as may be authorized by the Administration, a borrower may permanently lease to one or more tenants not more than 20 percent of any property constructed with the proceeds of a loan guaranteed under this subsection, if the borrower permanently occupies and uses not less than 60 percent of the total business space in the property.

(29) REAL ESTATE APPRAISALS.—With respect to a loan under this subsection that is secured by commercial real property, an appraisal of such property by a State licensed or certified appraiser—

(A) shall be required by the Administration in connection with any such loan for more than \$250,000; or

(B) may be required by the Administration or the lender in connection with any such loan for \$250,000 or less, if such appraisal is necessary for appropriate evaluation of creditworthiness.

(30) OWNERSHIP REQUIREMENTS.—Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this Act shall be determined without regard to any ownership interest of a spouse arising solely from the application of the commu-

nity property laws of a State for purposes of determining marital interests.

(31) EXPRESS LOANS.—

(A) DEFINITIONS.—As used in this paragraph:

(i) The term “disaster area” means the area for which the President has declared a major disaster, during the 5-year period beginning on the date of the declaration.

(ii) The term “express lender” means any lender authorized by the Administration to participate in the Express Loan Program.

(iii) The term “express loan” means any loan made pursuant to this paragraph in which a lender utilizes to the maximum extent practicable its own loan analyses, procedures, and documentation.

(iv) The term “Express Loan Program” means the program for express loans established by the Administration under paragraph (25)(B), as in existence on April 5, 2004, with a guaranty rate of not more than 50 percent.

(B) RESTRICTION TO EXPRESS LENDER.—The authority to make an express loan shall be limited to those lenders deemed qualified to make such loans by the Administration. Designation as an express lender for purposes of making an express loan shall not prohibit such lender from taking any other action authorized by the Administration for that lender pursuant to this subsection.

(C) GRANDFATHERING OF EXISTING LENDERS.—Any express lender shall retain such designation unless the Administration determines that the express lender has violated the law or regulations promulgated by the Administration or modifies the requirements to be an express lender and the lender no longer satisfies those requirements.

(D) MAXIMUM LOAN AMOUNT.—The maximum loan amount under the Express Loan Program is \$350,000.

(E) OPTION TO PARTICIPATE.—Except as otherwise provided in this paragraph, the Administration shall take no regulatory, policy, or administrative action, without regard to whether such action requires notification pursuant to paragraph (24), that has the effect of requiring a lender to make an express loan pursuant to subparagraph (D).

(F) EXPRESS LOANS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY.—

(i) DEFINITIONS.—In this subparagraph—

(I) the term “biomass”—

(aa) means any organic material that is available on a renewable or recurring basis, including—

(AA) agricultural crops;

(BB) trees grown for energy production;

(CC) wood waste and wood residues;

(DD) plants (including aquatic plants and grasses);

(EE) residues;

(FF) fibers;

(GG) animal wastes and other waste materials; and

(HH) fats, oils, and greases (including recycled fats, oils, and greases); and

(bb) does not include—

(AA) paper that is commonly recycled;

or

(BB) unsegregated solid waste;

(II) the term “energy efficiency project” means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

(III) the term “renewable energy system” means a system of energy derived from—

(aa) a wind, solar, biomass (including biodiesel), or geothermal source; or

(bb) hydrogen derived from biomass or water using an energy source described in item (aa).

(ii) LOANS.—The Administrator may make a loan under the Express Loan Program for the purpose of—

(I) purchasing a renewable energy system; or

(II) carrying out an energy efficiency project for a small business concern.

(G) GUARANTEE FEE WAIVER FOR VETERANS.—

(i) GUARANTEE FEE WAIVER.—The Administrator may not collect a guarantee fee described in paragraph (18) in connection with a loan made under this paragraph to a veteran or spouse of a veteran on or after October 1, 2015.

(ii) EXCEPTION.—If the President’s budget for the upcoming fiscal year, submitted to Congress pursuant to section 1105(a) of title 31, United States Code, includes a cost for the program established under this subsection that is above zero, the requirements of clause (i) shall not apply to loans made during such upcoming fiscal year.

(iii) DEFINITION.—In this subparagraph, the term “veteran or spouse of a veteran” means—

(I) a veteran, as defined in section 3(q)(4);

(II) an individual who is eligible to participate in the Transition Assistance Program established under section 1144 of title 10, United States Code;

(III) a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code;

(IV) the spouse of an individual described in subclause (I), (II), or (III); or

(V) the surviving spouse (as defined in section 101 of title 38, United States Code) of an individual described in subclause (I), (II), or (III) who died while serving on active duty or as a result of a disability that is service-connected (as defined in such section).

(H) RECOVERY OPPORTUNITY LOANS.—

(i) IN GENERAL.—The Administrator may guarantee an express loan to a small business concern located in a disaster area in accordance with this subparagraph.

(ii) MAXIMUMS.—For a loan guaranteed under clause (i)—

- (I) the maximum loan amount is \$150,000; and
- (II) the guarantee rate shall be not more than 85 percent.

(iii) OVERALL CAP.—A loan guaranteed under clause (i) shall not be counted in determining the amount of loans made to a borrower for purposes of subparagraph (D).

(iv) OPERATIONS.—A small business concern receiving a loan guaranteed under clause (i) shall certify that the small business concern was in operation on the date on which the applicable major disaster occurred as a condition of receiving the loan.

(v) REPAYMENT ABILITY.—A loan guaranteed under clause (i) may only be made to a small business concern that demonstrates, to the satisfaction of the Administrator, sufficient capacity to repay the loan.

(vi) TIMING OF PAYMENT OF GUARANTEES.—

(I) IN GENERAL.—Not later than 90 days after the date on which a request for purchase is filed with the Administrator, the Administrator shall determine whether to pay the guaranteed portion of the loan.

(II) RECAPTURE.—Notwithstanding any other provision of law, unless there is a subsequent finding of fraud by a court of competent jurisdiction relating to a loan guaranteed under clause (i), on and after the date that is 6 months after the date on which the Administrator determines to pay the guaranteed portion of the loan, the Administrator may not attempt to recapture the paid guarantee.

(vii) FEES.—

(I) IN GENERAL.—Unless the Administrator has waived the guarantee fee that would otherwise be collected by the Administrator under paragraph (18) for a loan guaranteed under clause (i), and except as provided in subclause (II), the guarantee fee for the loan shall be equal to the guarantee fee that the Administrator would collect if the guarantee rate for the loan was 50 percent.

(II) EXCEPTION.—Subclause (I) shall not apply if the cost of carrying out the program under this subsection in a fiscal year is more than zero and such cost is directly attributable to the cost of guaranteeing loans under clause (i).

(viii) RULES.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall promulgate rules to carry out this subparagraph.

(32) LOANS FOR ENERGY EFFICIENT TECHNOLOGIES.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “cost” has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

(ii) the term “covered energy efficiency loan” means a loan—

(I) made under this subsection; and

(II) the proceeds of which are used to purchase energy efficient designs, equipment, or fixtures, or to reduce the energy consumption of the borrower by 10 percent or more; and

(iii) the term “pilot program” means the pilot program established under subparagraph (B)

(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans.

(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D) MAXIMUM PARTICIPATION.—A covered energy efficiency loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

(E) FEES.—

(i) IN GENERAL.—The fee on a covered energy efficiency loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

(I) for the fiscal year before that fiscal year, the annual rate of default of covered energy efficiency loans exceeds that of loans made under this subsection that are not covered energy efficiency loans;

(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making covered energy efficiency loans; and

(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not covered en-

ergy efficiency loans as a direct result of the pilot program.

(F) GAO REPORT.—

(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii) CONTENTS.—The report submitted under clause (i) shall include—

(I) the number of covered energy efficiency loans for which fees were reduced under the pilot program;

(II) a description of the energy efficiency savings with the pilot program;

(III) a description of the impact of the pilot program on the program under this subsection;

(IV) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(V) recommendations for improving the pilot program.

(33) INCREASED VETERAN PARTICIPATION PROGRAM.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “cost” has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a);

(ii) the term “pilot program” means the pilot program established under subparagraph (B); and

(iii) the term “veteran participation loan” means a loan made under this subsection to a small business concern owned and controlled by veterans of the Armed Forces or members of the reserve components of the Armed Forces.

(B) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for veteran participation loans.

(C) DURATION.—The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D) MAXIMUM PARTICIPATION.—A veteran participation loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

(E) FEES.—

(i) IN GENERAL.—The fee on a veteran participation loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii) WAIVER.—The Administrator may waive clause (i) for a fiscal year if—

(I) for the fiscal year before that fiscal year, the annual estimated rate of default of veteran participation loans exceeds that of loans made under

this subsection that are not veteran participation loans;

(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making veteran participation loans; and

(III) no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii) EFFECT OF WAIVER.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I) shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II) shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv) NO INCREASE OF FEES.—The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not veteran participation loans as a direct result of the pilot program.

(F) GAO REPORT.—

(i) IN GENERAL.—Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii) CONTENTS.—The report submitted under clause (i) shall include—

(I) the number of veteran participation loans for which fees were reduced under the pilot program;

(II) a description of the impact of the pilot program on the program under this subsection;

(III) an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(IV) recommendations for improving the pilot program.

(34) EXPORT EXPRESS PROGRAM.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “export development activity” includes—

(I) obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

(II) participation in a trade show that takes place outside the United States;

(III) translation of product brochures or catalogues for use in markets outside the United States;

(IV) obtaining a general line of credit for export purposes;

(V) performing a service contract from buyers located outside the United States;

(VI) obtaining transaction-specific financing associated with completing export orders;

(VII) purchasing real estate or equipment to be used in the production of goods or services for export;

(VIII) providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

(IX) acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

(ii) the term "express loan" means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

(B) AUTHORITY.—The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

(C) LEVEL OF PARTICIPATION.—

(i) MAXIMUM AMOUNT.—The maximum amount of an express loan guaranteed under this paragraph shall be \$500,000.

(ii) PERCENTAGE.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

(I) 90 percent of a loan that is not more than \$350,000; and

(II) 75 percent of a loan that is more than \$350,000 and not more than \$500,000.

(b) Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the Administration also is empowered to the extent and in such amounts as provided in advance in appropriation Acts—

(1)(A) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of natural or other disasters: *Provided*, That such damage or destruction is not compensated for by insurance or otherwise: *And provided further*, That the Administration may increase the amount of the loan by up to an additional 20 per centum of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise) if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including—

- (i) construction of retaining walls and sea walls;
 - (ii) grading and contouring land; and
 - (iii) relocating utilities and modifying structures, including construction of a safe room or similar storm shelter designed to protect property and occupants from tornadoes or other natural disasters, if such safe room or similar storm shelter is constructed in accordance with applicable standards issued by the Federal Emergency Management Agency;
- (B) to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern: *Provided*, That no loan or guarantee shall be extended unless the Administration finds that (i) the applicant is not able to obtain credit elsewhere; (ii) such property is to be repaired, rehabilitated, or replaced; (iii) the amount refinanced shall not exceed the amount of physical loss sustained; and (iv) such amount shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise; and
- (C) during fiscal years 2000 through 2004, to establish a predisaster mitigation program to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis), as the Administrator may determine to be necessary or appropriate, to enable small businesses to use mitigation techniques in support of a formal mitigation program established by the Federal Emergency Management Agency, except that no loan or guarantee may be extended to a small business under this subparagraph unless the Administration finds that the small business is otherwise unable to obtain credit for the purposes described in this subparagraph;
- (2) to make sure loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern, private nonprofit organization, or small agricultural cooperative located in an area affected by a disaster, (including drought), with respect to both farm-related and nonfarm-related small business concerns, if the Administration determines that the concern, the organization, or the cooperative has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—
- (A) a major disaster, as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or
 - (B) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph; or
 - (C) a disaster, as determined by the Administrator of the Small Business Administration; or

(D) if no disaster declaration has been issued pursuant to subparagraph (A), (B), or (C), the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns, private nonprofit organizations, or small agricultural cooperatives (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may then make such loans as would have been available under this paragraph if a disaster declaration had been issued.

Provided, That no loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administration finds that the applicant is not able to obtain credit elsewhere.

(3)(A) In this paragraph—

(i) the term “essential employee” means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern;

(ii) the term “period of military conflict” has the meaning given the term in subsection (n)(1); and

(iii) the term “substantial economic injury” means an economic harm to a business concern that results in the inability of the business concern—

(I) to meet its obligations as they mature;

(II) to pay its ordinary and necessary operating expenses; or

(III) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern.

(B) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of an essential employee of such small business concern being ordered to active military duty during a period of military conflict.

(C) A small business concern described in subparagraph (B) shall be eligible to apply for assistance under this paragraph during the period beginning on the date on which the essential employee is ordered to active duty and ending on the date that is 1 year after the date on which such essential employee is discharged or released from active duty. The Administrator may, when appropriate (as determined by the Administrator), extend the ending date specified in the preceding sentence by not more than 1 year.

(D) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

(E) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institu-

tions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes, or have become due to changed economic circumstances, a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

(F) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.

(G)(i) Notwithstanding any other provision of law, the Administrator may make a loan under this paragraph of not more than \$50,000 without collateral.

(ii) The Administrator may defer payment of principal and interest on a loan described in clause (i) during the longer of—

(I) the 1-year period beginning on the date of the initial disbursement of the loan; and

(II) the period during which the relevant essential employee is on active duty.

(H) The Administrator shall give priority to any application for a loan under this paragraph and shall process and make a determination regarding such applications prior to processing or making a determination on other loan applications under this subsection, on a rolling basis.

(4) COORDINATION WITH FEMA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that

major disaster was declared and ending on the date of that report; and

(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

(A) the date of such declaration;

(B) cities and towns within the area of such declaration;

(C) loan application deadlines related to such disaster;

(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.

(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.

(7) DISASTER ASSISTANCE EMPLOYEES.—

(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

(i) in the Office of the Disaster Assistance is not fewer than 800; and

(ii) in the Disaster Cadre of the Administration is not fewer than 1,000.

(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

(i) detailing staffing levels on that date;

(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

(iii) containing such additional information, as determined appropriate by the Administrator.

(8) INCREASED LOAN CAPS.—

(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed \$2,000,000.

(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.

(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—

(A) IN GENERAL.—If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.

(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

(iii) be of such size and scope that—

(I) the disaster assistance programs under the other paragraphs under this subsection are incapable of providing adequate and timely assist-

ance to individuals or business concerns located within the disaster area; or

(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.

(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—

(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.

(ii) PROCESSING TIME.—

(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

(D) DEFINITIONS.—In this paragraph—

(i) the term “disaster area” means the area for which the applicable major disaster was declared;

(ii) the term “disaster-related substantial economic injury” means economic harm to a business concern that results in the inability of the business concern to—

(I) meet its obligations as it matures;

(II) meet its ordinary and necessary operating expenses; or

(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business con-

cern relies on materials from the disaster area or sells or markets in the disaster area; and
 (iii) the term “eligible small business concern” means a small business concern—

(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.

(10) REDUCING CLOSING AND DISBURSEMENT DELAYS.—The Administrator shall provide a clear and concise notification on all application materials for loans made under this subsection and on relevant websites notifying an applicant that the applicant may submit all documentation necessary for the approval of the loan at the time of application and that failure to submit all documentation could delay the approval and disbursement of the loan.

(11) INCREASING TRANSPARENCY IN LOAN APPROVALS.—The Administrator shall establish and implement clear, written policies and procedures for analyzing the ability of a loan applicant to repay a loan made under this subsection.

(12) ADDITIONAL AWARDS TO SMALL BUSINESS DEVELOPMENT CENTERS, WOMEN’S BUSINESS CENTERS, AND SCORE FOR DISASTER RECOVERY.—

(A) IN GENERAL.—The Administration may provide financial assistance to a small business development center, a women’s business center described in section 29, the Service Corps of Retired Executives, or any proposed consortium of such individuals or entities to spur disaster recovery and growth of small business concerns located in an area for which the President has declared a major disaster.

(B) FORM OF FINANCIAL ASSISTANCE.—Financial assistance provided under this paragraph shall be in the form of a grant, contract, or cooperative agreement.

(C) NO MATCHING FUNDS REQUIRED.—Matching funds shall not be required for any grant, contract, or cooperative agreement under this paragraph.

(D) REQUIREMENTS.—A recipient of financial assistance under this paragraph shall provide counseling, training, and other related services, such as promoting long-term resiliency, to small business concerns and entrepreneurs impacted by a major disaster.

(E) PERFORMANCE.—

(i) IN GENERAL.—The Administrator, in cooperation with the recipients of financial assistance under this paragraph, shall establish metrics and goals for performance of grants, contracts, and cooperative agreements under this paragraph, which shall include re-

covery of sales, recovery of employment, reestablishment of business premises, and establishment of new small business concerns.

(ii) USE OF ESTIMATES.—The Administrator shall base the goals and metrics for performance established under clause (i), in part, on the estimates of disaster impact prepared by the Office of Disaster Assistance for purposes of estimating loan-making requirements.

(F) TERM.—

(i) IN GENERAL.—The term of any grant, contract, or cooperative agreement under this paragraph shall be for not more than 2 years.

(ii) EXTENSION.—The Administrator may make 1 extension of a grant, contract, or cooperative agreement under this paragraph for a period of not more than 1 year, upon a showing of good cause and need for the extension.

(G) EXEMPTION FROM OTHER PROGRAM REQUIREMENTS.—Financial assistance provided under this paragraph is in addition to, and wholly separate from, any other form of assistance provided by the Administrator under this Act.

(H) COMPETITIVE BASIS.—The Administration shall award financial assistance under this paragraph on a competitive basis.

(13) SUPPLEMENTAL ASSISTANCE FOR CONTRACTOR MALFEASANCE.—

(A) IN GENERAL.—If a contractor or other person engages in malfeasance in connection with repairs to, rehabilitation of, or replacement of real or personal property relating to which a loan was made under this subsection and the malfeasance results in substantial economic damage to the recipient of the loan or substantial risks to health or safety, upon receiving documentation of the substantial economic damage or the substantial risk to health and safety from an independent loss verifier, and subject to subparagraph (B), the Administrator may increase the amount of the loan under this subsection, as necessary for the cost of repairs, rehabilitation, or replacement needed to address the cause of the economic damage or health or safety risk.

(B) REQUIREMENTS.—The Administrator may only increase the amount of a loan under subparagraph (A) upon receiving an appropriate certification from the borrower and person performing the mitigation attesting to the reasonableness of the mitigation costs and an assignment of any proceeds received from the person engaging in the malfeasance. The assignment of proceeds recovered from the person engaging in the malfeasance shall be equal to the amount of the loan under this section. Any mitigation activities shall be subject to audit and independent verification of completeness and cost reasonableness.

(14) BUSINESS RECOVERY CENTERS.—

(A) IN GENERAL.—The Administrator, acting through the district offices of the Administration, shall identify locations that may be used as recovery centers by the Adminis-

tration in the event of a disaster declared under this subsection or a major disaster.

(B) REQUIREMENTS FOR IDENTIFICATION.—Each district office of the Administration shall—

(i) identify a location described in subparagraph (A) in each county, parish, or similar unit of general local government in the area served by the district office; and

(ii) ensure that the locations identified under subparagraph (A) may be used as a recovery center without cost to the Government, to the extent practicable.

(15) INCREASED OVERSIGHT OF ECONOMIC INJURY DISASTER LOANS.—The Administrator shall increase oversight of entities receiving loans under paragraph (2), and may consider—

(A) scheduled site visits to ensure borrower eligibility and compliance with requirements established by the Administrator; and

(B) reviews of the use of the loan proceeds by an entity described in paragraph (2) to ensure compliance with requirements established by the Administrator.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: *Provided*, That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: *Provided further*, That the provisions of paragraph (1) of subsection (d) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b), shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however*, That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement. Notwithstanding any other provision of law, the interest rate on the Administration's share of any loan made pursuant to paragraph (1) of this subsection to repair or replace a primary residence and/or replace or repair damaged or destroyed personal property, less the amount of compensation by insurance or otherwise, with respect to a disaster occurring on or after July 1, 1976, and prior

to October 1, 1978, shall be: 1 per centum on the amount of such loan not exceeding \$10,000, and 3 per centum on the amount of such loan over \$10,000 but not exceeding \$40,000. The interest rate on the Administration's share of the first \$250,000 of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be 3 per centum. All repayments of principal on the Administration's share of any loan made under the above provisions shall first be applied to reduce the principal sum of such loan which bears interest at the lower rates provided in this paragraph. The principal amount of any loan made pursuant to paragraph (1) in connection with a disaster which occurs on or after April 1, 1977, but prior to January 1, 1978, may be increased by such amount, but not more than \$2,000, as the Administration determines to be reasonable in light of the amount and nature of loss, damage, or injury sustained in order to finance the installation of insulation in the property which was lost, damaged, or injured, if the uninsured, damaged portion of the property is 10 per centum or more of the market value of the property at the time of the disaster. No later than June 1, 1978, the Administration shall prepare and transmit to the Select Committee on Small Business of the Senate, the Committee on Small Business of the House of Representatives, and the Committee of the Senate and House of Representatives having jurisdiction over measures relating to energy conservation, a report on its activities under this paragraph, including therein an evaluation of the effect of such activities on encouraging the installation of insulation in property which is repaired or replaced after a disaster which is subject to this paragraph, and its recommendations with respect to the continuation, modification, or termination of such activities.

In the administration of the disaster loan program under paragraphs (1) and (2) of this subsection, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator which occurs on or after January 1, 1971, and prior to July 1, 1973, the Small Business Administration, to the extent such loss or damage or injury is not compensated for by insurance or otherwise—

(A) may make any loan for repair, rehabilitation, or replacement of property damaged or destroyed without regard to whether the required financial assistance is otherwise available from private sources;

(B) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such project is to be repaired, rehabilitated, or replaced, except that (1) in the case of a business concern, the amount refinanced shall not exceed the amount of the physical loss sustained, and (2) in the case of a home, the amount of each monthly payment of principal and interest on the loan after refinancing under this clause shall be not less than the amount of each such payment made prior to such refinancing;

(C) may, in the case of a loan made under clause (A) or a mortgage or other lien refinanced under clause (B) in connection with the destruction of, or substantial damage to, property

owned and used as a residence by an individual who by reason of retirement, disability, or other similar circumstances relies for support on survivor, disability, or retirement benefits under a pension, insurance, or other program, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the Administration determines that making such payments would constitute a substantial hardship;

(D) shall, notwithstanding the provisions of any other law and upon presentation by the applicant of proof of loss or damage or injury and a bona fide estimate of cost of repair, rehabilitation, or replacement, cancel the principal of any loan made to cover a loss or damage or injury resulting from such disaster, except that—

(i) with respect to a loan made in connection with a disaster occurring on or after January 1, 1971 but prior to January 1, 1972, the total amount so canceled shall not exceed \$2,500, and the interest on the balance of the loan shall be at a rate of 3 per centum per annum; and

(ii) with respect to a loan made in connection with a disaster occurring on or after January 1, 1972 but prior to July 1, 1973, the total amount so canceled shall not exceed \$5,000, and the interest on the balance of the loan shall be at a rate of 1 per centum per annum.

With respect to any loan referred to in clause (D) which is outstanding on the date of enactment of this paragraph, the Administrator shall—

(i) make such change in the interest rate on the balance of such loan as is required under that clause effective as of such date of enactment; and

(ii) in applying the limitation set forth in that clause with respect to the total amount of such loan which may be canceled, consider as part of the amount so canceled any part of such loan which was previously canceled pursuant to section 231 of the Disaster Relief Act of 1970.

Whoever wrongfully misapplies the proceeds of a loan obtained under this subsection shall be civilly liable to the Administrator in an amount equal to one-and-one-half times the original principal amount of the loan.

(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of section 312(a) of the Disaster Relief and Emergency Assistance Act to a disaster loan under paragraph (1) (2) of this subsection.

(c) PRIVATE DISASTER LOANS.—

(1) DEFINITIONS.—In this subsection—

(A) the term “disaster area” means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;

(B) the term “eligible individual” means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Ad-

ministrator declares eligibility for additional disaster assistance under subsection (b)(9);

(C) the term “eligible small business concern” means a business concern that is—

(i) a small business concern, as defined under this Act; or

(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958;

(D) the term “preferred lender” means a lender participating in the Preferred Lender Program;

(E) the term “Preferred Lender Program” has the meaning given that term in subsection (a)(2)(C)(ii); and

(F) the term “qualified private lender” means any privately-owned bank or other lending institution that—

(i) is not a preferred lender; and

(ii) the Administrator determines meets the criteria established under paragraph (10).

(2) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on any loan made to an eligible small business concern located in a disaster area and to an eligible individual.

(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

(4) ONLINE APPLICATIONS.—

(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

(5) MAXIMUM AMOUNTS.—

(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

(B) LOAN AMOUNT.—The maximum amount of a loan guaranteed under this subsection shall be \$2,000,000.

(6) TERMS AND CONDITIONS.—A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).

(7) LENDERS.—

(A) IN GENERAL.—A loan guaranteed under this subsection made to—

(i) a qualified individual may be made by a preferred lender; and

(ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.

(B) COMPLIANCE.—If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:

(i) Exclude the preferred lender from participating in the program under this subsection.

(ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.

(8) FEES.—

(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.

(9) DOCUMENTATION.—A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).

(10) IMPLEMENTATION REGULATIONS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

(11) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

(B) AUTHORITY TO REDUCE INTEREST RATES AND OTHER TERMS AND CONDITIONS.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).

(12) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.

(d)(1) The Administration may further extend the maturity of or renew any loan made pursuant to this section, or any loan transferred to the Administration pursuant to Reorganization Plan Numbered 2 of 1954, or Reorganization Plan Numbered 1 of 1957, for additional periods not to exceed ten years beyond the period stated therein, if such extension or renewal will aid in the orderly liquidation of such loan.

(2) During any period in which principal and interest charges are suspended on the Federal share of any loan, as provided in subsection (b), the Administrator shall, upon the request of any person, firm, or corporation having a participation in such loan, purchase such participation, or assume the obligation of the borrower, for the balance of such period, to make principal and interest payments on the non-Federal share of such loan: *Provided*, That no such payments shall be made by the Administrator in behalf of any borrower unless (i) the Administrator determines that such action is necessary in order to avoid a default, and (ii) the borrower agrees to make payments to the Administration in an aggregate amount equal to the amount paid in its behalf by the Administrator, in such manner and at such time (during or after the term of the loan) as the Administrator shall determine having due regard to the purposes sought to be achieved by this paragraph.

(3) With respect to a disaster occurring on or after October 1, 1978, and prior the effective date of this Act, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first \$55,000 of such loan;

(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum; and

(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from one-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon re-

quest by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed \$500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation.

(4) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b) shall be—

(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum but not to exceed 8 per centum per annum;

(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum;

(C) in the case of a business concern unable to obtain credit elsewhere, not to exceed 8 per centum per annum;

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the rate prevailing in private market for similar loans and not more than the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act. Loans under this subparagraph shall be limited to a maximum term of three years.

(5) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b)(1) and (b)(2) on account of a disaster commencing on or after October 1, 1982, shall be—

(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to ma-

turity comparable to the average maturities of such loan plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 4 per centum per annum;

(B) in the case of a homeowner, able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 8 per centum per annum;

(C) in the case of a business, private nonprofit organization, or other concern, including agricultural cooperatives, unable to obtain credit elsewhere, not to exceed 4 per centum per annum;

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the lowest of (i) the rate prevailing in the private market for similar loans, (ii) the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act, or (iii) 8 per centum per annum. Loans under this subparagraph shall be limited to a maximum term of 7 years.

(6) Notwithstanding the provisions of any other law, such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall be in amounts equal to 100 per centum of loss. The interest rate for loans made under paragraphs 7(b)(1) and (2), as determined pursuant to paragraph (5), shall be the rate of interest which is in effect on the date of the disaster commenced: *Provided*, That no loan under paragraphs 7(b) (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under subsection 7(b) would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation: *Provided further*, That the Administration, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall not reduce the amount of eligibility for any homeowner on account of loss of real estate to less than \$100,000 for each disaster nor for any homeowner or lessee on account of loss of personal property to less than \$20,000 for each disaster, such sums being in addition to any eligible refinancing: *Provided further*, That the Administration shall not require collateral for loans of \$25,000 or less (or such higher amount as the Administrator determines appropriate in the event of a disaster) which are made under paragraph (1) of

subsection (b): *Provided further*, That the Administrator, in obtaining the best available collateral for a loan of not more than \$200,000 under paragraph (1) or (2) of subsection (b) relating to damage to or destruction of the property of, or economic injury to, a small business concern, shall not require the owner of the small business concern to use the primary residence of the owner as collateral if the Administrator determines that the owner has other assets of equal quality and with a value equal to or greater than the amount of the loan that could be used as collateral for the loan: *Provided further*, That nothing in the preceding proviso may be construed to reduce the amount of collateral required by the Administrator in connection with a loan described in the preceding proviso or to modify the standards used to evaluate the quality (rather than the type) of such collateral. Employees of concerns sharing a common business premises shall be aggregated in determining “major source of employment” status for nonprofit applicants owning such premises.

With respect to any loan which is outstanding on the date of enactment of this paragraph and which was made on account of a disaster commencing on or after October 1, 1982, the Administrator shall make such change in the interest rate on the balance of such loan as is required herein effective as of the date of enactment.

(7) The Administration shall not withhold disaster assistance pursuant to this paragraph to nurseries who are victims of drought disasters. As used in section 7(b)(2) the term “an area affected by a disaster” includes any county, or county contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration.

(8) DISASTER LOANS FOR SUPERSTORM SANDY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to the same requirements and procedures that are used to make loans pursuant to subsection (b), a small business concern, homeowner, nonprofit entity, or renter that was located within an area and during the time period with respect to which a major disaster was declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) by reason of Superstorm Sandy may apply to the Administrator—

(i) for a loan to repair, rehabilitate, or replace property damaged or destroyed by reason of Superstorm Sandy; or

(ii) if such a small business concern has suffered substantial economic injury by reason of Superstorm Sandy, for a loan to assist such a small business concern.

(B) TIMING.—The Administrator shall select loan recipients and make available loans for a period of not less than 1 year after the date on which the Administrator carries out this authority.

(C) INSPECTOR GENERAL REVIEW.—Not later than 6 months after the date on which the Administrator begins carrying out this authority, the Inspector General of the Administration shall initiate a review of the controls for

ensuring applicant eligibility for loans made under this paragraph.

(e) The Administration shall not fund any Small Business Development Center or any variation thereof, except as authorized in section 21 of this Act.

(f) ADDITIONAL REQUIREMENTS FOR 7(b) LOANS.—

(1) INCREASED DEFERMENT AUTHORIZED.—

(A) IN GENERAL.—In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.

(B) PERIOD.—The period of a deferment under subparagraph (A) may not exceed 4 years.

(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b) LOANS.—In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.

(e) [RESERVED].

(f) [RESERVED].

(h)(1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

(A) to assist any public or private organization—

(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

(2) The Administration's share of any loan made under this subsection shall not exceed \$350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1)(B) of this Act would exceed \$350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum. The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as rea-

sonably to assure repayment: *Provided, however,* That any reasonable doubt shall be resolved in favor of the applicant.

(3) For purposes of this subsection, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(i)(1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed \$100,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

(3) To insure an equitable distribution between urban and rural areas for loans between \$3,500 and \$100,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

(A) there is reasonable assurance of repayment of the loan;

(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of that Act (42 U.S.C. 3142); and

(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

(7) No financial assistance shall be extended pursuant to this subsection when the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

(j)(1) the Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designated to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

(A) planning and research, including feasibility studies and market research;

(B) the identification and development of new business opportunities;

(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;

(D) the establishment and strengthening of business service agencies, including trade associations and cooperative; and

(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in area of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under section 7(i), 7(j), and 8(a), of this Act.

(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

(10) There is established with the Administration a small business and capital ownership development program (hereinafter referred to as the "Program") which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The program, and all other services and activities authorized under section 7(j) and 8(a) of this Act, shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.

(A) The Program shall—

(i) assist small business concerns participating in the Program (either through public or private organizations) to develop and maintain comprehensive business plans which set forth the Program Participant's specific business tar-

gets, objectives, and goals developed and maintained in conformity with subparagraph (D).

(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (I) loan packaging, (II) financing counseling, (III) accounting and bookkeeping assistance, (IV) marketing assistance, and (V) management assistance;

(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

(v) analyze and report the causes of success and failure of small business concerns participating in the Program; and

(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (I) the preparation of application forms required to receive a surety bond, (II) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (III) guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

(C)(i) A small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 8(a) on September 1, 1988, shall be permitted continued participation and eligibility in such program or activity for a period of time which is the greater of—

(I) 9 years less the number of years since the award of its first contract pursuant to section 8(a); or

(II) its original fixed program participation term (plus any extension thereof) assigned prior to the effective date of this paragraph plus eighteen months.

(ii) Nothing contained in this subparagraph shall be deemed to prevent the Administration from instituting a termination or graduation pursuant to subparagraph (F) or (H) for issues unrelated to the expiration of any time period limitation.

(D)(i) Promptly after certification under paragraph (11) a Program Participant shall submit a business plan (hereinafter referred to as the plan⁷) as described in clause (ii) of this subparagraph for review by the Business Opportunity Specialist assigned to assist such Program Participant. The plan may be a revision of a preliminary business plan submitted by the Program Participant or required by the Administration as a part of the application for certification under this section and shall be designed to result in the Program Participant eliminating

the conditions or circumstances upon which the Administration determined eligibility pursuant to section 8(a)(6). Such plan, and subsequent modifications submitted under clause (iii) of this subparagraph, shall be approved by the business opportunity specialist prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

(ii) The plans submitted under this subparagraph shall include the following:

(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation.

(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which are likely to impede the small business concern from receiving contracts other than those awarded under section 8(a).

(III) Specific targets, objectives, and goals, for the business development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's plan during the first year of the transitional stage of Program participation).

(V) Estimates of contract awards pursuant to section 8(a) and from other sources, which the Program Participant will require to meet the specific targets, objectives, and goals for the years covered by its plan. The estimates established shall be consistent with the provisions of subparagraph (I) and section 8(a).

(iii) Each Program Participant shall annually review its currently approved plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Business Opportunity Specialist. Annual reviews pertaining to years in the transitional stage of program participation shall require, as appropriate, a written verification that such Program Participant has complied with the requirements of subparagraph (I) relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a).

(iv) Each Program Participant shall annually forecast its needs for contract awards under section 8(a) for the next program year and the succeeding program year during the review of its business plan, conducted pursuant to clause (iii). Such forecast shall be known as the section 8(a) contract support level and shall be included in the Program Participant's business plan. Such forecast shall include—

(I) the aggregate dollar value of contract support to be sought on a noncompetitive basis under section 8(a), reflecting compliance with the requirements of subparagraph (I) relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a),

(II) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

(III) an estimate of the dollar value of contract support to be sought on a competitive basis, and

(IV) such other information as may be requested by the Business Opportunity Specialist to provide effective business development assistance to the Program Participant.

(E) A small business concern participating in the program conducted under the authority of this paragraph and eligible for the award of contracts pursuant to section 8(a) shall be denied all such assistance if such concern—

(i) voluntarily elects not to continue participation;

(ii) completes the period of Program participation as prescribed by paragraph (15);

(iii) is terminated pursuant to a termination proceeding conducted in accordance with section 8(a)(9); or

(iv) is graduated pursuant to a graduation proceeding conducted in accordance with section 8(a)(9).

(F) For the purposes of section and 8(a), the terms “terminated” or “termination” means the total denial or suspension of assistance under this paragraph or under section 8(a) prior to the graduation of the participating small business concern or prior to the expiration of the maximum program participation in term. An action for termination shall be based upon good cause, including—

(i) the failure by such concern to maintain its eligibility for Program participation;

(ii) the failure of the concern to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of unjustified delinquent performance or terminations for default with respect to contracts awarded under the authority of section 8(a);

(iii) a demonstrated pattern of failing to make required submissions or responses to the Administration in a timely manner;

(iv) the willful violation of any rule or regulation of the Administration pertaining to material issues;

(v) the debarment of the concern or its disadvantaged owners by any agency pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation); or

(vi) the conviction of the disadvantaged owner or an officer of the concern for any offense indicating a lack of business integrity including any conviction for embezzlement, theft, forgery, bribery, falsification or violation of section 16. For purposes of this clause, no termination action shall

be taken with respect to a disadvantaged owner solely because of the conviction of an officer of the concern (who is other than a disadvantaged owner) unless such owner conspired with, abetted, or otherwise knowingly acquiesced in the activity or omission that was the basis of such officer's conviction.

(G) The Director of the Division may initiate a termination proceeding by recommending such action to the Associate Administrator for Minority Small Business and Capital Ownership Development. Whenever the Associate Administrator, or a designee of such officer, determines such termination is appropriate, within 15 days after making such a determination the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program pursuant to subparagraph (F) without first being afforded an opportunity for a hearing in accordance with section 8(a)(9).

(H) For the purposes of sections 7(j) and 8(a) the term "graduated" or "graduation" means that the Program Participant is recognized as successfully completing the program by substantially achieving the targets, objectives, and goals contained in the concern's business plan thereby demonstrating its ability to compete in the marketplace without assistance under this section or section 8(a).

(I)(i) During the developmental stage of its participation in the Program, a Program Participant shall take all reasonable efforts within its control to attain the targets contained in its business plan for contracts awarded other than pursuant to section 8(a) (hereinafter referred to as "business activity targets."). Such efforts shall be made a part of the business plan and shall be sufficient in scope and duration to satisfy the Administration that the Program Participant will engage a reasonable marketing strategy that will maximize its potential to achieve its business activity targets.

(ii) During the transitional stage of the Program a Program Participant shall be subject to regulations regarding business activity targets that are promulgated by the Administration pursuant to clause (iii);

(iii) The regulations referred to in clause (ii) shall:

(I) establish business activity targets applicable to Program Participants during the fifth year and each succeeding year of Program Participation; such targets, for such period of time, shall reflect a reasonably consistent increase in contracts awarded other than pursuant to section 8(a), expressed as a percentage of total sales; when promulgating business activity targets the Administration may establish modified targets for Program Participants that have participated in the Program for a period of longer than four years on the effective date of this subparagraph;

(II) require a Program Participant to attain its business activity targets;

(III) provide that, before the receipt of any contract to be awarded pursuant to section 8(a), the Program Participant (if it is in the transitional stage) must certify that it has

complied with the regulations promulgated pursuant to subclause (II), or that it is in compliance with such remedial measures as may have been ordered pursuant to regulations issued under subclause (V);

(IV) require the Administration to review each Program Participant's performance regarding attainment of business activity targets during periodic reviews of such Participant's business plan; and

(V) authorize the Administration to take appropriate remedial measures with respect to a Program Participant that has failed to attain a required business activity target for the purpose of reducing such Participant's dependence on contracts awarded pursuant to section 8(a); such remedial actions may include, but are not limited to assisting the Program Participant to expand the dollar volume of its competitive business activity or limiting the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a); except for actions that would constitute a termination, remedial measures taken pursuant to this subclause shall not be reviewable pursuant to section 8(a)(9).

(J)(i) The Administration shall conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility. Upon making a finding that a Program Participant is no longer eligible, the Administration shall initiate a termination proceeding in accordance with subparagraph (F). A Program Participant's eligibility for award of any contract under the authority of section 8(a) may be suspended pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

(ii)(I) Except as authorized by subclauses (II) or (III), no award shall be made pursuant to section 8(a) to a concern other than a small business concern.

(II) In determining the size of a small business concern owned by a socially and economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe), each firm's size shall be independently determined without regard to its affiliation with the tribe, any entity of the tribal government, or any other business enterprise owned by the tribe, unless the Administrator determines that one or more such tribally owned business concerns have obtained, or are likely to obtain, a substantial unfair competitive advantage within an industry category.

(III) Any joint venture established under the authority of section 602(b) of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988", shall be eligible for award of a contract pursuant to section 8(a).

(11)(A) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.

(B)(i) Except as provided in clause (iii), no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 8(a)(4) shall be permitted to assert such eligibility for only one small business concern.

(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to section 7(j)(10) and section 8(a) if—

(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.

(C) No concern, previously eligible for the award of contracts pursuant to section 8(a), shall be subsequently recertified for program participation if its prior participation in the program was concluded for any of the reasons described in paragraph (10)(E).

(D) A concern eligible for the award of contracts pursuant to this subsection shall remain eligible for such contracts if there is a transfer of ownership and control (as defined pursuant to section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). In the event of such a transfer, the concern, if not terminated or graduated, shall be eligible for a period of continued participation in the program not to exceed the time limitations prescribed in paragraph (15).

(E) There is established a Division of Program Certification and Eligibility (hereinafter referred to in this paragraph as the "Division") that shall be made part of the Office of Minority Small Business and Capital Ownership Development. The Division shall be headed by a Director who shall report directly to the Associate Administrator for Minority Small Business and Capital Ownership Development. The Division shall establish field offices within such regional offices of the Administration as may be necessary to perform efficiently its functions and responsibilities.

(F) Subject to the provisions of section 8(a)(9), the functions and responsibility of the Division are to—

(i) receive, review and evaluate applications for certification pursuant to paragraphs (4), (5), (6) and (7) of section 8(a);

(ii) advise each program applicant within 15 days after the receipt of an application as to whether such application is complete and suitable for evaluation and, if not, what matters must be rectified;

(iii) render recommendations on such applications to the Associate Administrator for Minority Small Business and Capital Ownership Development;

(iv) review and evaluate financial statements and other submissions from concerns participating in the program estab-

lished by paragraph (10) to ascertain continued eligibility to receive subcontracts pursuant to section 8(a);

(v) make a request for the initiation of termination or graduation proceedings, as appropriate, to the Associate Administrator for Minority Small Business and Capital Ownership Development;

(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;

(vii) decide protests regarding the status of a concern as a disadvantaged concern for purposes of any program or activity conducted under the authority of subsection (d) of section 8, or any other provision of Federal law that references such subsection for a definition of program eligibility; and

(viii) implement such policy directives as may be issued by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to subparagraph (I) regarding, among other things, the geographic distribution of concerns to be admitted to the program and the industrial make-up of such concerns.

(G) An applicant shall not be denied admission into the program established by paragraph (10) due solely to a determination by the Division that specific contract opportunities are unavailable to assist in the development of such concern unless—

(i) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

(ii) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services.

(H) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern as a Program Participant or shall deny such application.

(I) Thirty days before the conclusion of each fiscal year, the Director of the Division shall review all concerns that have been admitted into the Program during the preceding 12-month period. The review shall ascertain the number of entrants, their geographic distribution and industrial classification. The Director shall also estimate the expected growth of the Program during the next fiscal year and the number of additional Business Opportunity Specialists, if any, that will be needed to meet the anticipated demand for the Program. The findings and conclusions of the Director shall be reported to the Associate Administrator for Minority Small Business and Capital Ownership Development by September 30 of each year. Based on such report and such additional data as may be relevant, the Associate Administrator shall, by October 31 of each year, issue policy and program directives applicable to such fiscal year that—

(i) establish priorities for the solicitation of program applications from underrepresented regions and industry categories;

(ii) assign staffing levels and allocate other program resources as necessary to meet program needs; and

(iii) establish priorities in the processing and admission of new Program Participants as may be necessary to achieve an equitable geographic distribution of concerns and a distribution of concerns across all industry categories in proportions needed to increase significantly contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. When considering such increase the Administration shall give due consideration to those industrial categories where Federal purchases have been substantial but where the participation rate of such concerns has been limited.

(12)(A) The Administration shall segment the Capital Ownership Development Program into two stages: a developmental stage; and a transitional stage.

(B) The developmental stage of program participation shall be designed to assist the concern in its effort to overcome its economic disadvantage by providing such assistance as may be necessary and appropriate to access its markets and to strengthen its financial and managerial skills.

(C) The transitional stage of program participation shall be designed to overcome, insofar as practicable, the remaining elements of economic disadvantage and to prepare such concern for graduation from the program.

(13) A Program Participant, if otherwise eligible, shall be qualified to receive the following assistance during the stages of program participation specified in paragraph 12:

(A) Contract support pursuant to section 8(a).

(B) Financial assistance pursuant to section 7(a)(20).

(C) A maximum of two exemptions from the requirements of section 1(a) of the Act entitled "An Act providing conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2036), which exemptions shall apply only to contracts awarded pursuant to section (8)(a) and shall only be used to allow for contingent agreements by a small business concern to acquire the machinery, equipment, facilities, or labor needed to perform such contracts. No exemption shall be made pursuant to this subparagraph if the contract to which it pertains has an anticipated value in excess of \$10,000,000. This subparagraph shall cease to be effective on October 1, 1992.

(D) A maximum of five exemptions from the requirements of the Act entitled "An Act requiring contracts for the construction, alteration and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public works", approved August 24, 1935 (49 Stat. 793), which exemptions shall apply only to contracts awarded pursuant to section 8(a), except that, such exemptions may be granted under this subparagraph only if—

(i) the Administration finds that such concern is unable to obtain the requisite bond or bonds from a surety and

that no surety is willing to issue a bond subject to the guarantee provision of title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.);

(ii) the Administration and the agency providing the contracting opportunity have provided for the protection of persons furnishing materials or labor to the Program Participant by arranging for the direct disbursement of funds due to such persons by the procuring agency or through any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(iii) the contract to which it pertains does not exceed \$3,000,000 in amount. This subparagraph shall cease to be effective on October 1, 1994.

(E) Financial assistance whereby the Administration may purchase in whole or in part, and on behalf of such concerns, skills training or upgrading for employees or potential employees of such concerns. Such assistance may be made without regard to section 18(a). Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee, if such reimbursement is found to be reasonable and appropriate. For purposes of this subparagraph the term "training provider" shall mean an institution of higher education, a community or vocational college, or an institution eligible to provide skills training or upgrading under title I of the Workforce Innovation and Opportunity Act. The Administration shall, in consultation with the Secretary of Labor, promulgate rules and regulations to implement this subparagraph that establish acceptable training and upgrading performance standards and provide for such monitoring or audit requirements as may be necessary to ensure the integrity of the training effort. No financial assistance shall be granted under the subparagraph unless the Administrator determines that—

(i) such concern has documented that it has first explored the use of existing cost-free or cost-subsidized training programs offered by public and private sector agencies working with programs of employment and training and economic development;

(ii) no more than five employees or potential employees of such concern are recipients of any benefits under this subparagraph at any one time;

(iii) no more than \$2,500 shall be made available for any one employee or potential employee;

(iv) the length of training or upgrading financed by this subparagraph shall be no less than one month nor more than six months;

(v) such concern has given adequate assurance it will employ the trainee or upgraded employee for at least six months after the training or upgrading financed by this subparagraph has been completed and each trainee or upgraded employee has provided a similar assurance to remain within the employ of such concern for such period; if such concern, trainee, or upgraded employee breaches this agreement, the Administration shall be entitled to and shall make diligent efforts to obtain from the violating

party the repayment of all funds expended on behalf of the violating party, such repayment shall be made to the Administration together with such interest and costs of collection as may be reasonable; the violating party shall be barred from receiving any further assistance under this subparagraph;

(vi) the training to be financed may take place either at such concern's facilities or at those of the training provider; and

(vii) such concern will maintain such records as the Administration deems appropriate to ensure that the provisions of this paragraph and any other applicable law have not been violated.

(F)(i) The transfer of technology or surplus property owned by the United States to such a concern. Activities designed to effect such transfer shall be developed in cooperation with the heads of Federal agencies and shall include the transfer by grant, license, or sale of such technology or property to such a concern. Such property may be transferred to Program Participants on a priority basis. Technology or property transferred under this subparagraph shall be used by the concern during the normal conduct of its business operation and shall not be sold or transferred to any other party (other than the Government) during such concern's term of participation in the Program and for one year thereafter.

(ii)(I) In this clause—

(aa) the term “covered period” means the 2-year period beginning on the date on which the President declared the applicable major disaster; and

(bb) the term “disaster area” means the area for which the President has declared a major disaster, during the covered period.

(II) The Administrator may transfer technology or surplus property under clause (i) on a priority basis to a small business concern located in a disaster area if—

(aa) the small business concern meets the requirements for such a transfer, without regard to whether the small business concern is a Program Participant; and

(bb) for a small business concern that is a Program Participant, on and after the date on which the President declared the applicable major disaster, the small business concern has not received property under this subparagraph on the basis of the status of the small business concern as a Program Participant.

(III) For any transfer of property under this clause to a small business concern, the terms and conditions shall be the same as a transfer to a Program Participant, except that the small business concern shall agree not to sell or transfer the property to any party other than the Federal Government during the covered period.

(IV) A small business concern that receives a transfer of property under this clause may not receive a transfer of property under clause (i) during the covered period.

(V) If a small business concern sells or transfers property in violation of the agreement described in subclause (III), the Administrator may initiate proceedings to prohibit the small business concern from receiving a transfer of property under this clause or clause (i), in addition to any other remedy available to the Administrator.

(G) Training assistance whereby the Administration shall conduct training sessions to assist individuals and enterprises eligible to receive contracts under section 8(a) in the development of business principles and strategies to enhance their ability to successfully compete for contracts in the marketplace.

(H) Joint ventures, leader-follower arrangements, and teaming agreements between the Program Participant and other Program Participants and other business concerns with respect to contracting opportunities for the research, development, full-scale engineering or production of major systems. Such activities shall be undertaken on the basis of programs developed by the agency responsible for the procurement of the major system, with the assistance of the Administration.

(I) Transitional management business planning training and technical assistance.

(J) Program Participants in the developmental stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (C), (D), (E), (F), and (G).

(14) Program Participants in the transitional stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (F), (G), (H), and (I) of paragraph (13).

(15) Subject to the provisions of paragraph (10)(C), a small business concern may receive developmental assistance under the Program and contracts under section 8(a) for a total period of not longer than nine years, measured from the date of its certification under the authority of such section, of which—

(A) no more than four years may be spent in the developmental stage of Program Participation; and

(B) no more than five years may be spent in the transitional stage of Program Participation.

(16)(A) The Administrator shall develop and implement a process for the systematic collection of data on the operations of the Program established pursuant to paragraph (10).

(B) Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following:

(i) The average personal net worth of individuals who own and control concerns that were initially certified for participation in the Program during the immediately preceding fiscal year. The Administrator shall also indicate the dollar distribution of net worths, at \$50,000 increments, of all such individuals found to be socially and economically disadvantaged. For the first report required pursuant to this paragraph the Administrator shall also provide the data specified in the preceding sentence for all eligible individuals in the Program as of the effective date of this paragraph.

(ii) A description and estimate of the benefits and costs that have accrued to the economy and the Government in the immediately preceding fiscal year due to the operations of those

business concerns that were performing contracts awarded pursuant to section 8(a).

(iii) A compilation and evaluation of those business concerns that have exited the Program during the immediately preceding three fiscal years. Such compilation and evaluation shall detail the number of concerns actively engaged in business operations, those that have ceased or substantially curtailed such operations, including the reasons for such actions, and those concerns that have been acquired by other firms or organizations owned and controlled by other than socially and economically disadvantaged individuals. For those businesses that have continued operations after they exited from the Program, the Administrator shall also separately detail the benefits and costs that have accrued to the economy during the immediately preceding fiscal year due to the operations of such concerns.

(iv) A listing of all participants in the Program during the preceding fiscal year identifying, by State and by Region, for each firm: the name of the concern, the race or ethnicity, and gender of the disadvantaged owners, the dollar value of all contracts received in the preceding year, the dollar amount of advance payments received by each concern pursuant to contracts awarded under section 8(a), and a description including (if appropriate) an estimate of the dollar value of all benefits received pursuant to paragraphs (13) and (14) and section 7(a)(20) during such year.

(v) The total dollar value of contracts and options awarded during the preceding fiscal year pursuant to section 8(a) and such amount expressed as a percentage of total sales of (I) all firms participating in the Program during such year; and (II) of firms in each of the nine years of program participation.

(vi) A description of such additional resources or program authorities as may be required to provide the types of services needed over the next two-year period to service the expected portfolio of firms certified pursuant to section 8(a).

(vii) The total dollar value of contracts and options awarded pursuant to section 8(a), at such dollar increments as the Administrator deems appropriate, for each four digit standard industrial classification code under which such contracts and options were classified.

(C) The first report required by subparagraph (B) shall pertain to fiscal year 1990.

(k) In carrying out its functions under subsections 7(i), 7(j), and 8(a) of this Act, the Administration is authorized—

(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, device, bequest, or otherwise;

(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 655(b)); and

(4) to employ experts and consultants or organizations thereof as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; to compensate individuals so employed at rates not in excess of the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime; and to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) authorized by section 5 of such Act (5 U.S.C. 73b-2) for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually.

(1) SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.—

(1) DEFINITIONS.—In this subsection—

(A) the term “eligible intermediary”—

(i) means a private, nonprofit entity that—

(I) seeks or has been awarded a loan from the Administrator to make loans to small business concerns under this subsection; and

(II) has not less than 1 year of experience making loans to startup, newly established, or growing small business concerns; and

(ii) includes—

(I) a private, nonprofit community development corporation;

(II) a consortium of private, nonprofit organizations or nonprofit community development corporations; and

(III) an agency of or nonprofit entity established by a Native American Tribal Government; and

(B) the term “Program” means the small business intermediary lending pilot program established under paragraph (2).

(2) ESTABLISHMENT.—There is established a 3-year small business intermediary lending pilot program, under which the Administrator may make direct loans to eligible intermediaries, for the purpose of making loans to startup, newly established, and growing small business concerns.

(3) PURPOSES.—The purposes of the Program are—

(A) to assist small business concerns in areas suffering from a lack of credit due to poor economic conditions or changes in the financial market; and

(B) to establish a loan program under which the Administrator may provide loans to eligible intermediaries to enable the eligible intermediaries to provide loans to startup, newly established, and growing small business concerns for working capital, real estate, or the acquisition of materials, supplies, or equipment.

(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

- (A) APPLICATION.—Each eligible intermediary desiring a loan under this subsection shall submit an application to the Administrator that describes—
- (i) the type of small business concerns to be assisted;
 - (ii) the size and range of loans to be made;
 - (iii) the interest rate and terms of loans to be made;
 - (iv) the geographic area to be served and the economic, poverty, and unemployment characteristics of the area;
 - (v) the status of small business concerns in the area to be served and an analysis of the availability of credit; and
 - (vi) the qualifications of the applicant to carry out this subsection.
- (B) LOAN LIMITS.—No loan may be made to an eligible intermediary under this subsection if the total amount outstanding and committed to the eligible intermediary by the Administrator would, as a result of such loan, exceed \$1,000,000 during the participation of the eligible intermediary in the Program.
- (C) LOAN DURATION.—Loans made by the Administrator under this subsection shall be for a term of 20 years.
- (D) APPLICABLE INTEREST RATES.—Loans made by the Administrator to an eligible intermediary under the Program shall bear an annual interest rate equal to 1.00 percent.
- (E) FEES; COLLATERAL.—The Administrator may not charge any fees or require collateral with respect to any loan made to an eligible intermediary under this subsection.
- (F) DELAYED PAYMENTS.—The Administrator shall not require the repayment of principal or interest on a loan made to an eligible intermediary under the Program during the 2-year period beginning on the date of the initial disbursement of funds under that loan.
- (G) MAXIMUM PARTICIPANTS AND AMOUNTS.—During each of fiscal years 2011, 2012, and 2013, the Administrator may make loans under the Program—
- (i) to not more than 20 eligible intermediaries; and
 - (ii) in a total amount of not more than \$20,000,000.
- (5) LOANS TO SMALL BUSINESS CONCERNS.—
- (A) IN GENERAL.—The Administrator, through an eligible intermediary, shall make loans to startup, newly established, and growing small business concerns for working capital, real estate, and the acquisition of materials, supplies, furniture, fixtures, and equipment.
- (B) MAXIMUM LOAN.—An eligible intermediary may not make a loan under this subsection of more than \$200,000 to any 1 small business concern.
- (C) APPLICABLE INTEREST RATES.—A loan made by an eligible intermediary to a small business concern under this subsection, may have a fixed or a variable interest rate, and shall bear an interest rate specified by the eligible intermediary in the application of the eligible intermediary for a loan under this subsection.

(D) REVIEW RESTRICTIONS.—The Administrator may not review individual loans made by an eligible intermediary to a small business concern before approval of the loan by the eligible intermediary.

(6) TERMINATION.—The authority of the Administrator to make loans under the Program shall terminate 3 years after the date of enactment of the Small Business Job Creation and Access to Capital Act of 2010.

(m) MICROLOAN PROGRAM.—

(1)(A) PURPOSES.—The purposes of the Microloan Program are—

(i) to assist women, low-income, veteran (within the meaning of such term under section 3(q)), and minority entrepreneurs and business owners and other individuals possessing the capability to operate successful business concerns;

(ii) to assist small business concerns in those areas suffering from a lack of credit due to economic downturns;

(iii) to establish a microloan program to be administered by the Small Business Administration—

(I) to make loans to eligible intermediaries to enable such intermediaries to provide small-scale loans, particularly loans in amounts averaging not more than \$10,000, to startup, newly established, or growing small business concerns for working capital or the acquisition of materials, supplies, or equipment;

(II) to make grants to eligible intermediaries that, together with non-Federal matching funds, will enable such intermediaries to provide intensive marketing, management, and technical assistance to microloan borrowers;

(III) to make grants to eligible nonprofit entities that, together with non-Federal matching funds, will enable such entities to provide intensive marketing, management, and technical assistance to assist low-income entrepreneurs and other low-income individuals obtain private sector financing for their businesses, with or without loan guarantees; and

(IV) to report to the Committees on Small Business of the Senate and the House of Representatives on the effectiveness of the microloan program and the advisability and feasibility of implementing such a program nationwide; and

(iv) to establish a welfare-to-work microloan initiative, which shall be administered by the Administration, in order to test the feasibility of supplementing the technical assistance grants provided under clauses (ii) and (iii) of subparagraph (B) to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under any comparable State funded means tested program of assistance for low-income individuals, in order to adequately assist those individuals in—

(I) establishing small businesses; and

(II) eliminating their dependence on that assistance.

(B) ESTABLISHMENT.—There is established a microloan program, under which the Administration may—

(i) make direct loans to eligible intermediaries, as provided under paragraph (3), for the purpose of making short-term, fixed interest rate microloans to startup, newly established, and growing small business concerns under paragraph (6);

(ii) in conjunction with such loans and subject to the requirements of paragraph (4), make grants to such intermediaries for the purpose of providing intensive marketing, management, and technical assistance to small business concerns that are borrowers under this subsection; and

(iii) subject to the requirements of paragraph (5), make grants to nonprofit entities for the purpose of providing marketing, management, and technical assistance to low-income individuals seeking to start or enlarge their own businesses, if such assistance includes working with the grant recipient to secure loans in amounts not to exceed \$50,000 from private sector lending institutions, with or without a loan guarantee from the nonprofit entity.

(2) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible to receive loans and grants under subparagraphs (B)(i) and (B)(ii) of paragraph (1) if it—

(A) meets the definition in paragraph (10); and

(B) has at least 1 year of experience making microloans to startup, newly established, or growing small business concerns and providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers.

(3) LOANS TO INTERMEDIARIES.—

(A) INTERMEDIARY APPLICATIONS.—(i) IN GENERAL.—As part of its application for a loan, each intermediary shall submit a description to the Administration of—

(I) the type of businesses to be assisted;

(II) the size and range of loans to be made;

(III) the geographic area to be served and its economic, poverty, and unemployment characteristics;

(IV) the status of small business concerns in the area to be served and an analysis of their credit and technical assistance needs;

(V) any marketing, management, and technical assistance to be provided in connection with a loan made under this subsection;

(VI) the local economic credit markets, including the costs associated with obtaining credit locally;

(VII) the qualifications of the applicant to carry out the purpose of this subsection; and

(VIII) any plan to involve other technical assistance providers (such as counselors from the [Service Corps of Retired Executives] *SCORE* program or small business development centers) or private sector lenders in assisting selected business concerns.

(ii) SELECTION OF INTERMEDIARIES.—In selecting intermediaries to participate in the program established under

this subsection, the Administration shall give priority to those applicants that provide loans in amounts averaging not more than \$10,000.

(B) INTERMEDIARY CONTRIBUTION.—As a condition of any loan made to an intermediary under subparagraph (B)(i) of paragraph (1), the Administrator shall require the intermediary to contribute not less than 15 percent of the loan amount in cash from non-Federal sources.

(C) LOAN LIMITS.—Notwithstanding subsection (a)(3), no loan shall be made under this subsection if the total amount outstanding and committed to one intermediary (excluding outstanding grants) from the business loan and investment fund established by this Act would, as a result of such loan, exceed \$750,000 in the first year of such intermediary's participation in the program, and \$5,000,000 in the remaining years of the intermediary's participation in the program.

(D)(i) IN GENERAL.—The Administrator shall, by regulation, require each intermediary to establish a loan loss reserve fund, and to maintain such reserve fund until all obligations owed to the Administration under this subsection are repaid.

(ii) LEVEL OF LOAN LOSS RESERVE FUND.—

(I) IN GENERAL.—Subject to subclause (III), the Administrator shall require the loan loss reserve fund of an intermediary to be maintained at a level equal to 15 percent of the outstanding balance of the notes receivable owed to the intermediary.

(II) REVIEW OF LOAN LOSS RESERVE.—After the initial 5 years of an intermediary's participation in the program authorized by this subsection, the Administrator shall, at the request of the intermediary, conduct a review of the annual loss rate of the intermediary. Any intermediary in operation under this subsection prior to October 1, 1994, that requests a reduction in its loan loss reserve shall be reviewed based on the most recent 5-year period preceding the request.

(III) REDUCTION OF LOAN LOSS RESERVE.—Subject to the requirements of clause IV, the Administrator may reduce the annual loan loss reserve requirement of an intermediary to reflect the actual average loan loss rate for the intermediary during the preceding 5-year period, except that in no case shall the loan loss reserve be reduced to less than 10 percent of the outstanding balance of the notes receivable owed to the intermediary.

(IV) REQUIREMENTS.—The Administrator may reduce the annual loan loss reserve requirement of an intermediary only if the intermediary demonstrates to the satisfaction of the Administrator that—

(aa) the average annual loss rate for the intermediary during the preceding 5-year period is less than 15 percent; and

(bb) that no other factors exist that may impair the ability of the intermediary to repay all obligations owed to the Administration under this subsection.

(E) UNAVAILABILITY OF COMPARABLE CREDIT.—An intermediary may make a loan under this subsection of more than \$20,000 to a small business concern only if such small business concern demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. In no case shall an intermediary make a loan under this subsection of more than \$50,000, or have outstanding or committed to any 1 borrower more than \$50,000.

(F) LOAN DURATION; INTEREST RATES.—

(i) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 10 years.

(ii) APPLICABLE INTEREST RATES.—Except as provided in clause (iii), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

(iii) RATES APPLICABLE TO CERTAIN SMALL LOANS.—Loans made by the Administration to an intermediary that makes loans to small business concerns and entrepreneurs averaging not more than \$7,500, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

(iv) RATES APPLICABLE TO MULTIPLE SITES OR OFFICES.—The interest rate prescribed in clause (ii) or (iii) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

(v) RATE BASIS.—The applicable rate of interest under this paragraph shall—

(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

(vi) COVERED INTERMEDIARIES.—The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.

(G) DELAYED PAYMENTS.—The Administration shall not require repayment of interest or principal of a loan made to an intermediary under this subsection during the first year of the loan.

(H) FEES; COLLATERAL.—Except as provided in subparagraphs (B) and (D), the Administration shall not charge any fees or require collateral other than an assignment of the notes receivable of the microloans with respect to any loan made to an intermediary under this subsection.

(4) MARKETING, MANAGEMENT AND TECHNICAL ASSISTANCE GRANTS TO INTERMEDIARIES.—Grants made in accordance with subparagraph (B)(ii) of paragraph (1) shall be subject to the following requirements:

(A) GRANT AMOUNTS.—Except as otherwise provided in subparagraph (C) and subject to subparagraph (B), each intermediary that receives a loan under subparagraph (B)(i) of paragraph (1) shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection. Except as provided in subparagraph (C), each intermediary meeting the requirements of subparagraph (B) may receive a grant of not more than 25 percent of the total outstanding balance of loans made to it under this subsection.

(B) CONTRIBUTION.—As a condition of a grant made under subparagraph (A), the Administrator shall require the intermediary to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

(C) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—

(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

(I) the intermediary provides not less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area; or

(II) the intermediary has a portfolio of loans made under this subsection that averages not more than \$10,000 during the period of the intermediary's participation in the program.

(ii) PURPOSES.—A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

(iii) CONTRIBUTION EXCEPTION.—The contribution requirements in subparagraph (B) do not apply to grants made under this subparagraph.

(D) ELIGIBILITY FOR MULTIPLE SITES OR OFFICES.—The eligibility for a grant described in subparagraph (A) or (C)

shall be determined separately for each loan-making site or office of 1 intermediary.

(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—

(i) IN GENERAL.—Each intermediary may expend an amount not to exceed 25 percent of the grant funds received under paragraph (1)(B)(ii) to provide information and technical assistance to small business concerns that are prospective borrowers under this subsection.

(ii) TECHNICAL ASSISTANCE.—An intermediary may expend not more than 25 percent of the funds received under paragraph (1)(B)(ii) to enter into third party contracts for the provision of technical assistance.

(F) SUPPLEMENTAL GRANT.—

(i) IN GENERAL.—The Administration may accept any funds transferred to the Administration from other departments or agencies of the Federal Government to make grants in accordance with this subparagraph and section 202(b) of the Small Business Reauthorization Act of 1997 to participating intermediaries and technical assistance providers under paragraph (5), for use in accordance with clause (iii) to provide additional technical assistance and related services to recipients of assistance under a State program described in paragraph (1)(A)(iv) at the time they initially apply for assistance under this subparagraph.

(ii) ELIGIBLE RECIPIENTS; GRANT AMOUNTS.—In making grants under this subparagraph, the Administration may select, from among participating intermediaries and technical assistance providers described in clause (i), not more than 20 grantees in fiscal year 1998, not more than 25 grantees in fiscal year 1999, and not more than 30 grantees in fiscal year 2000, each of whom may receive a grant under this subparagraph in an amount not to exceed \$200,000 per year.

(iii) USE OF GRANT AMOUNTS.—Grants under this subparagraph—

(I) are in addition to other grants provided under this subsection and shall not require the contribution of matching amounts as a condition of eligibility; and

(II) may be used by a grantee—

(aa) to pay or reimburse a portion of child care and transportation costs of recipients of assistance described in clause (i), to the extent such costs are not otherwise paid by State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) or under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(bb) for marketing, management, and technical assistance to recipients of assistance described in clause (i).

(iv) MEMORANDUM OF UNDERSTANDING.—Prior to accepting any transfer of funds under clause (i) from a department or agency of the Federal Government, the Administration shall enter into a Memorandum of Understanding with the department or agency, which shall—

(I) specify the terms and conditions of the grants under this subparagraph; and

(II) provide for appropriate monitoring of expenditures by each grantee under this subparagraph and each recipient of assistance described in clause (i) who receives assistance from a grantee under this subparagraph, in order to ensure compliance with this subparagraph by those grantees and recipients of assistance.

(5) PRIVATE SECTOR BORROWING TECHNICAL ASSISTANCE GRANTS.—Grants made in accordance with subparagraph (B)(iii) of paragraph (1) shall be subject to the following requirements:

(A) GRANT AMOUNTS.—Subject to the requirements of subparagraph (B), the Administration may make not more than 55 grants annually, each in amounts not to exceed \$200,000 for the purposes specified in subparagraph (B)(iii) of paragraph (1).

(B) CONTRIBUTION.—As a condition of any grant made under subparagraph (A), the Administration shall require the grant recipient to contribute an amount equal to 20 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

(6) LOANS TO SMALL BUSINESS CONCERNS FROM ELIGIBLE INTERMEDIARIES.—

(A) IN GENERAL.—An eligible intermediary shall make short-term, fixed rate loans to startup, newly established, and growing small business concerns from the funds made available to it under subparagraph (B)(i) of paragraph (1) for working capital and the acquisition of materials, supplies, furniture, fixtures, and equipment.

(B) PORTFOLIO REQUIREMENT.—To the extent practicable, each intermediary that operates a microloan program under this subsection shall maintain a microloan portfolio with an average loan size of not more than \$15,000.

(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate of interest applicable to a loan made to an intermediary by the Administration—

(i) in the case of a loan of more than \$7,500 made by the intermediary to a small business concern or entrepreneur by more than 7.75 percentage points; and

(ii) in the case of a loan of not more than \$7,500 made by the intermediary to a small business concern or entrepreneur by more than 8.5 percentage points.

(D) REVIEW RESTRICTION.—The Administration shall not review individual microloans made by intermediaries prior to approval.

(E) ESTABLISHMENT OF CHILD CARE OR TRANSPORTATION BUSINESSES.—In addition to other eligible small businesses concerns, borrowers under any program under this subsection may include individuals who will use the loan proceeds to establish for-profit or nonprofit child care establishments or businesses providing for-profit transportation services.

(7) PROGRAM FUNDING FOR MICROLOANS.—

(A) NUMBER OF PARTICIPANTS.—Under the program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 300 intermediaries.

(B) ALLOCATION.—

(i) MINIMUM ALLOCATION.—Subject to the availability of appropriations, of the total amount of new loan funds made available for award under this subsection in each fiscal year, the Administration shall make available for award in each State (including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa) an amount equal to the sum of—

(I) the lesser of—

(aa) \$800,000; or

(bb) $\frac{1}{55}$ of the total amount of new loan funds made available for award under this subsection for that fiscal year; and

(II) any additional amount, as determined by the Administration.

(ii) REDISTRIBUTION.—If, at the beginning of the third quarter of a fiscal year, the Administration determines that any portion of the amount made available to carry out this subsection is unlikely to be made available under clause (i) during that fiscal year, the Administration may make that portion available for award in any one or more States (including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa) without regard to clause (i).

(8) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants and providing funding to intermediaries under this subsection, the Administration shall select and provide funding to such intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout each State, particularly those located in urban and in rural areas.

(9) GRANTS FOR MANAGEMENT, MARKETING, TECHNICAL ASSISTANCE, AND RELATED SERVICES.—

(A) IN GENERAL.—The Administration may procure technical assistance for intermediaries participating in the Microloan Program to ensure that such intermediaries

have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

(B) ASSISTANCE AMOUNT.—The Administration shall transfer 7 percent of its annual appropriation for loans and loan guarantees under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing, to achieve the purpose set forth in subparagraph (A).

(C) WELFARE-TO-WORK MICROLOAN INITIATIVE.—Of amounts made available to carry out the welfare-to-work microloan initiative under paragraph (1)(A)(iv) in any fiscal year, the Administration may use not more than 5 percent to provide technical assistance, either directly or through contractors, to welfare-to-work microloan initiative grantees, to ensure that, as grantees, they have the knowledge, skills, and understanding of microlending and welfare-to-work transition, and other related issues, to operate a successful welfare-to-work microloan initiative.

(10) REPORT TO CONGRESS.—On November 1, 1995, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report, including the Administration's evaluation of the effectiveness of the first 3½ years of the microloan program and the following:

(A) the numbers and locations of the intermediaries funded to conduct microloan programs;

(B) the amounts of each loan and each grant to intermediaries;

(C) a description of the matching contributions of each intermediary;

(D) the numbers and amounts of microloans made by the intermediaries to small business concern borrowers;

(E) the repayment history of each intermediary;

(F) a description of the loan portfolio of each intermediary including the extent to which it provides microloans to small business concerns in rural areas; and

(G) any recommendations for legislative changes that would improve program operations.

(11) DEFINITIONS.—For purposes of this subsection—

(A) the term “intermediary” means—

(i) a private, nonprofit entity;

(ii) a private, nonprofit community development corporation;

(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations;

(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

(I) no application is received from an eligible nonprofit organization; or

(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application; or

(v) an agency of or nonprofit entity established by a Native American Tribal Government,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;

(B) the term “microloan” means a short-term, fixed rate loan of not more than \$50,000, made by an intermediary to a startup, newly established, or growing small business concern;

(C) the term “rural area” means any political subdivision or unincorporated area—

(i) in a nonmetropolitan county (as defined by the Secretary of Agriculture) or its equivalent thereof; or

(ii) in a metropolitan county or its equivalent that has a resident population of less than 20,000 if the Small Business Administration has determined such political subdivision or area to be rural; and

(D) the term “economically distressed area”, as used in paragraph (4), means a county or equivalent division of local government of a State in which the small business concern is located, in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40 percent of residents have an annual income that is at or below the poverty level.

(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1998 through 2000, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans.

(13) EVALUATION OF WELFARE-TO-WORK MICROLOAN INITIATIVE.—On January 31, 1999, and annually thereafter, the Ad-

ministration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on any monies distributed pursuant to paragraph (4)(F).

(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE RESERVIST.—The term “eligible reservist” means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

(B) ESSENTIAL EMPLOYEE.—The term “essential employee” means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern.

(C) PERIOD OF MILITARY CONFLICT.—The term “period of military conflict” means—

- (i) a period of war declared by the Congress;
- (ii) a period of national emergency declared by the Congress or by the President; or
- (iii) a period of a contingency operation, as defined in section 101(a) of title 10, United States Code.

(D) QUALIFIED BORROWER.—The term “qualified borrower” means—

- (i) an individual who is an eligible reservist and who received a direct loan under subsection (a) or (b) before being ordered to active duty; or
- (ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an essential employee, was ordered to active duty.

(2) DEFERRAL OF DIRECT LOANS.—

(A) IN GENERAL.—The Administration shall, upon written request, defer repayment of principal and interest due on a direct loan made under subsection (a) or (b), if such loan was incurred by a qualified borrower.

(B) PERIOD OF DEFERRAL.—The period of deferral for repayment under this paragraph shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

(C) INTEREST RATE REDUCTION DURING DEFERRAL.—Notwithstanding any other provision of law, during the period of deferral described in subparagraph (B), the Administration may, in its discretion, reduce the interest rate on any loan qualifying for a deferral under this paragraph.

(3) DEFERRAL OF LOAN GUARANTEES AND OTHER FINANCINGS.—The Administration shall—

(A) encourage intermediaries participating in the program under subsection (m) to defer repayment of a loan made with proceeds made available under that subsection, if such loan was incurred by a small business concern that is eligible to apply for assistance under subsection (b)(3); and

(B) not later than 30 days after the date of the enactment of this subsection, establish guidelines to—

- (i) encourage lenders and other intermediaries to defer repayment of, or provide other relief relating to, loan guarantees under subsection (a) and financings under section 504 of the Small Business Investment Act of 1958 that were incurred by small business concerns that are eligible to apply for assistance under subsection (b)(3), and loan guarantees provided under subsection (m) if the intermediary provides relief to a small business concern under this paragraph; and
- (ii) implement a program to provide for the deferral of repayment or other relief to any intermediary providing relief to a small business borrower under this paragraph.

SEC. 8. (a)(1) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary or appropriate—

(A) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. Whenever the Administration and such procurement officer fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator. Not later than 5 days from the date the Administration is notified of a procurement officer's adverse decision, the Administration may notify the contracting officer of the intent to appeal such adverse decision, and within 15 days of such date the Administrator shall file a written request for a reconsideration of the adverse decision with the Secretary of the department or agency head. For the purposes of this subparagraph, a procurement officer's adverse decision includes a decision not to make available for award pursuant to this subsection a particular procurement requirement or the failure to agree on the terms and conditions of a contract to be awarded noncompetitively under the authority of this subsection. Upon receipt of the notice of intent to appeal, the Secretary of the department or the agency head shall suspend further action regarding the procurement until a written decision on the Administrator's request for reconsideration has been issued by such Secretary or agency head, unless such officer makes a written determination that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for a reconsideration of the adverse decision. If the Administrator's request for reconsider-

ation is denied, the Secretary of the department or agency head shall specify the reasons why the selected firm was determined to be incapable to perform the procurement requirement, and the findings supporting such determination, which shall be made a part of the contract file for the requirement. A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;

(B) to arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for construction work, services, or the manufacture, supply, assembly of such articles, equipment, supplies, materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts;

(C) to make an award to a small business concern owned and controlled by socially and economically disadvantaged individuals which has completed its period of Program Participation as prescribed by section 7(j)(15), if—

(i) the contract will be awarded as a result of an offer (including price) submitted in response to a published solicitation relating to a competition conducted pursuant to subparagraph (D); and

(ii) the prospective contract awardee was a Program Participant eligible for award of the contract on the date specified for receipt of offers contained in the contract solicitation; and

(D)(i) A contract opportunity offered for award pursuant to this subsection shall be awarded on the basis of competition restricted to eligible Program Participants if—

(I) there is a reasonable expectation that at least two eligible Program Participants will submit offers and that award can be made at a fair market price, and

(II) the anticipated award price of the contract (including options) will exceed \$5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and \$3,000,000 (including options) in the case of all other contract opportunities.

(ii) The Associate Administrator for Minority Small Business and Capital Ownership Development, on a nondelegable basis, is authorized to approve a request from an agency to award a contract opportunity under this subsection on the basis of a competition restricted to eligible Program Participants even if the anticipated award price is not expected to exceed the dollar amounts specified in clause (i)(II). Such approvals shall be granted only on a limited basis.

(2) Notwithstanding subsections (a) and (c) of the first section of the Act entitled “An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work,” approved August 24, 1935 (49 Stat. 793), no small business concern shall be required

to provide any amount of any bond as a condition or receiving any subcontract under this subsection if the Administrator determines that such amount is inappropriate for such concern in performing such contract: *Provided*, That the Administrator shall exercise the authority granted by the paragraph only if—

(A) the Administration takes such measures as it deems appropriate for the protection of persons furnishing materials and labor to a small business receiving any benefit pursuant to this paragraph;

(B) the Administration assists, insofar as practicable, a small business receiving the benefits of this paragraph to develop, within a reasonable period of time, such financial and other capability as may be needed to obtain such bonds as the Administration may subsequently require for the successful completion of any program conducted under the authority of this subsection;

(C) the Administration finds that such small business is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue such bond or bonds subject to the guarantee provisions of Title IV of the Small Business Investment Act of 1958; and

(D) that small business is determined to be a start-up concern and such concern has not been participating in any program conducted under the authority of this subsection for a period exceeding one year.

The authority to waive bonds provided in this paragraph (2) may not be exercised after September 30, 1988.

(3)(A) Any Program Participant selected by the Administration to perform a contract to be let noncompetitively pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

(B)(i) For purposes of paragraph (1) a “fair market price” shall be determined by the agency offering the procurement requirement to the Administration, in accordance with clauses (ii) and (iii).

(ii) The estimate of a current fair market price for a new procurement requirement, or a requirement that does not have a satisfactory procurement history, shall be derived from a price or cost analysis. Such analysis may take into account prevailing market conditions, commercial prices for similar products or services, or data obtained from any other agency. Such analysis shall consider such cost or pricing data as may be timely submitted by the Administration.

(iii) The estimate of a current fair market price for a procurement requirement that has a satisfactory procurement history shall be based on recent award prices adjusted to insure comparability. Such adjustments shall take into account differences in quantities, performance times, plans, specifications, transportation costs, packaging and packing costs, labor and materials costs, overhead costs, and any other additional costs which may be deemed appropriate.

(C) An agency offering a procurement requirement for potential award pursuant to this subsection shall, upon the request of the Administration, promptly submit to the Administration a written statement detailing the method used by the agency to estimate the current fair market price for such contract, identifying the information, studies, analyses, and other data used by such agency. The

agency's estimate of the current fair market price (and any supporting data furnished to the Administration) shall not be disclosed to any potential offeror (other than the Administration).

(D) A small business concern selected by the Administration to perform or negotiate a contract to be let pursuant to this subsection may request the Administration to protest the agency's estimate of the fair market price for such contract pursuant to paragraph (1)(A).

(4)(A) For purposes of this section, the term "socially and economically disadvantaged small business concern" means any small business concern which meets the requirements of subparagraph (B) and—

(i) which is at least 51 per centum unconditionally owned by—

(I) one or more socially and economically disadvantaged individuals,

(II) an economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe), or

(III) an economically disadvantaged Native Hawaiian organization, or

(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is unconditionally owned by—

(I) one or more socially and economically disadvantaged individuals,

(II) an economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe), or

(III) an economically disadvantaged Native Hawaiian organization.

(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I),

(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II), or

(iii) Native Hawaiian organizations described in subparagraph (A)(i)(III) or subparagraph (A)(ii)(III).

(C) Each Program Participant shall certify, on an annual basis, that it meets the requirements of this paragraph regarding ownership and control.

(5) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(6)(A) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual. In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the

per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.

(B) Each Program Participant shall annually submit to the Administration—

(i) a personal financial statement for each disadvantaged owner;

(ii) a record of all payments made by the Program Participant to each of its disadvantaged owners or to any person or entity affiliated with such owners; and

(iii) such other information as the Administration may deem necessary to make the determinations required by this paragraph.

(C)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the Administration has reason to believe that the standards to establish economic disadvantage pursuant to subparagraph (A) have not been met, the Administration shall conduct a review to determine whether such Program Participant and its disadvantaged owners continue to be impaired in their ability to compete in the free enterprise system due to diminished capital and credit opportunities when compared to other concerns in the same business area, which are not socially disadvantaged.

(ii) If the Administration determines, pursuant to such review, that a Program Participant and its disadvantaged owners are no longer economically disadvantaged for the purpose of receiving assistance under this subsection, the Program Participant shall be graduated pursuant to section 7(j)(10)(G) subject to the right to a hearing as provided for under paragraph (9).

(D)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the Administration has reason to believe that the amount of funds or other assets withdrawn from a Program Participant for the personal benefit of its disadvantaged owners or any person or entity affiliated with such owners may have been unduly excessive, the Administration shall conduct a review to determine whether such withdrawal of funds or other assets was detrimental to the achievement of the targets, objectives, and goals contained in such Program Participant's business plan.

(ii) If the Administration determines, pursuant to such review, that funds or other assets have been withdrawn to the detriment of the Program Participant's business, the Administration shall—

(I) initiate a proceeding to terminate the Program Participant pursuant to section 7(j)(10)(F), subject to the right to a hearing under paragraph (9); or

(II) require an appropriate reinvestment of funds or other assets and such other steps as the Administration may deem necessary to ensure the protection of the concern.

(E) Whenever the Administration computes personal net worth for any purpose under this paragraph, it shall exclude from such computation—

(i) the value of investments that disadvantaged owners have in their concerns, except that such value shall be taken into account under this paragraph when comparing such concerns to

other concerns in the same business area that are owned by other than socially disadvantaged persons;

(ii) the equity that disadvantaged owners have in their primary personal residences, except that any portion of such equity that is attributable to unduly excessive withdrawals from a Program Participant or a concern applying for program participation shall be taken into account.

(7)(A) No small business concern shall be deemed eligible for any assistance pursuant to this subsection unless the Administration determines that with contract, financial, technical, and management support the small business concern will be able to perform contracts which may be awarded to such concern under paragraph (1)(C) and has reasonable prospects for success in competing in the private sector.

(B) Limitations established by the Administration in its regulations and procedures restricting the award of contracts pursuant to this subsection to a limited number of standard industrial classification codes in an approved business plan shall not be applied in a manner that inhibits the logical business progression by a participating small business concern into areas of industrial endeavor where such concern has the potential for success.

(8) All determinations made pursuant to paragraph (5) with respect to whether a group has been subjected to prejudice or bias shall be made by the Administrator after consultation with the Associate Administrator for Minority Small Business and Capital Ownership Development. All other determinations made pursuant to paragraphs (4), (5), (6), and (7) shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.

(9)(A) Subject to the provisions of subparagraph (E), the Administration, prior to taking any action described in subparagraph (B), shall provide the small business concern that is the subject of such action, an opportunity for a hearing on the record, in accordance with chapter 5 of title 5, United States Code.

(B) The actions referred to in subparagraph (A) are—

- (i) denial of program admission based upon a negative determination pursuant to paragraph (4), (5), or (6);
- (ii) a termination pursuant to section 7(j)(10)(F);
- (iii) a graduation pursuant to section 7(j)(10)(G); and
- (iv) the denial of a request to issue a waiver pursuant to paragraph (21)(B).

(C) The Administration's proposed action, in any proceeding conducted under the authority of this paragraph, shall be sustained unless it is found to be arbitrary, capricious, or contrary to law.

(D) A decision rendered pursuant to this paragraph shall be the final decision of the Administration and shall be binding upon the Administration and those within its employ.

(E) The adjudicator selected to preside over a proceeding conducted under the authority of this paragraph shall decline to accept jurisdiction over any matter that—

- (i) does not, on its face, allege facts that, if proven to be true, would warrant reversal or modification of the Administration's position;
- (ii) is untimely filed;

(iii) is not filed in accordance with the rules of procedure governing such proceedings; or

(iv) has been decided by or is the subject of an adjudication before a court of competent jurisdiction over such matters.

(F) Proceedings conducted pursuant to the authority of this paragraph shall be completed and a decision rendered, insofar as practicable, within ninety days after a petition for a hearing is filed with the adjudicating office.

(10) The Administration shall develop and implement an outreach program to inform and recruit small business concerns to apply for eligibility for assistance under this subsection. Such program shall make a sustained and substantial effort to solicit applications for certification from small business concerns located in areas of concentrated unemployment or underemployment or within labor surplus areas and within States having relatively few Program Participants and from small disadvantaged business concerns in industry categories that have not substantially participated in the award of contracts let under the authority of this subsection.

(11) To the maximum extent practicable, construction subcontracts awarded by the Administration pursuant to this subsection shall be awarded within the county or State where the work is to be performed.

(12)(A) The Administration shall require each concern eligible to receive subcontracts pursuant to this subsection to annually prepare and submit to the Administration a capability statement. Such statement shall briefly describe such concern's various contract performance capabilities and shall contain the name and telephone number of the Business Opportunity Specialist assigned such concern. The Administration shall separate such statements by those primarily dependent upon local contract support and those primarily requiring a national marketing effort. Statements primarily dependent upon local contract support shall be disseminated to appropriate buying activities in the marketing area of the concern. The remaining statements shall be disseminated to the Directors of Small and Disadvantaged Business Utilization for the appropriate agencies who shall further distribute such statements to buying activities with such agencies that may purchase the types of items or services described on the capability statements.

(B) Contracting activities receiving capability statements shall, within 60 days after receipt, contact the relevant Business Opportunity Specialist to indicate the number, type, and approximate dollar value of contract opportunities that such activities may be awarding over the succeeding 12-month period and which may be appropriate to consider for award to those concerns for which it has received capability statements.

(C) Each executive agency reporting to the Federal Procurement Data System contract actions with an aggregate value in excess of \$50,000,000 in fiscal year 1988, or in any succeeding fiscal year, shall prepare a forecast of expected contract opportunities or classes of contract opportunities for the next and succeeding fiscal years that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. Such forecast shall be periodically revised during such year. To the extent such information is available, the agency forecasts shall specify:

(i) The approximate number of individual contract opportunities (and the number of opportunities within a class).

(ii) The approximate dollar value, or range of dollar values, for each contract opportunity or class of contract opportunities.

(iii) The anticipated time (by fiscal year quarter) for the issuance of a procurement request.

(iv) The activity responsible for the award and administration of the contract.

(D) The head of each executive agency subject to the provisions of subparagraph (C) shall within 10 days of completion furnish such forecasts to—

(i) the Director of the Office of Small and Disadvantaged Business Utilization established pursuant to section 15(k) for such agency; and

(ii) the Administrator.

(E) The information reported pursuant to subparagraph (D) may be limited to classes of items and services for which there are substantial annual purchases.

(F) Such forecasts shall be available to small business concerns.

(13) For purposes of this subsection, the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (within the meaning of the Alaska Native Claims Settlement Act) which—

(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or

(B) is recognized as such by the State in which such tribe, band, nation, group, or community resides.

(14) LIMITATIONS ON SUBCONTRACTING.—A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees to satisfy the requirements of section 46.

(15) For purposes of this subsection, the term “Native Hawaiian Organization” means any community service organization serving Native Hawaiians in the State of Hawaii which—

(A) is a nonprofit corporation that has filed articles of incorporation with the director (or the designee thereof) of the Hawaii Department of Commerce and Consumer Affairs, or any successor agency,

(B) is controlled by Native Hawaiians, and

(C) whose business activities will principally benefit such Native Hawaiians.

(16)(A) The Administration shall award sole source contracts under this section to any small business concern recommended by the procuring agency offering the contract opportunity if—

(i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity;

(ii) the award of such contract would be consistent with the Program Participant’s business plan; and

(iii) the award of the contract would not result in the Program Participant exceeding the requirements established by section 7(j)(10)(I).

(B) To the maximum extent practicable, the Administration shall promote the equitable geographic distribution of sole source contracts awarded pursuant to this subsection.

(17)(A) An otherwise responsible business concern that is in compliance with the requirements of subparagraph (B) shall not be denied the opportunity to submit and have considered its offer for any procurement contract, which contract has as its principal purpose the supply of a product to be let pursuant to this subsection, subsection (m), section 15(a), section 31, or section 36, solely because such concern is other than the actual manufacturer or processor of the product to be supplied under the contract.

(B) To be in compliance with the requirements referred to in subparagraph (A), such a business concern shall—

- (i) be primarily engaged in the wholesale or retail trade;
- (ii) be a small business concern under the numerical size standard for the Standard Industrial Classification Code assigned to the contract solicitation on which the offer is being made;
- (iii) be a regular dealer, as defined pursuant to section 35(a) of title 41, United States Code (popularly referred to as the Walsh-Healey Public Contracts Act), in the product to be offered the Government or be specifically exempted from such section by section 7(j)(13)(C); and
- (iv) represent that it will supply the product of a domestic small business manufacturer or processor, unless a waiver of such requirement is granted—

(I) by the Administrator, after reviewing a determination by the contracting officer that no small business manufacturer or processor can reasonably be expected to offer a product meeting the specifications (including period for performance) required of an offeror by the solicitation; or

(II) by the Administrator for a product (or class of products), after determining that no small business manufacturer or processor is available to participate in the Federal procurement market.

(C) LIMITATION.—This paragraph shall not apply to a contract that has as its principal purpose the acquisition of services or construction.

(18)(A) No person within the employ of the Administration shall, during the term of such employment and for a period of two years after such employment has been terminated, engage in any activity or transaction specified in subparagraph (B) with respect to any Program Participant during such person's term of employment, if such person participated personally (either directly or indirectly) in decision-making responsibilities relating to such Program Participant or with respect to the administration of any assistance provided to Program Participants generally under this subsection, section 7(j)(10), or section 7(a)(20).

(B) The activities and transactions prohibited by subparagraph (A) include—

- (i) the buying, selling, or receiving (except by inheritance) of any legal or beneficial ownership of stock or any other ownership interest or the right to acquire any such interest;
- (ii) the entering into or execution of any written or oral agreement (whether or not legally enforceable) to purchase or

otherwise obtain any right or interest described in clause (i);
or

(iii) the receipt of any other benefit or right that may be an incident of ownership.

(C)(i) The employees designated in clause (ii) shall annually submit a written certification to the Administration regarding compliance with the requirements of this paragraph.

(ii) The employees referred to in clause (i) are—

(I) regional administrators;

(II) district directors;

(III) the Associate Administrator for Minority Small Business and Capital Ownership Development;

(IV) employees whose principal duties relate to the award of contracts or the provision of other assistance pursuant to this subsection or section 7(j)(10); and

(V) such other employees as the Administrator may deem appropriate.

(iii) Any present or former employee of the Administration who violates this paragraph shall be subject to a civil penalty, assessed by the Attorney General, that shall not exceed 300 per centum of the maximum amount of gain such employee realized or could have realized as a result of engaging in those activities and transactions prescribed by subparagraph (B).

(iv) In addition to any other remedy or sanction provided for under law or regulation, any person who falsely certifies pursuant to clause (i) shall be subject to a civil penalty under the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

(19)(A) Any employee of the Administration who has authority to take, direct others to take, recommend, or approve any action with respect to any program or activity conducted pursuant to this subsection or section 7(j), shall not, with respect to any such action, exercise or threaten to exercise such authority on the basis of the political activity or affiliation of any party. Employees of the Administration shall expeditiously report to the Inspector General of the Administration any such action for which such employee's participation has been solicited or directed.

(B) Any employee who willfully and knowingly violates subparagraph (A) shall be subject to disciplinary action, which may consist of separation from service, reduction in grade, suspension, or reprimand.

(C) Subparagraph (A) shall not apply to any action taken as a penalty or other enforcement of a violation of any law, rule, or regulation prohibiting or restricting political activity.

(D) The prohibitions of subparagraph (A), and remedial measures provided for under subparagraphs (B) and (C) with regard to such prohibitions, shall be in addition to, and not in lieu of, any other prohibitions, measures or liabilities that may arise under any other provision of law.

(20)(A) Small business concerns participating in the Program under section 7(j)(10) and eligible to receive contracts pursuant to this section shall semiannually report to their assigned Business Opportunity Specialist the following:

(i) A listing of any agents, representatives, attorneys, accountants, consultants, and other parties (other than employ-

ees) receiving compensation to assist in obtaining a Federal contract for such Program Participant.

(ii) The amount of compensation received by any person listed under clause (i) during the relevant reporting period and a description of the activities performed in return for such compensation.

(B) The Business Opportunity Specialist shall promptly review and forward such report to the Associate Administrator for Minority Small Business and Capital Ownership Development. Any report that raises a suspicion of improper activity shall be reported immediately to the Inspector General of the Administration.

(C) The failure to submit a report pursuant to the requirements of this subsection and applicable regulations shall be considered "good cause" for the initiation of a termination proceeding pursuant to section 7(j)(10)(F).

(21)(A) Subject to the provisions of subparagraph (B), a contract (including options) awarded pursuant to this subsection shall be performed by the concern that initially received such contract. Notwithstanding the provisions of the preceding sentence, if the owner or owners upon whom eligibility was based relinquish ownership or control of such concern, or enter into any agreement to relinquish such ownership or control, such contract or option shall be terminated for the convenience of the Government, except that no purchase costs or other damages may be assessed against such concerns due solely to the provisions of this subparagraph.

(B) The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if one of the following conditions exist:

(i) When it is necessary for the owners of the concern to surrender partial control of such concern on a temporary basis in order to obtain equity financing.

(ii) The head of the contracting agency for which the contract is being performed certifies that termination of the contract would severely impair attainment of the agency's program objectives or missions;

(iii) Ownership and control of the concern that is performing the contract will pass to another small business concern that is a program participant, but only if the acquiring firm would otherwise be eligible to receive the award directly pursuant to subsection (a);

(iv) The individuals upon whom eligibility was based are no longer able to exercise control of the concern due to incapacity or death; or

(v) When, in order to raise equity capital, it is necessary for the disadvantaged owners of the concern to relinquish ownership of a majority of the voting stock of such concern, but only if—

(I) such concern has exited the Capital Ownership Development Program;

(II) the disadvantaged owners will maintain ownership of the largest single outstanding block of voting stock (including stock held by affiliated parties); and

(III) the disadvantaged owners will maintain control of daily business operations.

(C) The Administrator may waive the requirements of subparagraph (A) if—

(i) in the case of subparagraph (B) (i), (ii) and (iv), he is requested to do so prior to the actual relinquishment of ownership or control; and

(ii) in the case of subparagraph (B)(iii), he is requested to do so as soon as possible after the incapacity or death occurs.

(D) Concerns performing contracts awarded pursuant to this subsection shall be required to notify the Administration immediately upon entering an agreement (either oral or in writing) to transfer all or part of its stock or other ownership interest to any other party.

(E) Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this section, any potential ownership interests held by investment companies licensed under the Small Business Investment Act of 1958 shall be treated in the same manner as interests held by the individuals upon whom eligibility is based.

(b) It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

(1)(A) to provide—

(i) technical, managerial, and informational aids to small business concerns—

(I) by advising and counseling on matters in connection with Government procurement and policies, principles, and practices of good management;

(II) by cooperating and advising with—

(aa) voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions (except that the Administration shall take such actions as it determines necessary to ensure that such cooperation does not constitute or imply an endorsement by the Administration of the organization or its products or services, and shall ensure that it receives appropriate recognition in all printed materials); and

(bb) other Federal and State agencies;

(III) by maintaining a clearinghouse for information on managing, financing, and operating small business enterprises; and

(IV) by disseminating such information, including through recognition events, and by other activities that the Administration determines to be appropriate; and

(ii) through cooperation with a profit-making concern (referred to in this paragraph as a “cosponsor”), training, information, and education to small business concerns, except that the Administration shall—

(I) take such actions as it determines to be appropriate to ensure that—

(aa) the Administration receives appropriate recognition and publicity;

(bb) the cooperation does not constitute or imply an endorsement by the Administration of any product or service of the cosponsor;

(cc) unnecessary promotion of the products or services of the cosponsor is avoided; and

(dd) utilization of any one cosponsor in a marketing area is minimized; and

(II) develop an agreement, executed on behalf of the Administration by an employee of the Administration in Washington, the District of Columbia, that provides, at a minimum, that—

(aa) any printed material to announce the cosponsorship or to be distributed at the cosponsored activity, shall be approved in advance by the Administration;

(bb) the terms and conditions of the cooperation shall be specified;

(cc) only minimal charges may be imposed on any small business concern to cover the direct costs of providing the assistance;

(dd) the Administration may provide to the cosponsorship mailing labels, but not lists of names and addresses of small business concerns compiled by the Administration;

(ee) all printed materials containing the names of both the Administration and the cosponsor shall include a prominent disclaimer that the cooperation does not constitute or imply an endorsement by the Administration of any product or service of the cosponsor; and

(ff) the Administration shall ensure that it receives appropriate recognition in all cosponsorship printed materials.

(B) To establish, conduct, and publicize, and to recruit, select, and train volunteers for (and to enter into contracts, grants, or cooperative agreements therefor), volunteer programs, including [a Service Corps of Retired Executives (SCORE)] *the SCORE program described in subsection (c)* and an Active Corps of Executive (ACE) for the purposes of section 8(b)(1)(A) of this Act. To facilitate the implementation of such volunteer programs the Administration shall maintain at its headquarters and pay the salaries, benefits, and expenses of a volunteer and professional staff to manage and oversee the program. Any such payments made pursuant to this subparagraph shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Notwithstanding any other provision of law, SCORE may solicit cash and in-kind contributions from the private sector to be used to carry out its functions under this Act, and may use payments made by the Administration pursuant to this subparagraph for such solicitation and the management of the contributions received.

(C) To allow any individual or group of persons participating with it in furtherance of the purposes of subparagraphs (A) and (B) to use the Administration's office facilities and related

material and services as the Administration deems appropriate, including clerical and stenographic service:

(i) such volunteers, while carrying out activities under section 8(b)(1) of this Act shall be deemed Federal employees for the purposes of the Federal tort claims provisions in title 28, United States Code; and for the purposes of subchapter I of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries) shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except that in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-11 employee:

(ii) the Administrator is authorized to reimburse such volunteers for all necessary out-of-pocket expenses incident to their provision of services under this Act, or in connection with attendance at meetings sponsored by the Administration, or for the cost of malpractice insurance, as the Administrator shall determine, in accordance with regulations which he or she shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay; and

(iii) such volunteers shall in no way provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

(D) Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to section 8(b)(1) of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, disability, retirement, public assistance, or similar benefit payments, or minimum wage laws.

(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.

(F) Notwithstanding any other provision of law and pursuant to regulations which the Administrator shall provide, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or Administrative proceedings arising directly out of the performance of activities pursuant to section 8(b)(1) of this Act, as amended (15 U.S.C. 637(b)(1)) to which volunteers have been made parties.

(G) In carrying out its functions under this Act and to carry out the activities authorized by title IV of the Women's Business Ownership Act of 1988, the Administration is authorized to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise; and, further, to accept gratuitous services and facilities.

(2) to make a complete inventory of all productive facilities of small-business concerns or to arrange for such inventory to be made by any other governmental agency which has the facilities. In making any such inventory, the appropriate agencies in the several States may be requested to furnish an inventory of the productive facilities of small-business concerns in each respective State if such an inventory is available or in prospect;

(3) to coordinate and to ascertain the means by which the productive capacity of small-business concerns can be most effectively utilized;

(4) to consult and cooperative with officers of the Government having procurement or property disposal powers, in order to utilize the potential productive capacity of plants operated by small-business concerns;

(5) to obtain information as to methods and practices which Government prime contractors utilize in letting subcontracts and to take action to encourage the letting of subcontracts by prime contractors to small-business concerns at prices and on conditions and terms which are fair and equitable;

(6) to determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated "small-business concerns" for the purpose of effectuating the provisions of this Act. To carry out this purpose the Administrator, when requested to do so, shall issue in response to each such request an appropriate certificate certifying an individual concern as a "small-business concern" in accordance with the criteria expressed in this Act. Any such certificate shall be subject to revocation when the concern covered thereby ceases to be a "small-business concern." Offices of the Government having procurement or lending powers, or engaging in the disposal of Federal property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies, shall accept as conclusive the Administration's determination as to which enterprises are to be designated "small-business concerns", as authorized and directed under this paragraph;

(7)(A) to certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity, of any small business concern or group of such concerns to receive and perform a specific Government contract. A Government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence, pre-

clude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration.

(B) if a Government procurement officer finds that an otherwise qualified small business concern may be ineligible due to the provisions of section 35(a) of title 41, United States Code (the Walsh-Healey Public Contracts Act), he shall notify the Administration in writing of such finding. The Administration shall review such finding and shall either dismiss it and certify the small business concern to be an eligible Government contractor for a specific Government contract or if it concurs in the finding, forward the matter to the Secretary of Labor for final disposition, in which case the Administration may certify the small business concern only if the Secretary of Labor finds the small business concern not to be in violation.

(C) in any case in which a small business concern or group of such concerns has been certified by the Administration pursuant to (A) or (B) to be a responsible or eligible Government contractor as to a specific Government contract, the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let such Government contract to such concern or group of concerns without requiring it to meet any other requirement of responsibility or eligibility. Notwithstanding the first sentence of this subparagraph, the Administration may not establish an exemption from referral or notification or refuse to accept a referral or notification from a Government procurement officer made pursuant to subparagraph (A) or (B) of this paragraph, but nothing in this paragraph shall require the processing of an application for certification if the small business concern to which the referral pertains declines to have the application processed.

(8) to obtain from any Federal department, establishment, or agency engaged in procurement or in the financing of procurement or production such reports concerning the letting of contracts and subcontracts and the making of loans to business concerns as it may deem pertinent in carrying out its functions under this Act;

(9) to obtain from any Federal department, establishment, or agency engaged in the disposal of Federal property such reports concerning the solicitation of bids, time of sale, or otherwise as it may deem pertinent in carrying out its functions under this Act;

(10) to obtain from suppliers of materials information pertaining to the method of filling orders and the bases for allocating their supply, whenever it appears that any small business is unable to obtain materials from its normal sources;

(11) to make studies and recommendations to the appropriate Federal agencies to insure that a fair proportion of the total purchases and contracts for property and services for the Government be placed with small-business enterprises, to insure that a fair proportion of Government contracts for research and development be placed with small-business concerns, to insure that a fair proportion of the total sales of Government property be made to small-business concerns, and to insure a

fair and equitable share of materials, supplies, and equipment to small-business concerns;

(12) to consult and cooperate with all Government agencies for the purpose of insuring that small-business concerns shall receive fair and reasonable treatment from such agencies;

(13) to establish such advisory boards and committees as may be necessary to achieve the purposes of this Act and of the Small Business Investment Act of 1958; to call meetings of such boards and committees from time to time; to pay the transportation expenses and a per diem allowance in accordance with section 5703 of title 5, United States Code, to the members of such boards and committees for travel and subsistence expenses incurred at the request of the Administration in connection with travel to points more than fifty miles distant from the homes of such members in attending the meetings of such boards and committees; and to rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of such meetings;

(14) to provide at the earliest practicable time such information and assistance as may be appropriate, including information concerning eligibility for loans under section 7(b)(3), to local public agencies (as defined in section 110(h) of the Housing Act of 1949) and to small-business concerns to be displaced by federally aided urban renewal projects in order to assist such small-business concerns in reestablishing their operations;

(15) to disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as it shall deem appropriate, to public agencies, private organizations, and the general public;

(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business; and

(17) to make grants to, and enter into contracts and cooperative agreements with, educational institutions, private businesses, veterans' nonprofit community-based organizations, and Federal, State, and local departments and agencies for the establishment and implementation of outreach programs for disabled veterans (as defined in section 4211(3) of title 38, United States Code), veterans, and members of a reserve component of the Armed Forces.

[(c)]

(c) SCORE PROGRAM.—

(1) DEFINITION.—*In this subsection:*

(A) SCORE ASSOCIATION.—*The term “SCORE Association” means the Service Corps of Retired Executives Association or any successor or other organization who receives a grant from the Administrator to operate the SCORE program under paragraph (2)(A).*

- (B) *SCORE PROGRAM.*—The term “SCORE program” means the SCORE program authorized by subsection (b)(1)(B).
- (2) *MANAGEMENT AND VOLUNTEERS.*—
- (A) *IN GENERAL.*—The Administrator shall provide a grant to the SCORE Association to manage the SCORE program.
- (B) *VOLUNTEERS.*—A volunteer participating in the SCORE program shall—
- (i) based on the business experience and knowledge of the volunteer—
- (I) provide at no cost to individuals who own, or aspire to own, small business concerns personal counseling, mentoring, and coaching relating to the process of starting, expanding, managing, buying, and selling a business; and
- (II) facilitate low-cost education workshops for individuals who own, or aspire to own, small business concerns; and
- (ii) as appropriate, use tools, resources, and expertise of other organizations to carry out the SCORE program.
- (3) *PLANS AND GOALS.*—The Administrator, in consultation with the SCORE Association, shall ensure that the SCORE program and each chapter of the SCORE program develop and implement plans and goals to more effectively and efficiently provide services to individuals in rural areas, economically disadvantaged communities, and other traditionally underserved communities, including plans for electronic initiatives, web-based initiatives, chapter expansion, partnerships, and the development of new skills by volunteers participating in the SCORE program.
- (4) *ANNUAL REPORT.*—The SCORE Association shall submit to the Administrator an annual report that contains—
- (A) the number of individuals counseled or trained under the SCORE program;
- (B) the number of hours of counseling provided under the SCORE program; and
- (C) to the extent possible—
- (i) the number of small business concerns formed with assistance from the SCORE program;
- (ii) the number of small business concerns expanded with assistance from the SCORE program; and
- (iii) the number of jobs created with assistance from the SCORE program.
- (5) *PRIVACY REQUIREMENTS.*—
- (A) *IN GENERAL.*—Neither the Administrator nor the SCORE Association may disclose the name, address, or telephone number of any individual or small business concern receiving assistance from the SCORE Association without the consent of such individual or small business concern, unless—
- (i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

(ii) *the Administrator determines such a disclosure to be necessary for the purpose of conducting a financial audit of the SCORE program, in which case disclosure shall be limited to the information necessary for the audit.*

(B) *ADMINISTRATOR USE OF INFORMATION.—This paragraph shall not—*

(i) *restrict the access of the Administrator to program activity data; or*

(ii) *prevent the Administrator from using client information to conduct client surveys.*

(C) *REGULATIONS.—*

(i) *IN GENERAL.—The Administrator shall issue regulations to establish standards for—*

(I) *disclosures with respect to financial audits under subparagraph (A)(ii); and*

(II) *conducting client surveys, including standards for oversight of the surveys and for dissemination and use of client information.*

(ii) *MAXIMUM PRIVACY PROTECTION.—The regulations issued under this subparagraph shall, to the extent practicable, provide for the maximum amount of privacy protection.*

(6) *ONLINE COMPONENT.—In carrying out this subsection, the SCORE Association shall make use of online counseling, including by developing and implementing webinars and an electronic mentoring platform to expand access to services provided under this subsection and to further support entrepreneurs.*

(d)(1) It is the policy of the United States that small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(2) The clause stated in paragraph (3) shall be included in all contracts let by any Federal agency except any contract which—

(A) does not exceed the simplified acquisition threshold;

(B) including all subcontracts under such contracts will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(C) is for services which are personal in nature.

(3) The clause required by paragraph (2) shall be as follows:

(A) It is the policy of the United States that small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

(C) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) whose management and daily business operations are controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

(D) The term "small business concern owned and controlled by women" shall mean a small business concern—

(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

- (ii) whose management and daily business operations are controlled by one or more women.
- (E) The term “small business concern owned and controlled by veterans” shall mean a small business concern—
 - (i) which is at least 51 per centum owned by one or more eligible veterans; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more veterans; and
 - (ii) whose management and daily business operations are controlled by such veterans. The contractor shall treat as veterans all individuals who are veterans within the meaning of the term under section 3(q) of the Small Business Act.
- (F) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, small business concern owned and controlled by veterans, small business concern owned and controlled by service-disabled veterans, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.
- (G) In this contract, the term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act.
- (4)(A) Each solicitation of an offer for a contract to be let by a Federal agency which is to be awarded pursuant to the negotiated method of procurement and which may exceed \$1,000,000, in the case of a contract for the construction of any public facility, or \$500,000, in the case of all other contracts, shall contain a clause notifying potential offering companies of the provisions of this subsection relating to contracts awarded pursuant to the negotiated method of procurement.
- (B) Before the award of any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—
 - (i) is to be awarded, or was let, pursuant to the negotiated method of procurement,
 - (ii) is required to include the clause stated in paragraph (3),
 - (iii) may exceed \$1,000,000 in the case of a contract for the construction of any public facility, or \$500,000 in the case of all other contracts, and
 - (iv) which offers subcontracting possibilities,
 the apparent successful offeror shall negotiate with the procurement authority a subcontracting plan which incorporates the information prescribed in paragraph (6). The subcontracting plan shall be included in and made a material part of the contract.
- (C) If, within the time limit prescribed in regulations of the Federal agency concerned, the apparent successful offeror fails to negotiate the subcontracting plan required by this paragraph, such offeror shall become ineligible to be awarded the contract. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract.
- (D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum prac-

licable opportunity for small business concerns, qualified HUBZone small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to participate in the performance of the contract.

(E) Notwithstanding any other provisions of law, every Federal agency, in order to encourage subcontracting opportunities for small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, and small business concerns owned and controlled by the socially and economically disadvantaged individuals as defined in paragraph (3) of this subsection and for small business concerns owned and controlled by women, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract: *Provided*, That, this subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.

(F)(i) Each contract subject to the requirements of this paragraph or paragraph (5) shall contain a clause for the payment of liquidated damages upon a finding that a prime contractor has failed to make a good faith effort to comply with the requirements imposed on such contractor by this subsection.

(ii) The contractor shall be afforded an opportunity to demonstrate a good faith effort regarding compliance prior to the contracting officer's final decision regarding the imposition of damages and the amount thereof. The final decision of a contracting officer regarding the contractor's obligation to pay such damages, or the amounts thereof, shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

(iii) Each agency shall ensure that the goals offered by the apparent successful bidder or offeror are attainable in relation to—

(I) the subcontracting opportunities available to the contractor, commensurate with the efficient and economical performance of the contract;

(II) the pool of eligible subcontractors available to fulfill the subcontracting opportunities; and

(III) the actual performance of such contractor in fulfilling the subcontracting goals specified in prior plans.

(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.

(5)(A) Each solicitation of a bid for any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

(i) is to be awarded pursuant to the formal advertising method of procurement,

(ii) is required to contain the clause stated in paragraph (3) of this subsection,

(iii) may exceed \$1,000,000 in the case of a contract for the construction of any public facility, or \$500,000, in the case of all other contracts, and

(iv) offers subcontracting possibilities,

shall contain a clause requiring any bidder who is selected to be awarded a contract to submit to the Federal agency concerned a subcontracting plan which incorporates the information prescribed in paragraph (6).

(B) If, within the time limit prescribed in regulations of the Federal agency concerned, the bidder selected to be awarded the contract fails to submit the subcontracting plan required by this paragraph, such bidder shall become ineligible to be awarded the contract. Prior compliance of the bidder with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of such bidder for the award of the contract. The subcontracting plan of the bidder awarded the contract shall be included in and made a material part of the contract.

(6) Each subcontracting plan required under paragraph (4) or (5) shall include—

(A) percentage goals for the utilization as subcontractors of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women;

(B) the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

(C) a description of the efforts the offeror or bidder will take to assure that small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women will have an equitable opportunity to compete for subcontracts;

(D) assurances that the offeror or bidder will include the clause required by paragraph (2) of this subsection in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$1,000,000 in the case of a contract for the construction of any public facility, or in excess of \$500,000 in the case of all other contracts, to adopt a plan similar to the plan required under paragraph (4) or (5), and assurances at a minimum that the of-

feror or bidder, and all subcontractors required to maintain subcontracting plans pursuant to this paragraph, will—

- (i) review and approve subcontracting plans submitted by their subcontractors;
- (ii) monitor subcontractor compliance with their approved subcontracting plans;
- (iii) ensure that subcontracting reports are submitted by their subcontractors when required;
- (iv) acknowledge receipt of their subcontractors' reports;
- (v) compare the performance of their subcontractors to subcontracting plans and goals; and
- (vi) discuss performance with subcontractors when necessary to ensure their subcontractors make a good faith effort to comply with their subcontracting plans;

(E) assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan;

(F) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women; and efforts to identify and award subcontracts to such small business concerns;

(G) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to ensure subcontractors at all tiers comply with the requirements and goals set forth in the plan established in accordance with subparagraph (D) of this paragraph, including—

- (i) the establishment of source lists of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women; and
- (ii) efforts to identify and award subcontracts to such small business concerns; and

(H) a representation that the offeror or bidder will—

- (i) make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns used in preparing and submitting to the contracting agency the bid or proposal, in the same amount and quality used in preparing and submitting the bid or proposal; and

- (ii) provide to the contracting officer a written explanation if the offeror or bidder fails to acquire articles, equipment, supplies, services, or materials or obtain the performance of construction work as described in clause (i).
- (7) The head of the contracting agency shall ensure that—
- (A) the agency collects and reports data on the extent to which contractors of the agency meet the goals and objectives set forth in subcontracting plans submitted pursuant to this subsection; and
- (B) the agency periodically reviews data collected and reported pursuant to subparagraph (A) for the purpose of ensuring that such contractors comply in good faith with the requirements of this subsection and subcontracting plans submitted by the contractors pursuant to this subsection.
- (8) The provisions of paragraphs (4), (5), and (6) shall not apply to offerors or bidders who are small business concerns.
- (9) The failure of any contractor or subcontractor to comply in good faith with—
- (A) the clause contained in paragraph (3) of this subsection, or
- (B) any plan required of such contractor pursuant to the authority of this subsection to be included in its contract or subcontract,
- shall be a material breach of such contract or subcontract and may be considered in any past performance evaluation of the contractor.
- (10) Nothing contained in this subsection shall be construed to supersede the requirements of Defense Manpower Policy Number 4A (32A CFR Chap. 1) or any successor policy.
- (11) In the case of contracts within the provisions of paragraphs (4), (5), and (6), the Administration is authorized to—
- (A) assist Federal agencies and businesses in complying with their responsibilities under the provisions of this subsection, including the formulation of subcontracting plans pursuant to paragraph (4);
- (B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and
- (C) evaluate compliance with subcontracting plans as a supplement to evaluations performed by the contracting agency, either on a contract-by-contract basis or, in the case of contractors having multiple contracts, on an aggregate basis.
- (12) For purposes of determining the attainment of a subcontract utilization goal under any subcontracting plan entered into with any executive agency pursuant to this subsection, a mentor firm providing development assistance to a protege firm under the pilot Mentor-Protege Program established pursuant to section 831 of the

National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note) shall be granted credit for such assistance in accordance with subsection (g) of such section.

(13) PAYMENT OF SUBCONTRACTORS.—

(A) DEFINITION.—In this paragraph, the term “covered contract” means a contract relating to which a prime contractor is required to develop a subcontracting plan under paragraph (4) or (5).

(B) NOTICE.—

(i) IN GENERAL.—A prime contractor for a covered contract shall notify in writing the contracting officer for the covered contract if the prime contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than 90 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor.

(ii) CONTENTS.—A prime contractor shall include the reason for the reduction in a payment to or failure to pay a subcontractor in any notice made under clause (i).

(C) PERFORMANCE.—A contracting officer for a covered contract shall consider the unjustified failure by a prime contractor to make a full or timely payment to a subcontractor in evaluating the performance of the prime contractor.

(D) CONTROL OF FUNDS.—If the contracting officer for a covered contract determines that a prime contractor has a history of unjustified, untimely payments to contractors, the contracting officer shall record the identity of the contractor in accordance with the regulations promulgated under subparagraph (E).

(E) REGULATIONS.—Not later than 1 year after the date of enactment of this paragraph, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to—

(i) describe the circumstances under which a contractor may be determined to have a history of unjustified, untimely payments to subcontractors;

(ii) establish a process for contracting officers to record the identity of a contractor described in clause (i); and

(iii) require the identity of a contractor described in clause (i) to be incorporated in, and made publicly available through, the Federal Awardee Performance and Integrity Information System, or any successor thereto.

(14) An offeror for a covered contract that intends to identify a small business concern as a potential subcontractor in a bid or proposal for the contract, or in a plan submitted pursuant to this subsection in connection with the contract, shall notify the small business concern prior to making such identification.

(15) The Administrator shall establish a reporting mechanism that allows a subcontractor or potential subcontractor to report fraudulent activity or bad faith by a contractor with respect to a subcontracting plan submitted pursuant to this subsection.

(16) CREDIT FOR CERTAIN SUBCONTRACTORS.—

(A) For purposes of determining whether or not a prime contractor has attained the percentage goals specified in paragraph (6)—

(i) if the subcontracting goals pertain only to a single contract with the executive agency, the prime contractor shall receive credit for small business concerns performing as first tier subcontractors or subcontractors at any tier pursuant to the subcontracting plans required under paragraph (6)(D) in an amount equal to the dollar value of work awarded to such small business concerns; and

(ii) if the subcontracting goals pertain to more than one contract with one or more executive agencies, or to one contract with more than one executive agency, the prime contractor may only count first tier subcontractors that are small business concerns.

(B) Nothing in this paragraph shall abrogate the responsibility of a prime contractor to make a good-faith effort to achieve the first tier small business subcontracting goals negotiated under paragraph (6)(A), or the requirement for subcontractors with further opportunities for subcontracting to make a good-faith effort to achieve the goals established under paragraph (6)(D).

(e)(1) Except as provided in subsection (g)—

(A) an executive agency intending to—

(i) solicit bids or proposals for a contract for property or services for a price expected to exceed \$25,000; or

(ii) place an order, expected to exceed \$25,000, under a basic agreement, basis ordering agreement, or similar arrangement,

shall publish a notice described in subsection (f);

(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed \$10,000, but not to exceed \$25,000; and

(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed \$5,000, but not to exceed \$25,000; and

(C) an executive agency awarding a contract for property or services for a price exceeding \$100,000, or placing an order referred to in clause (A)(ii) exceeding \$100,000, shall furnish for publication by the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

(2)(A) A notice of solicitation required to be published under paragraph (1) may be published—

(i) by electronic means that meet the accessibility requirements under section 18(a)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(7)); or

(ii) by the Secretary of Commerce in the Commerce Business Daily.

(B) The Secretary of Commerce shall promptly publish in the Commerce Business Daily each notice or announcement received under this subsection for publication by that means.

(3) Whenever an executive agency is required by paragraph (1)(A) to publish a notice of solicitation, such executive agency may not—

(A) issue the solicitation earlier than 15 days after the date on which the notice is published; or

(B) in the case of a contract or order estimated to be greater than the simplified acquisition threshold, establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

(f) Each notice of solicitation required by subparagraph (A) or (B) of subsection (e)(1) shall include—

(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

(2) provisions that—

(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which a qualification requirement may be obtained;

(3) the name, business address, and telephone number of the contracting officer;

(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency;

(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source; and

(6) in the case of a contract in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold—

(A) a description of the procedures to be used in awarding the contract; and

- (B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.
- (g)(1) A notice is not required under subsection (e)(1) if—
- (A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be conducted by—
 - (i) using widespread electronic public notice of the solicitation in a form that allows convenient and universal user access through a single, Government-wide point of entry; and
 - (ii) permitting the public to respond to the solicitation electronically.
 - (B) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;
 - (C) the proposed procurement would result from acceptance of—
 - (i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or
 - (ii) a proposal submitted under section 9 of this Act;
 - (D) the procurement is made against an order placed under a requirements contract;
 - (E) the procurement is made for perishable subsistence supplies;
 - (F) the procurement is for utility services, other than telecommunication services, and only one source is available; or
 - (G) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.
- (2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), and (7) of section 2304(c) of title 10, United States Code.
- (3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.
- (h)(1) An executive agency may not award a contract using procedures other than competitive procedures unless—
- (A) except as provided in paragraph (2), a written justification for the use of such procedures has been approved—
 - (i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the ad-

vocate for competition for the procuring activity (without further delegation);

(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the Armed Forces, is a general or flag officer, or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

(B) all other requirements applicable to the use of such procedures under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et sq.) or chapter 137 of title 10, United States Code, as appropriate, have been satisfied.

(2) The same exceptions as are provided in section 303(f)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(2)) or section 2304(f)(2) of title 10, United States Code, shall apply with respect to the requirements of paragraph (1)(A) of this subsection in the same manner as such exceptions apply to the requirements of section 303(f)(1) of such Act or section 2304(f)(1) of such title, as appropriate.

(i) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any on-going procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.

(j) For purposes of this section, the term "executive agency" has the meaning provided such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication on the appropriate Federal Web site (as determined by the Administrator) by—

(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

(B) a business concern that is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of \$10,000.

(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

(B) the due date for receipt of offers.

(l) MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS.—The Administration shall utilize, as appropriate, its entrepreneurial development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any

small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict (as defined in section 7(n)(1)).

(m) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) CONTRACTING OFFICER.—The term “contracting officer” has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

(B) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY WOMEN.—The term “small business concern owned and controlled by women” has the meaning given such term in section 3(n), except that ownership shall be determined without regard to any community property law.

(2) AUTHORITY TO RESTRICT COMPETITION.—In accordance with this subsection, a contracting officer may restrict competition for any contract for the procurement of goods or services by the Federal Government to small business concerns owned and controlled by women, if—

(A) each of the concerns is not less than 51 percent owned by one or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law);

(B) the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by women will submit offers for the contract;

(C) the contract is for the procurement of goods or services with respect to an industry identified by the Administrator pursuant to paragraph (3);

(D) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price; and

(E) each of the concerns is certified by a Federal agency, a State government, the Administrator, or a national certifying entity approved by the Administrator as a small business concern owned and controlled by women.

(3) WAIVER.—With respect to a small business concern owned and controlled by women, the Administrator may waive subparagraph (2)(A) if the Administrator determines that the concern is in an industry in which small business concerns owned and controlled by women are substantially underrepresented.

(4) IDENTIFICATION OF INDUSTRIES.—The Administrator shall conduct a study to identify industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting.

(5) ENFORCEMENT; PENALTIES.—

(A) VERIFICATION OF ELIGIBILITY.—In carrying out this subsection, the Administrator shall establish procedures relating to—

(i) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this

subsection (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under paragraph (2)(E)); and

(ii) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under paragraph (2)(E).

(B) EXAMINATIONS.—The procedures established under subparagraph (A) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under paragraph (2)(E).

(C) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by women for purposes of this subsection, shall be subject to—

(i) section 1001 of title 18, United States Code; and

(ii) sections 3729 through 3733 of title 31, United States Code.

(6) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

(7) AUTHORITY FOR SOLE SOURCE CONTRACTS FOR ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.—A contracting officer may award a sole source contract under this subsection to any small business concern owned and controlled by women described in paragraph (2)(A) and certified under paragraph (2)(E) if—

(A) such concern is determined to be a responsible contractor with respect to performance of the contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more businesses described in paragraph (2)(A) will submit offers;

(B) the anticipated award price of the contract (including options) will not exceed—

(i) \$6,500,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(ii) \$4,000,000, in the case of any other contract opportunity; and

(C) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(8) AUTHORITY FOR SOLE SOURCE CONTRACTS FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN IN SUBSTANTIALLY UNDERREPRESENTED INDUSTRIES.—A contracting officer may award a sole source contract under this subsection to any small business concern owned and controlled by women certified under paragraph (2)(E) that is in an industry in which

small business concerns owned and controlled by women are substantially underrepresented (as determined by the Administrator under paragraph (3)) if—

- (A) such concern is determined to be a responsible contractor with respect to performance of the contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more businesses in an industry that has received a waiver under paragraph (3) will submit offers;
 - (B) the anticipated award price of the contract (including options) will not exceed—
 - (i) \$6,500,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or
 - (ii) \$4,000,000, in the case of any other contract opportunity; and
 - (C) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.
- (n) BUSINESS GRANTS AND COOPERATIVE AGREEMENTS.—
- (1) IN GENERAL.—In accordance with this subsection, the Administrator may make grants to and enter into cooperative agreements with any coalition of private entities, public entities, or any combination of private and public entities—
 - (A) to expand business-to-business relationships between large and small businesses; and
 - (B) to provide businesses, directly or indirectly, with on-line information and a database of companies that are interested in mentor-protege programs or community-based, statewide, or local business development programs.
 - (2) MATCHING REQUIREMENT.—Subject to subparagraph (B), the Administrator may make a grant to a coalition under paragraph (1) only if the coalition provides for activities described in paragraph (1)(A) or (1)(B) an amount, either in kind or in cash, equal to the grant amount.
 - (3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$6,600,000, to remain available until expended, for each of fiscal years 2001 through 2006.

* * * * *

SEC. 20. (a)(1) For fiscal year 2000 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary and appropriate, to remain available until expended, and to be available solely—

- (A) to carry out the Small Business Development Center Program under section 21, but not to exceed the annual funding level, as specified in section 21(a);
- (B) to pay the expenses of the National Small Business Development Center Advisory Board, as provided in section 21(i);
- (C) to pay the expenses of the information sharing system, as provided in section 21(c)(8);
- (D) to pay the expenses of the association referred to in section 21(a)(3)(A) for conducting the accreditation program, as provided in section 21(k)(2);
- (E) to pay the expenses of the Administration, including salaries of examiners, for conducting examinations as part of the

accreditation program conducted by the association referred to in section 21(a)(3)(A); and

(F) to pay for small business development center grants as mandated or directed by Congress.

(2) Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to purchase debentures and preferred securities and to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter into such commitments. Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in any 1 or more of the 4 subsequent fiscal years.

(3) There are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of the Administration.

(4) Except as may be otherwise specifically provided by law, the amount of deferred participation loans authorized in this section—

(A) shall mean the net amount of the loan principal guaranteed by the Small Business Administration (and does not include any amount which is not guaranteed); and

(B) shall be available for a national program, except that the Administration may use not more than an amount equal to 10 percent of the amount authorized each year for any special or pilot program directed to identified sectors of the small business community or to specific geographic regions of the United States.

(b) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

(c) DISASTER MITIGATION PILOT PROGRAM.—The following program levels are authorized for loans under section 7(b)(1)(C):

(1) \$15,000,000 for fiscal year 2005.

(2) \$15,000,000 for fiscal year 2006.

(d) FISCAL YEAR 2005.—

(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2005:

(A) For the programs authorized by this Act, the Administration is authorized to make—

(i) \$75,000,000 in technical assistance grants, as provided in section 7(m); and

(ii) \$105,000,000 in direct loans, as provided in 7(m).

(B) For the programs authorized by this Act, the Administration is authorized to make \$23,050,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

(i) \$16,500,000,000 in general business loans, as provided in section 7(a);

(ii) \$6,000,000,000 in certified development company financings, as provided in section 7(a)(13) and as provided in section 504 of the Small Business Investment Act of 1958;

(iii) \$500,000,000 in loans, as provided in section 7(a)(21); and

(iv) \$50,000,000 in loans, as provided in section 7(m).

(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

(i) \$4,250,000,000 in purchases of participating securities; and

(ii) \$3,250,000,000 in guarantees of debentures.

(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$6,000,000,000, of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of \$7,000,000 for the Service Corps of Retired Executives program authorized by section 8(b)(1).

(2) ADDITIONAL AUTHORIZATIONS.—

(A) There are authorized to be appropriated to the Administration for fiscal year 2005 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

(B) Notwithstanding any other provision of this paragraph, for fiscal year 2005—

(i) no funds are authorized to be used as loan capital for the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under sec-

tion 7(a)(21) of this Act in gross amounts of not more than \$2,000,000.

(e) FISCAL YEAR 2006.—

(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2006:

(A) For the programs authorized by this Act, the Administration is authorized to make—

(i) \$80,000,000 in technical assistance grants, as provided in section 7(m); and

(ii) \$110,000,000 in direct loans, as provided in 7(m).

(B) For the programs authorized by this Act, the Administration is authorized to make \$25,050,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

(i) \$17,000,000,000 in general business loans, as provided in section 7(a);

(ii) \$7,500,000,000 in certified development company financings, as provided in section 7(a)(13) and as provided in section 504 of the Small Business Investment Act of 1958;

(iii) \$500,000,000 in loans, as provided in section 7(a)(21); and

(iv) \$50,000,000 in loans, as provided in section 7(m).

(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

(i) \$4,500,000,000 in purchases of participating securities; and

(ii) \$3,500,000,000 in guarantees of debentures.

(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$6,000,000,000, of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of \$7,000,000 for the Service Corps of Retired Executives program authorized by section 8(b)(1).

(2) ADDITIONAL AUTHORIZATIONS.—

(A) There are authorized to be appropriated to the Administration for fiscal year 2006 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

(B) Notwithstanding any other provision of this paragraph, for fiscal year 2006—

(i) no funds are authorized to be used as loan capital for the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program

level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$2,000,000.

[(j)] (f) FISCAL YEAR 2004 PURCHASE AND GUARANTEE AUTHORITY UNDER TITLE III OF SMALL BUSINESS INVESTMENT ACT OF 1958.—For fiscal year 2004, for the programs authorized by title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.), the Administration is authorized to make—

(1) \$4,000,000,000 in purchases of participating securities; and

(2) \$3,000,000,000 in guarantees of debentures.

(g) SCORE PROGRAM.—*There are authorized to be appropriated to the Administrator to carry out the SCORE program authorized by section 8(b)(1) such sums as are necessary for the Administrator to make grants or enter into cooperative agreements in a total amount that does not exceed \$10,500,000 in each of fiscal years 2017 and 2018.*

SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, [any women's business center operating pursuant to section 29,] any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as "applicants") to assist in establishing small business development centers and to any such labor for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises, management and technical assistance regarding small business participation in international markets, export promotion and technology transfer; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts: *Provided*, That after December 31, 1990, the Administration shall not make a grant to any applicant other than an institution of higher education or a women's business center operating pursuant to section 29 as a Small Business Development Center unless the applicant was receiving a grant (including a contract or cooperative agreement) on such date. The Administration shall require any applicant for a small business development center grant with performance commencing on or after January 1, 1992 to have its own budget and to primarily utilize institutions of higher education and women's business centers operating pursuant to section 29 to provide services to the small business community. The term of such grants

shall be made on a calendar year basis or to coincide with the Federal fiscal year.

(2) COOPERATION TO PROVIDE INTERNATIONAL TRADE SERVICES.—

(A) INFORMATION AND SERVICES.—The small business development centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies (including State trade agencies), and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.

(B) COOPERATION WITH STATE TRADE AGENCIES AND EXPORT ASSISTANCE CENTERS.—A small business development center that counsels a small business concern on issues relating to international trade shall—

(i) consult with State trade agencies and Export Assistance Centers to provide appropriate services to the small business concern; and

(ii) as necessary, refer the small business concern to a State trade agency or an Export Assistance Center for further counseling or assistance.

(C) DEFINITION.—In this paragraph, the term "Export Assistance Center" has the same meaning as in section 22.

(3) The Small Business Development Center Program shall be under the general management and oversight of the Administration for the delivery of programs and services to the small business community. Such programs and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration.

(A) Small business development centers are authorized to form an association to pursue matters of common concern. If more than a majority of the small business development centers which are operating pursuant to agreements with the Administration are members of such an association, the Administration is authorized and directed to recognize the existence and activities of such an association and to consult with it and develop documents (i) announcing the annual scope of activities pursuant to this section, (ii) requesting proposals to deliver assistance [as provided in this section and] *as provided in this section*, (iii) governing the general operations and administration of the Small Business Development Center Program, specifically including the development of regulations and a uniform negotiated cooperative agreement for use on an annual basis when entering into individual negotiated agreements with small business development centers, and (iv) *governing data collection activities related to applicants receiving grants under this section*.

(B) Provisions governing audits, cost principles and administrative requirements for Federal grants, contracts and cooperative agreements which are included in uniform requirements of Office of Management and Budget (OMB) Circulars shall be incorporated

by reference and shall not be set forth in summary or other form in regulations.

(C) Whereas On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.

(D) *FEES FROM PRIVATE PARTNERSHIPS AND COSPONSORSHIPS.—Participation in private partnerships and cosponsorships with the Administration shall not limit small business development centers from collecting fees or other income related to the operation of such private partnerships and cosponsorships.*

(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

(C) FUNDING FORMULA.—

(i) IN GENERAL.—Subject to clause (iii), the amount of a formula grant received by a State under this subparagraph shall be equal to an amount determined in accordance with the following formula:

(I) The annual amount made available under section 20(a) for the Small Business Development Center Program, less any reductions made for expenses authorized by clause (v) of this subparagraph, shall be divided on a pro rata basis, based on the percentage of the population of each State, as compared to the population of the United States.

(II) If the pro rata amount calculated under subclause (I) for any State is less than the minimum funding level under clause (iii), the Administration shall determine the aggregate amount necessary to achieve that minimum funding level for each such State.

(III) The aggregate amount calculated under subclause (II) shall be deducted from the amount calculated under subclause (I) for States eligible to receive more than the minimum funding level. The deductions shall be made on a pro rata basis, based on the population of each such State, as compared to the total population of all such States.

(IV) The aggregate amount deducted under subclause (III) shall be added to the grants of those States that are not eligible to receive more than the minimum funding level in order to achieve the minimum funding level for each such State, except that the eligi-

ble amount of a grant to any State shall not be reduced to an amount below the minimum funding level.

(ii) GRANT DETERMINATION.—The amount of a grant that a State is eligible to apply for under this subparagraph shall be the amount determined under clause (i), subject to any modifications required under clause (iii), and shall be based on the amount available for the fiscal year in which performance of the grant commences, but not including amounts distributed in accordance with clause (iv). The amount of a grant received by a State under any provision of this subparagraph shall not exceed the amount of matching funds from sources other than the Federal Government, as required under subparagraph (A).

(iii) MINIMUM FUNDING LEVEL.—The amount of the minimum funding level for each State shall be determined for each fiscal year based on the amount made available for that fiscal year to carry out this section, as follows:

(I) If the amount made available is not less than \$81,500,000 and not more than \$90,000,000, the minimum funding level shall be \$500,000.

(II) If the amount made available is less than \$81,500,000, the minimum funding level shall be the remainder of \$500,000 minus a percentage of \$500,000 equal to the percentage amount by which the amount made available is less than \$81,500,000.

(III) If the amount made available is more than \$90,000,000, the minimum funding level shall be the sum of \$500,000 plus a percentage of \$500,000 equal to the percentage amount by which the amount made available exceeds \$90,000,000.

(iv) DISTRIBUTIONS.—Subject to clause (iii), if any State does not apply for, or use, its full funding eligibility for a fiscal year, the Administration shall distribute the remaining funds as follows:

(I) If the grant to any State is less than the amount received by that State in fiscal year 2000, the Administration shall distribute such remaining funds, on a pro rata basis, based on the percentage of shortage of each such State, as compared to the total amount of such remaining funds available, to the extent necessary in order to increase the amount of the grant to the amount received by that State in fiscal year 2000, or until such funds are exhausted, whichever first occurs.

(II) If any funds remain after the application of subclause (I), the remaining amount may be distributed as supplemental grants to any State, as the Administration determines, in its discretion, to be appropriate, after consultation with the association referred to in subsection (a)(3)(A).

(v) USE OF AMOUNTS.—

[(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section—

[(aa) not more than \$500,000 may be used by the Administration to pay expenses enumerated in

subparagraphs (B) through (D) of section 20(a)(1); and

[(bb) not more than \$500,000 may be used by the Administration to pay the examination expenses enumerated in section 20(a)(1)(E).]

(I) *IN GENERAL.*—*Of the amounts made available in any fiscal year to carry out this section not more than \$600,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section 20(a)(1).*

(II) *LIMITATION.*—No funds described in subclause (I) may be used for examination expenses under section 20(a)(1)(E) if the usage would reduce the amount of grants made available under clause (i)(I) of this subparagraph to less than \$85,000,000 (after excluding any amounts provided in appropriations Acts, or accompanying report language, for specific institutions or for purposes other than the general small business development center program) or would further reduce the amount of such grants below such amount.

(vi) *EXCLUSIONS.*—Grants provided to a State by the Administration or another Federal agency to carry out subsection (a)(6) or (c)(3)(G), or for supplemental grants set forth in clause (iv)(II) of this subparagraph, shall not be included in the calculation of maximum funding for a State under clause (ii) of this subparagraph.

(vii) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this subparagraph—

(I) \$130,000,000 for fiscal year 2005; and

(II) \$135,000,000 for fiscal year 2006.

(viii) *LIMITATION.*—From the funds appropriated pursuant to clause (vii), the Administration shall reserve not less than \$1,000,000 in each fiscal year to develop portable assistance for startup and sustainability non-matching grant programs to be conducted by eligible small business development centers in communities that are economically challenged as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability. A non-matching grant under this clause shall not exceed \$100,000, and shall be used for small business development center personnel expenses and related small business programs and services.

(ix) *STATE DEFINED.*—In this subparagraph, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(5) *FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.*—

(A) *IN GENERAL.*—Subject to the conditions set forth in subparagraph (B), a small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns.

(B) *CONTRACT PREREQUISITES.*—Before bidding on a contract described in subparagraph (A), a small business development

center shall receive approval from the Associate Administrator of the small business development center program of the subject and general scope of the contract. Each approval under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph shall not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).

(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist—

(A) with the development and enhancement of exports by small business concerns;

(B) in technology transfer; and

(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, HUBZone small business concerns, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities;

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a \$15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be \$100,000.

(7) PRIVACY REQUIREMENTS.—

(A) IN GENERAL.—A small business development center, consortium of small business development centers, or contractor or agent of a small business development center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section *to any State, local or Federal agency, or third party* without the consent of such individual or small business concern, unless—

(i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

(ii) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a small business development center, but a disclosure under this clause shall be limited to the information necessary for such audit.

(B) ADMINISTRATOR USE OF INFORMATION.—This section shall not—

(i) restrict Administrator access to program activity data; or

(ii) prevent the Administrator from using client information to conduct client surveys.

(C) REGULATIONS.—

(i) IN GENERAL.—The Administrator shall issue regulations to establish standards—

(I) for disclosures with respect to financial audits under subparagraph (A)(ii); and

(II) for client surveys under subparagraph (B)(ii), including standards for oversight of such surveys and for dissemination and use of client information.

(ii) MAXIMUM PRIVACY PROTECTION.—Regulations under this subparagraph, shall, to the extent practicable, provide for the maximum amount of privacy protection.

(iii) INSPECTOR GENERAL.—Until the effective date of regulations under this subparagraph, any client survey and the use of such information shall be approved by the Inspector General who shall include such approval in his semi-annual report.

(b)(1) Financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

(3) ASSISTANCE TO OUT-OF-STATE SMALL BUSINESS CONCERNS.—

(A) IN GENERAL.—At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

(B) DISASTER RECOVERY ASSISTANCE.—

(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide advice, information, and assistance, as described in subsection (c), to a small business concern located outside of the State, without regard to geographic proximity to the small business development center, if the small business concern is located in an area for which the President has declared a major disaster.

(ii) TERM.—

(I) IN GENERAL.—A small business development center may provide advice, information, and assistance to a small business concern under clause (i) for a period of not more than 2 years after the date on which the President declared a major disaster for the area in which the small business concern is located.

(II) EXTENSION.—The Administrator may, at the discretion of the Administrator, extend the period described in subclause (I).

(iii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which the small business development center otherwise provides services.

(iv) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of this subparagraph, the Administrator shall, to the maximum extent practicable, permit the personnel of a small business development center to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.

(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations. Applicants receiving grants under this section may also assist small businesses by providing, where appropriate, education on the requirements applicable to small businesses under the regulations issued under section 38 of the Arms Export Control Act (22 U.S.C. 2778) and on compliance with those requirements.

(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. The facilities and staff of each Small Business Development Center shall be located in such places as to provide maximum accessibility and benefits to the small businesses which the center is intended to serve. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have—

(A) a full-time staff, including a full-time director who shall have the authority to make expenditures under the center's budget and who shall manage the program activities;

(B) access to business analysts to counsel, assist, and inform small business clients;

(C) access to technology transfer agent to provide state or art technology to small businesses through coupling with national and regional technology data sources;

(D) access to information specialists to assist in providing information searches and referrals to small business;

(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

(F) access to laboratory and adaptive engineering facilities.

(3) Services provided by a small business development center shall include, but shall not be limited to—

(A) furnishing one-to-one individual counseling to small businesses, including—

(i) working with individuals to increase awareness of basic credit practices and credit requirements;

(ii) working with individuals to develop business plans, financial packages, credit applications, and contract proposals;

(iii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business startup planning, existing business expansion, and export planning; and

(iv) working with individuals referred by the local offices of the Administration and Administration participating lenders;

(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;

(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center and the Administration may work in cooperation with the State to establish a State international trade center for these purposes;

(D) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

(E) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more readily available to small business firms doing business, or attempting to develop business, in foreign markets;

(F) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;

(G) assisting small businesses to develop and implement strategic business plans to timely and effectively respond to the planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

(i) by developing broad economic assessments of the adverse impacts of—

(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

(iii) by conducting appropriate programs to inform the affected small business community regarding the antici-

pated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

(iv) by assisting small business concerns to develop and implement an individualized transition business plan.

(H) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

(I) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

(J) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

(K) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

(L) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small businesses strengths and weaknesses in the locality;

(M) in cooperation with the Department of Commerce, the Administration and other relevant Federal agencies, actively assisting rural small businesses in exporting by identifying and developing potential export markets for rural small businesses, facilitating export transactions for rural small businesses, developing linkages between United States' rural small businesses and prescreened foreign buyers, assisting rural small businesses to participate in international trade shows, assisting rural small businesses in obtaining export financing and developing marketing and production strategies;

(N) assisting rural small businesses—

(i) in developing marketing and production strategies that will enable them to better compete in the domestic market—

(ii) by providing technical assistance needed by rural small businesses;

(iii) by making available managerial assistance to rural small business concerns; and

(iv) by providing information and assistance in obtaining financing for business startups and expansion;

(O) in conjunction with the United States Travel and Tourism Administration, assist rural small business in developing the tourism potential of rural communities by—

(i) identifying the cultural, historic, recreational, and scenic resources of such communities;

(ii) providing assistance to small businesses in developing tourism marketing and promotion plans relating to tourism in rural areas; and

(iii) assisting small business concerns to obtain capital for starting or expanding businesses primarily serving tourists;

(P) maintaining lists of local and regional private consultants to whom small business can be referred;

(Q) providing information to small business concerns regarding compliance with regulatory requirements;

(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996;

(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program; and

(T) providing information and assistance to small business concerns with respect to establishing drug-free workplace programs on or before October 1, 2006.

(4) A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

(5) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as described in this subsection to small businesses on behalf of such small business development center.

(6) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under subsection (a)(1) to such center or the date the Administration notifies the grantee funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), whichever date occurs last, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

(7) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

(8) The Associate Administrator for Small Business Development Centers, in consultation with the Small Business Devel-

opment Centers, shall develop and implement an information sharing system. Subject to amounts approved in advance in appropriations Acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants or cooperative agreements under this paragraph. The system shall—

(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

(B) provide information central to technology transfer.

(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.

(e) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

(f) The National Science Foundation is authorized and directed to cooperate with the Administration and with the Small Business Development Centers in developing and establishing programs to support the centers.

(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.

(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) APPOINTMENT AND COMPENSATION.—The Administrator shall appoint an Associate Administrator for Small Business Development Centers who shall report to an official who is not more than one level below the Office of the Administrator and who shall serve without regard to the provisions of title 5, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

(2) DUTIES.—

(A) IN GENERAL.—The sole responsibility of the Associate Administrator for Small Business Development Centers

shall be to administer the small business development center program. Duties of the position shall include recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section.

(B) CONSULTATION REQUIREMENTS.—In carrying out the duties described in this subsection, the Associate Administrator shall confer with and seek the advice of the Board established by subsection (i) and Administration officials in areas served by the small business development centers; however, the Associate Administrator shall be responsible for the management and administration of the program and shall not be subject to the approval or concurrence of such Administration officials.

(i)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as “Board”) which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

(2) The Board shall elect a Chairman and advise, counsel, and confer with the Associate Administrator for Small Business Development Centers in carrying out the duties described in this section. The Board shall meet at least semiannually and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

(j)(1) Each small business development center shall establish an advisory board.

(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

(k) PROGRAM EXAMINATION AND ACCREDITATION.—

(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biennial programmatic and financial examination of each small business development center established pursuant to this section.

(2) ACCREDITATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center accreditation program.

(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and accreditation program conducted pursuant to paragraphs (1) and (2).

(B) ACCREDITATION REQUIREMENT.—After September 30, 2000, the Administration may not renew or extend any cooperative agreement with a small business development center unless the center has been approved under the accreditation program conducted pursuant to this subsection, except that the Associate Administrator for Small Business Development Centers may waive such accreditation requirement, in the discretion of the Associate Administrator, upon a showing that the center is making a good faith effort to obtain accreditation.

(l) CONTRACT AUTHORITY.—The authority to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under the provisions of chapter 5 of title 5, United States Code. If any contract or cooperative agreement under this section with an entity that is covered by this section is not renewed or extended, any award of a successor contract or cooperative agreement under this section to another entity shall be made on a competitive basis.

(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section.

(n) VETERANS ASSISTANCE AND SERVICES PROGRAM.—

(1) IN GENERAL.—A small business development center may apply for a grant under this subsection to carry out a veterans assistance and services program.

(2) ELEMENTS OF PROGRAM.—Under a program carried out with a grant under this subsection, a small business development center shall—

(A) create a marketing campaign to promote awareness and education of the services of the center that are available to veterans, and to target the campaign toward vet-

erans, service-disabled veterans, military units, Federal agencies, and veterans organizations;

(B) use technology-assisted online counseling and distance learning technology to overcome the impediments to entrepreneurship faced by veterans and members of the Armed Forces; and

(C) increase coordination among organizations that assist veterans, including by establishing virtual integration of service providers and offerings for a one-stop point of contact for veterans who are entrepreneurs or owners of small business concerns.

(3) AMOUNT OF GRANTS.—A grant under this subsection shall be for not less than \$75,000 and not more than \$250,000.

(4) FUNDING.—Subject to amounts approved in advance in appropriations Acts, the Administration may make grants or enter into cooperative agreements to carry out the provisions of this subsection.

(o) *NO PROHIBITION OF MARKETING OF SERVICES.*—*The Administrator shall not prohibit applicants receiving grants under this section from marketing and advertising their services to individuals and small business concerns.*

(p) *ANNUAL REPORT ON DATA COLLECTION.*—*The Administrator shall report annually to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate on any data collection activities related to the Small Business Development Center program.*

(q) *LIMITATION ON AWARD OF GRANTS.*—*Except for not-for-profit institutions of higher education, and notwithstanding any other provision of law, the Administrator may not award grants (including contracts and cooperative agreements) under this section to any entity other than those that received grants (including contracts and cooperative agreements) under this section prior to the date of the enactment of this subsection, and that seek to renew such grants (including contracts and cooperative agreements) after such date.*

SEC. 22. OFFICE OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—

(1) OFFICE.—There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section for the primary purposes of increasing—

(A) the number of small business concerns that export; and

(B) the volume of exports by small business concerns.

(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.

(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator, working in close cooperation with the Secretary of Commerce, the United States Trade Representative, the Secretary of Agriculture, the Secretary of State, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, Director of the United States Trade and Development Agency, and other relevant Federal agencies, small business development centers engaged in export promotion efforts, Export Assistance Centers, regional and district offices of

the Administration, the small business community, and relevant State and local export promotion programs, shall—

(1) maintain a distribution network, using regional and district offices of the Administration, the small business development center network, networks of women's business centers, the [Service Corps of Retired Executives] *SCORE program* authorized by section 8(b)(1), and Export Assistance Centers, for programs relating to—

- (A) trade promotion;
- (B) trade finance;
- (C) trade adjustment assistance;
- (D) trade remedy assistance; and
- (E) trade data collection;

(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to small business concerns on exporting trends, market-specific growth, industry trends, and international prospects for exports;

(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the [Service Corps of Retired Executives] *SCORE program*, State and local export promotion programs, and partners in the private sector; and

(4) give preference in hiring or approving the transfer of any employee into the Office or to a position described in subsection (c)(9) to otherwise qualified applicants who are fluent in a language in addition to English, to—

- (A) accompany small business concerns on foreign trade missions; and
- (B) translate documents, interpret conversations, and facilitate multilingual transactions, including by providing referral lists for translation services, if required.

(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

(1) establish annual goals for the Office relating to—

- (A) enhancing the exporting capability of small business concerns and small manufacturers;
- (B) facilitating technology transfers;
- (C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently in foreign markets;
- (D) increasing the ability of small business concerns to access capital; and
- (E) disseminating information concerning Federal, State, and private programs and initiatives;

(2) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for—

- (A) identifying subsectors of the small business community with strong export potential;
- (B) identifying areas of demand in foreign markets;

- (C) prescreening foreign buyers for commercial and credit purposes; and
 - (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;
- (3) in cooperation with the Department of Commerce, actively assist small business concerns in forming and using export trading companies, export management companies and research and development pools authorized under section 9 of this Act;
- (4) work in conjunction with other Federal agencies, regional and district offices of the Administration, the small business development center network, and the private sector to identify and publicize translation services, including those available through colleges and universities participating in the small business development center program;
- (5) work closely with the Department of Commerce and other relevant Federal agencies to—
- (A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Product figures) and disseminate that data to the public and to Congress;
 - (B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the North American Industry Classification System codes to encompass industries currently overlooked and to create North American Industry Classification System codes for export trading companies and export management companies;
 - (C) improve the utility and accessibility of existing export promotion programs for small business concerns; and
 - (D) increase the accessibility of the Export Trading Company contact facilitation service;
- (6) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector;
- (7) provide small business concerns with access to up to date and complete export information by—
- (A) making available, at the regional and district offices of the Administration through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;
 - (B) maintaining a list of financial institutions that finance export operations;
 - (C) maintaining a directory of all Federal, regional, State and private sector programs that provide export information and assistance to small business concerns; and
 - (D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business export firms so as to insure that the maximum information

is made available to small business concerns in a readily usable form;

(8) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce;

(9) facilitate decentralized delivery of export information and assistance to small business concerns by assigning primary responsibility for export development to one individual in each district office and providing each Administration regional office with a full-time export development specialist, who shall—

(A) assist small business concerns in obtaining export information and assistance from other Federal departments and agencies;

(B) maintain a directory of all programs which provide export information and assistance to small business concerns in the region;

(C) encourage financial institutions to develop and expand programs for export financing;

(D) provide advice to personnel of the Administration involved in making loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small business concerns engaged in exports;

(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine the needs of small business concerns for export information and assistance;

(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, the Department of Agriculture, small business development centers, women's business centers, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, and other relevant Federal agencies;

(10) make available on the website of the Administration the name and contact information of each individual described in paragraph (9);

(11) carry out a nationwide marketing effort using technology, online resources, training, and other strategies to promote exporting as a business development opportunity for small business concerns;

(12) disseminate information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the [Service Corps of Retired Executives] *SCORE program* authorized by section 8(b)(1), State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting; and

(13) establish and carry out training programs for the staff of the regional and district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.

(d) EXPORT FINANCING PROGRAMS.—

(1) IN GENERAL.—The Associate Administrator shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector.

(2) TRADE FINANCE SPECIALIST.—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

(B) work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

(i) aggressively market existing Administration export financing and pre-export financing programs;

(ii) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

(iii) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

(iv) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

(v) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

(e) TRADE REMEDIES.—The Associate Administrator shall—

(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

(f) REPORTING REQUIREMENT.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

(1) a description of the progress of the Office in implementing the requirements of this section;

(2) a detailed account of the results of export growth activities of the Administration, including the activities of each district and regional office of the Administration, based on the performance measures described in subsection (i);

(3) an estimate of the total number of jobs created or retained as a result of export assistance provided by the Administration and resource partners of the Administration;

(4) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

(5) a description of the participation by the Office in trade negotiations.

(g) STUDIES.—The Associate Administrator, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.

(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

(3) the Associate Administrator has direct supervision and control over—

(A) the staff of the Office; and

- (B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.
- (i) EXPORT AND TRADE COUNSELING.—
- (1) DEFINITION.—In this subsection—
- (A) the term “lead small business development center” means a small business development center that has received a grant from the Administration; and
- (B) the term “lead women’s business center” means a women’s business center that has received a grant from the Administration.
- (2) CERTIFICATION PROGRAM.—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women’s business centers in providing export assistance to small business concerns.
- (3) NUMBER OF CERTIFIED EMPLOYEES.—The Administrator shall ensure that the number of employees of each lead small business development center who are certified in providing export assistance is not less than the lesser of—
- (A) 5; or
- (B) 10 percent of the total number of employees of the lead small business development center.
- (4) REIMBURSEMENT FOR CERTIFICATION.—
- (A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall reimburse a lead small business development center or a lead women’s business center for costs relating to the certification of an employee of the lead small business center or lead women’s business center in providing export assistance under the program established under paragraph (2).
- (B) LIMITATION.—The total amount reimbursed by the Administrator under subparagraph (A) may not exceed \$350,000 in any fiscal year.
- (j) PERFORMANCE MEASURES.—
- (1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—
- (A) the number of small business concerns that—
- (i) receive assistance from the Administration;
- (ii) had not exported goods or services before receiving the assistance described in clause (i); and
- (iii) export goods or services;
- (B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;
- (C) export revenues by small business concerns assisted by programs of the Administration;
- (D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office;

(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center; and

(F) the number of small business concerns referred to the Department of Commerce, the Department of Agriculture, the Department of State, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the United States Trade and Development Agency by the staff of the Office, an Export Assistance Center, or a small business development center.

(2) JOINT PERFORMANCE MEASURES.—The Associate Administrator shall develop joint performance measures for the district offices of the Administration and the Export Assistance Centers that include the number of export loans made under—

(A) section 7(a)(16);

(B) the Export Working Capital Program established under section 7(a)(14);

(C) the Preferred Lenders Program, as defined in section 7(a)(2)(C)(ii); and

(D) the export express program established under section 7(a)(34).

(3) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the performance measures developed under paragraph (1), that is consistent with systems used by the departments and agencies and the network.

(k) EXPORT ASSISTANCE CENTERS.—

(1) EXPORT FINANCE SPECIALISTS.—

(A) MINIMUM NUMBER OF EXPORT FINANCE SPECIALISTS.—On and after the date that is 90 days after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that the number of export finance specialists is not less than the number of such employees so assigned on January 1, 2003.

(B) EXPORT FINANCE SPECIALISTS ASSIGNED TO EACH REGION OF THE ADMINISTRATION.—On and after the date that is 2 years after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that there are not fewer than 3 export finance specialists in each region of the Administration.

(2) PLACEMENT OF EXPORT FINANCE SPECIALISTS.—

(A) PRIORITY.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

(i) had an Administration employee assigned to the Export Assistance Center before January 2003; and

(ii) has not had an Administration employee assigned to the Export Assistance Center during the pe-

riod beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

(B) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to reassign or remove an export finance specialist who is assigned to an Export Assistance Center on the date of enactment of this subsection.

(3) GOALS.—The Associate Administrator shall work with the Department of Commerce, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation to establish shared annual goals for the Export Assistance Centers.

(4) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

(1) STATE TRADE EXPANSION PROGRAM.—

(1) DEFINITIONS.—In this subsection—

(A) the term “eligible small business concern” means a business concern that—

- (i) is organized or incorporated in the United States;
- (ii) is operating in the United States;
- (iii) meets—

(I) the applicable industry-based small business size standard established under section 3; or

(II) the alternate size standard applicable to the program under section 7(a) of this Act and the loan programs under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(iv) has been in business for not less than 1 year, as of the date on which assistance using a grant under this subsection commences; and

(v) has access to sufficient resources to bear the costs associated with trade, including the costs of packing, shipping, freight forwarding, and customs brokers;

(B) the term “program” means the State Trade Expansion Program established under paragraph (2);

(C) the term “rural small business concern” means an eligible small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986;

(D) the term “socially and economically disadvantaged small business concern” has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)); and

(E) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(2) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a trade expansion program, to be known as the “State Trade Expansion Program”, to make grants to States to carry out programs that assist eligible small business concerns in—

- (A) participation in foreign trade missions;
- (B) a subscription to services provided by the Department of Commerce;
- (C) the payment of website fees;
- (D) the design of marketing media;
- (E) a trade show exhibition;
- (F) participation in training workshops;
- (G) a reverse trade mission;
- (H) procurement of consultancy services (after consultation with the Department of Commerce to avoid duplication); or
- (I) any other initiative determined appropriate by the Associate Administrator.

(3) GRANTS.—

(A) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State exploring significant new trade opportunities.

(B) CONSIDERATIONS.—In making grants under this subsection, the Associate Administrator may give priority to an application by a State that proposes a program that—

- (i) focuses on eligible small business concerns as part of a trade expansion program;
- (ii) demonstrates intent to promote trade expansion by—

- (I) socially and economically disadvantaged small business concerns;

- (II) small business concerns owned or controlled by women; and

- (III) rural small business concerns;

- (iii) promotes trade facilitation from a State that is not 1 of the 10 States with the highest percentage of eligible small business concerns that are engaged in international trade, based upon the most recent data from the Department of Commerce; and

- (iv) includes—

- (I) activities which have resulted in the highest return on investment based on the most recent year; and

- (II) the adoption of shared best practices included in the annual report of the Administration.

(C) LIMITATIONS.—

- (i) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

- (ii) PROPORTION OF AMOUNTS.—The total value of grants made under the program during a fiscal year to the 10 States with the highest percentage of eligible small business concerns, based upon the most recent data available from the Department of Commerce,

shall be not more than 40 percent of the amounts appropriated for the program for that fiscal year.

(iii) DURATION.—The Associate Administrator shall award a grant under this program for a period of not more than 2 years.

(D) APPLICATION.—

(i) IN GENERAL.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

(ii) CONSULTATION TO REDUCE DUPLICATION.—A State desiring a grant under the program shall—

(I) before submitting an application under clause (i), consult with applicable trade agencies of the Federal Government on the scope and mission of the activities the State proposes to carry out using the grant, to ensure proper coordination and reduce duplication in services; and

(II) document the consultation conducted under subclause (I) in the application submitted under clause (i).

(4) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

(5) FEDERAL SHARE.—The Federal share of the cost of a trade expansion program carried out using a grant under the program shall be—

(A) for a State that has a high trade volume, as determined by the Associate Administrator, not more than 65 percent; and

(B) for a State that does not have a high trade volume, as determined by the Associate Administrator, not more than 75 percent.

(6) NON-FEDERAL SHARE.—The non-Federal share of the cost of a trade expansion program carried out using a grant under the program shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

(7) REPORTS.—

(A) INITIAL REPORT.—Not later than 120 days after the date of enactment of this subsection, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report, which shall include—

(i) a description of the structure of and procedures for the program;

(ii) a management plan for the program; and

(iii) a description of the merit-based review process to be used in the program.

(B) ANNUAL REPORTS.—

(i) IN GENERAL.—The Associate Administrator shall publish on the website of the Administration an annual report regarding the program, which shall include—

(I) the number and amount of grants made under the program during the preceding year;

(II) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with each grant;

(III) the effect of each grant on the eligible small business concerns in the State receiving the grant;

(IV) the total return on investment for each State; and

(V) a description of best practices by States that showed high returns on investment and significant progress in helping more eligible small business concerns.

(ii) NOTICE TO CONGRESS.—On the date on which the Associate Administrator publishes a report under clause (i), the Associate Administrator shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that the report has been published.

(8) REVIEWS BY INSPECTOR GENERAL.—

(A) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

(i) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

(ii) the overall management and effectiveness of the program.

(B) REPORTS.—

(i) PILOT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the use of amounts made available under the State Trade and Export Promotion Grant Program under section 1207 of the Small Business Jobs Act of 2010 (15 U.S.C. 649b note).

(ii) NEW STEP PROGRAM.—Not later than 18 months after the date on which the first grant is awarded under this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the review conducted under subparagraph (A).

(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program \$30,000,000 for each of fiscal years 2016 through 2020.

(m) DEFINITIONS.—In this section—

(1) the term “Associate Administrator” means the Associate Administrator for International Trade described in subsection (a)(2);

(2) the term “Export Assistance Center” means a one-stop shop for United States exporters established by the United States and Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

(3) the term “export finance specialist” means a full-time equivalent employee of the Office assigned to an Export Assistance Center to carry out the duties described in subsection (e); and

(4) the term “Office” means the Office of International Trade established under subsection (a)(1).

* * * * *

SEC. 29. WOMEN’S BUSINESS CENTER PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “Assistant Administrator” means the Assistant Administrator of the Office of Women’s Business Ownership established under subsection (g);

(2) the term “eligible entity” means—

(A) an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

(B) a State, regional, or local economic development organization, so long as the organization certifies that grant funds received under this section will not be co-mingled with other funds;

(C) an institution of higher education, unless such institution is currently receiving a grant under section 21;

(D) a development, credit, or finance corporation chartered by a State, so long as the corporation certifies that grant funds received under this section will not be co-mingled with other funds; or

(E) any combination of entities listed in subparagraphs (A) through (D);

[(2)] (3) the term “private nonprofit organization” means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

[(3)] (4) the term “small business concern owned and controlled by women”, either startup or existing, includes any small business concern—

(A) that is not less than 51 percent owned by 1 or more women; and

(B) the management and daily business operations of which are controlled by 1 or more women; and

[(4)] the term “women’s business center site” means the location of—

[(A)] a women’s business center; or

[(B)] 1 or more women’s business centers, established in conjunction with another women’s business center in another location within a State or region—

[(i) that reach a distinct population that would otherwise not be served;

[(ii) whose services are targeted to women; and

[(iii) whose scope, function, and activities are similar to those of the primary women's business center or centers in conjunction with which it was established.]

(5) *the term "women's business center" means the location at which counseling and training on the management, operations (including manufacturing, services, and retail), access to capital, international trade, Government procurement opportunities, and any other matter is needed to start, maintain, or expand a small business concern owned and controlled by women.*

(b) **AUTHORITY.**—[The Administration may provide financial assistance to private nonprofit organizations to conduct 5-year projects]

(1) **IN GENERAL.**—*There is established a Women's Business Center Program under which the Administrator may provide a grant to any eligible entity to operate one or more women's business centers for the benefit of small business concerns owned and controlled by women. [The projects shall]*

(2) **USE OF FUNDS.**—*The women's business centers shall be designed to provide counseling and training that meets the needs of women, especially socially or economically disadvantaged women, and shall provide—*

[(1)] (A) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

[(2)] (B) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

[(3)] (C) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

(3) **AMOUNT OF GRANTS.**—

(A) **IN GENERAL.**—*The amount of a grant provided under this subsection to an eligible entity per project year shall be not more than \$185,000 (as such amount is annually adjusted by the Administrator to reflect the change in inflation).*

(B) **ADDITIONAL GRANTS.**—

(i) **IN GENERAL.**—*Notwithstanding subparagraph (A), with respect to an eligible entity that has received \$185,000 in grants under this subsection in a project year, the Administrator may award an additional grant under this subsection of up to \$65,000 during such project year if the Administrator determines that the eligible entity—*

(I) agrees to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources of 1 non-Federal dollar for each Federal dollar;

(II) is in good standing with the Women's Business Center Program; and

(III) has met performance goals for the previous project year, if applicable.

(ii) LIMITATIONS.—The Administrator may only award additional grants under clause (i)—

(I) during the 3rd and 4th quarters of the fiscal year; and

(II) from unobligated amounts made available to the Administrator to carry out this section.

(4) NOTICE AND COMMENT REQUIRED.—The Administrator may only make a change to the standards by which an eligible entity obtains or maintains grants under this section, the standards for accreditation, or any other requirement for the operation of a women's business center if the Administrator first provides notice and the opportunity for public comment, as set forth in section 553(b) of title 5, United States Code, without regard to any exceptions provided for under such section.

(c) CONDITIONS OF PARTICIPATION.—

(1) NON-FEDERAL CONTRIBUTIONS.—[As a condition] *Subject to paragraph (6), as a condition of receiving [financial assistance] a grant authorized by this section, [the recipient organization] an eligible entity shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:*

(A) in the first and second years, 1 non-Federal dollar for each 2 Federal dollars; and

(B) in the third, fourth, and fifth years, 1 non-Federal dollar for each Federal dollar.

(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

(3) FORM OF FEDERAL CONTRIBUTIONS.—The [financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and] *grants authorized pursuant to this section may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to [a recipient organization] an eligible entity after notice of the award has been issued and before the non-Federal sector matching funds are obtained.*

(4) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—If any [recipient of assistance] *eligible entity fails to obtain the required non-Federal contribution [during any project, it shall not be eligible thereafter] during any project for 2 consecutive years, the eligible entity shall not be eligible at any time after that 2-year period for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project*

for which it is or may be funded by the Administration, and prior to approving assistance to **such organization** *the eligible entity* for any other projects, the Administration shall specifically determine whether the Administration believes that **the recipient** *the eligible entity* will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

(5) *SEPARATION OF PROJECT AND FUNDS.—An eligible entity shall—*

(A) *carry out a project under this section separately from other projects, if any, of the eligible entity; and*

(B) *separately maintain and account for any grants under this section.*

(6) *EXAMINATION OF ELIGIBLE ENTITIES.—*

(A) *REQUIRED SITE VISIT.—Each applicant, prior to receiving a grant under this section, shall have a site visit by an employee of the Administration, in order to ensure that the applicant has sufficient resources to provide the services for which the grant is being provided.*

(B) *ANNUAL REVIEW.—An employee of the Administration shall—*

(i) *conduct an annual review of the compliance of each eligible entity receiving a grant under this section with the grant agreement, including a financial examination; and*

(ii) *provide such review to the eligible entity as required under subsection (l).*

(7) *REMEDIATION OF PROBLEMS.—*

(A) *PLAN OF ACTION.—If a review of an eligible entity under paragraph (6)(B) identifies any problems, the eligible entity shall, within 45 calendar days of receiving such review, provide the Assistant Administrator with a plan of action, including specific milestones, for correcting such problems.*

(B) *PLAN OF ACTION REVIEW BY THE ASSISTANT ADMINISTRATOR.—The Assistant Administrator shall review each plan of action submitted under subparagraph (A) within 30 calendar days of receiving such plan and—*

(i) *if the Assistant Administrator determines that such plan will bring the eligible entity into compliance with all the terms of the grant agreement, approve such plan;*

(ii) *if the Assistant Administrator determines that such plan is inadequate to remedy the problems identified in the annual review to which the plan of action relates, the Assistant Administrator shall set forth such reasons in writing and provide such determination to the eligible entity within 15 calendar days of such determination.*

(C) *AMENDMENT TO PLAN OF ACTION.—An eligible entity receiving a determination under subparagraph (B)(ii) shall have 30 calendar days from the receipt of the determination to amend the plan of action to satisfy the problems identified by the Assistant Administrator and resubmit such plan to the Assistant Administrator.*

(D) *AMENDED PLAN REVIEW BY THE ASSISTANT ADMINISTRATOR.*—Within 15 calendar days of the receipt of an amended plan of action under subparagraph (C), the Assistant Administrator shall either approve or reject such plan and provide such approval or rejection in writing to the eligible entity.

(E) *APPEAL OF ASSISTANT ADMINISTRATOR DETERMINATION.*—

(i) *IN GENERAL.*—If the Assistant Administrator rejects an amended plan under subparagraph (D), the eligible entity shall have the opportunity to appeal such decision to the Administrator, who may delegate such appeal to an appropriate officer of the Administration.

(ii) *OPPORTUNITY FOR EXPLANATION.*—Any appeal described under clause (i) shall provide an opportunity for the eligible entity to provide, in writing, an explanation of why the eligible entity's plan remedies the problems identified in the annual review.

(iii) *NOTICE OF DETERMINATION.*—The determination of the appeal shall be provided to the eligible entity, in writing, within 15 calendar days from the eligible entity's filing of the appeal.

(iv) *EFFECT OF FAILURE TO ACT.*—If the Administrator fails to act on an appeal made under this subparagraph within the 15 calendar day period specified under clause (iii), the eligible entity's amended plan of action submitted under subparagraph (C) shall be deemed to be approved.

(8) *TERMINATION OF GRANT.*—

(A) *IN GENERAL.*—The Administrator shall issue regulations (after providing an opportunity for notice and comment) to provide that, if an eligible entity fails to comply with a plan of action approved by the Assistant Administrator under paragraph (7)(B)(i) or an amended plan of action approved by the Assistant Administrator under paragraph (7)(D) or approved on appeal under paragraph (7)(E), the Assistant Administrator shall terminate the grant provided to the eligible entity under this section.

(B) *APPEAL OF TERMINATION.*—An eligible entity that has a grant terminated under subparagraph (A) shall have the opportunity to challenge the termination on the record and after an opportunity for a hearing.

(C) *FINAL AGENCY ACTION.*—The determination made pursuant to subparagraph (B) shall be considered final agency action for the purposes of chapter 7, title 5, United States Code.

(9) *WAIVER OF NON-FEDERAL SHARE.*—

(A) *IN GENERAL.*—Upon request by an eligible entity, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for counseling and training activities of the eligible entity carried out using a grant under this section for a fiscal year. The Administrator may not waive the requirement for an eligible entity

to obtain non-Federal funds under this paragraph for more than a total of 2 consecutive fiscal years.

(B) *CONSIDERATIONS.*—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

(i) the economic conditions affecting the eligible entity;

(ii) the impact a waiver under this paragraph would have on the credibility of the Women's Business Center Program under this section;

(iii) the demonstrated ability of the eligible entity to raise non-Federal funds; and

(iv) the performance of the eligible entity.

(C) *LIMITATION.*—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the Women's Business Center Program.

(10) *SOLICITATION.*—Notwithstanding any other provision of law, eligible entity may—

(A) solicit cash and in-kind contributions from private individuals and entities to be used to carry out the activities of the eligible entity under the project conducted under this section; and

(B) use amounts made available by the Administrator under this section for the cost of such solicitation and management of the contributions received.

(11) *EXCESS NON-FEDERAL DOLLARS.*—The amount of non-Federal dollars obtained by an eligible entity that is above the amount that is required to be obtained by the eligible entity under this subsection shall not be subject to the requirements of part 200 of title 2, Code of Federal Regulations, or any successor thereto, if such amount of non-Federal dollars—

(A) is not used as matching funds for purposes of implementing the Women's Business Center Program; and

(B) was not obtained using funds from the Women's Business Center Program.

(d) *CONTRACT AUTHORITY.*—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

(e) *SUBMISSION OF 5-YEAR PLAN.*—Each [applicant organization] *eligible entity* initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and [a recipient organization] *an eligible entity* may receive [financial assistance] *grants* under this program for a maximum of 5 years per women's business center [site].

[(f) *CRITERIA.*—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

【(1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

【(2) the present ability of the applicant to commence a project within a minimum amount of time;

【(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

【(4) the location for the women's business center site proposed by the applicant.】

(f) *APPLICATIONS AND CRITERIA FOR INITIAL GRANT.*—

(1) *APPLICATION.*—*Each eligible entity desiring a grant under subsection (b) shall submit to the Administrator an application that contains—*

(A) *a certification that the eligible entity—*

(i) *has designated an executive director or program manager, who may be compensated using grant funds under subsection (b) or other sources, to manage the women's business center for which a grant under subsection (b) is sought;*

(ii) *meets the accounting and reporting requirements established by the Director of the Office of Management and Budget;*

(B) *information demonstrating that the eligible entity has the ability and resources to meet the needs of the market to be served by the women's business center, including the ability to obtain the non-Federal contribution required under subsection (c);*

(C) *information relating to the assistance to be provided by the women's business center in the area in which the women's business center is located;*

(D) *information demonstrating the experience and effectiveness of the eligible entity in—*

(i) *conducting the services described under subsection (a)(5);*

(ii) *providing training and services to a representative number of women who are socially or economically disadvantaged; and*

(iii) *working with resource partners of the Administration and other entities, such as universities; and*

(E) *a 5-year plan that describes the ability of the eligible entity to provide the services described under subsection (a)(3), including to a representative number of women who are socially or economically disadvantaged.*

(2) *REVIEW AND APPROVAL OF APPLICATIONS FOR INITIAL GRANTS.*—

(A) *REVIEW AND SELECTION OF ELIGIBLE ENTITIES.*—

(i) *IN GENERAL.*—*The Administrator shall review applications to determine whether the applicant can meet obligations to perform the activities required by a grant under this section, including—*

(I) *the experience of the applicant in conducting activities required by this section;*

(II) the amount of time needed for the applicant to commence operations should it be awarded a grant;

(III) the capacity of the applicant to meet the accreditation standards established by the Administrator in a timely manner;

(IV) the ability of the applicant to sustain operations for more than 5 years (including its ability to obtain sufficient non-Federal funds for that period);

(V) the location of the women's business center and its proximity to other grant recipients under this section; and

(VI) the population density of the area to be served by the women's business center.

(ii) **SELECTION CRITERIA.**—

(I) **RULEMAKING.**—The Administrator shall issue regulations (after providing an opportunity for notice and comment) to specify the criteria for review and selection of applicants under this subsection.

(II) **MODIFICATIONS PROHIBITED AFTER ANNOUNCEMENT.**—With respect to a public announcement of any opportunity to be awarded a grant under this section made by the Administrator pursuant to subsection (l)(1), the Administrator may not modify regulations issued pursuant to subclause (I) with respect to such opportunity unless required to do so by an Act of Congress or an order of a Federal court.

(III) **RULE OF CONSTRUCTION.**—Nothing in this clause may be construed as prohibiting the Administrator from modifying the regulations issued pursuant to subclause (I) (after providing an opportunity for notice and comment) as such regulations apply to an opportunity to be awarded a grant under this section that the Administrator has not yet publicly announced pursuant to subsection (l)(1).

(B) **RECORD RETENTION.**—

(i) **IN GENERAL.**—The Administrator shall maintain a copy of each application submitted under this subsection for not less than 5 years.

(ii) **PAPERWORK REDUCTION.**—The Administrator shall take steps to reduce, to the maximum extent practicable, the paperwork burden associated with carrying out clause (i).

(g) **OFFICE OF WOMEN'S BUSINESS OWNERSHIP.**—

(1) **ESTABLISHMENT.**—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

(2) ASSISTANT ADMINISTRATOR OF THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

(A) QUALIFICATION.—The position of Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code. The Assistant Administrator shall serve as a noncareer appointee (as defined in section 3132(a)(7) of that title).

[(B) RESPONSIBILITIES AND DUTIES.—

[(i) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

[(I) starting and operating a small business;

[(II) development of management and technical skills;

[(III) seeking Federal procurement opportunities; and

[(IV) increasing the opportunity for access to capital.

[(ii) DUTIES.—The Assistant Administrator shall—

[(I) administer and manage the Women's Business Center program;

[(II) recommend the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Center program);

[(III) establish appropriate funding levels therefore;

[(IV) review the annual budgets submitted by each applicant for the Women's Business Center program;

[(V) select applicants to participate in the program under this section;

[(VI) implement this section;

[(VII) maintain a clearinghouse to provide for the dissemination and exchange of information between women's business centers;

[(VIII) serve as the vice chairperson of the Interagency Committee on Women's Business Enterprise;

[(IX) serve as liaison for the National Women's Business Council; and

[(X) advise the Administrator on appointments to the Women's Business Council.

[(C) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the women's business centers.】

(B) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership.

(C) *DUTIES.*—*The Assistant Administrator shall perform the following functions with respect to the Office of Women’s Business Ownership:*

(i) *Recommend the annual administrative and program budgets of the Office and eligible entities receiving a grant under the Women’s Business Center Program.*

(ii) *Review the annual budgets submitted by each eligible entity receiving a grant under the Women’s Business Center Program.*

(iii) *Select applicants to receive grants to operate a women’s business center after reviewing information required by this section, including the budget of each applicant.*

(iv) *Collaborate with other Federal departments and agencies, State and local governments, not-for-profit organizations, and for-profit enterprises to maximize utilization of taxpayer dollars and reduce (or eliminate) any duplication among the programs overseen by the Office of Women’s Business Ownership and those of other entities that provide similar services to women entrepreneurs.*

(v) *Maintain a clearinghouse to provide for the dissemination and exchange of information between women’s business centers.*

(vi) *Serve as the vice chairperson of the Interagency Committee on Women’s Business Enterprise and as the liaison for the National Women’s Business Council.*

(3) *MISSION.*—*The mission of the Office of Women’s Business Ownership shall be to assist women entrepreneurs to start, grow, and compete in global markets by providing quality support with access to capital, access to markets, job creation, growth, and counseling by—*

(A) *fostering participation of women entrepreneurs in the economy by overseeing a network of women’s business centers throughout States and territories;*

(B) *creating public-private partnerships to support women entrepreneurs and conduct outreach and education to startup and existing small business concerns owned and controlled by women; and*

(C) *working with other programs overseen by the Administrator to ensure women are well-represented and being served and to identify gaps where participation by women could be increased.*

(4) *ACCREDITATION PROGRAM.*—

(A) *ESTABLISHMENT.*—*Not later than 270 days after the date of enactment of this paragraph, the Administrator shall establish standards for an accreditation program for accrediting eligible entities receiving a grant under this section, after notice and the opportunity for public comment of no less than 60 days.*

(B) *TRANSITION PROVISION.*—*Before the date on which standards are established under subparagraph (A), the Administrator may not terminate a grant under this section*

absent evidence of fraud or other criminal misconduct by the recipient.

(C) CONTRACTING AUTHORITY.—The Administrator may provide financial assistance, by contract or otherwise, to a relevant national women’s business center representative association to provide assistance in establishing the standards required under subparagraph (A) or for carrying out an accreditation program pursuant to such standards.

(h) PROGRAM EXAMINATION.—

(1) IN GENERAL.—The Administration shall—

(A) develop and implement an annual programmatic and financial examination of each women’s business center established pursuant to this section, pursuant to which each such center shall provide to the Administration—

(i) an itemized cost breakdown of actual expenditures for costs incurred during the preceding year; and

(ii) documentation regarding the amount of matching assistance from non-Federal sources obtained and expended by the center during the preceding year in order to meet the requirements of subsection (c) and, with respect to any in-kind contributions described in subsection (c)(2) that were used to satisfy the requirements of subsection (c), verification of the existence and valuation of those contributions; and

(B) analyze the results of each such examination and, based on that analysis, make a determination regarding the programmatic and financial viability of each women’s business center.

(2) CONDITIONS FOR CONTINUED FUNDING.—In determining whether [to award a contract (as a sustainability grant) under subsection (l) or] to renew a contract (either as a grant or cooperative agreement) under this section with a women’s business center, the Administration—

(A) shall consider the results of the most recent examination of the center under paragraph (1); and

(B) may withhold such award or renewal, if the Administration determines that—

(i) the center has failed to provide any information required to be provided under clause (i) or (ii) of paragraph (1)(A), or the information provided by the center is inadequate; or

(ii) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subsection (j), or the information provided by the center is inadequate.

(i) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administrator has entered into a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administrator provides the applicant with written notification setting forth the reasons therefore and affords the applicant an opportunity for a hearing, appeal,

or other administrative proceeding under chapter 5 of title 5, United States Code.

(j) MANAGEMENT REPORT.—

(1) IN GENERAL.—**【The Administration】** *Not later than November 1 of each year, the Administrator shall prepare and submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of all projects conducted under this section.*

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information concerning, with respect to each women's business center established pursuant to this section—

(A) the number of individuals receiving assistance;

(B) the number of startup business concerns formed;

(C) the gross receipts of assisted concerns;

(D) the employment increases or decreases of assisted concerns;

(E) to the maximum extent practicable, increases or decreases in profits of assisted concerns; and

(F) the most recent analysis, as required under subsection (h)(1)(B), and the subsequent determination made by the Administration under that subsection.

(k) AUTHORIZATION OF APPROPRIATIONS.—

【(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (l)—

【(A) \$12,000,000 for fiscal year 2000;

【(B) \$12,800,000 for fiscal year 2001;

【(C) \$13,700,000 for fiscal year 2002; and

【(D) \$14,500,000 for fiscal year 2003.】

(1) IN GENERAL.—There are authorized to be appropriated to the Administration to carry out this section, to remain available until expended, \$21,750,000 for each of fiscal years 2017 through 2020.

(2) USE OF AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made available under this subsection for fiscal year 1999, and each fiscal year thereafter, may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section.

【(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

【(i) For fiscal year 2000, 2 percent.

【(ii) For fiscal year 2001, 1.9 percent.

【(iii) For fiscal year 2002, 1.9 percent.

【(iv) For fiscal year 2003, 1.6 percent.】

(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, costs associated with maintaining an accreditation program, and post-award conference costs:

(i) *For the first fiscal year beginning after the date of the enactment of this subparagraph, 2.65 percent.*

(ii) *For the second fiscal year beginning after the date of the enactment of this subparagraph and each fiscal year thereafter through fiscal year 2020, 2.5 percent.*

(3) EXPEDITED ACQUISITION.—Notwithstanding any other provision of law, the Administrator, acting through the Assistant Administrator, may use such expedited acquisition methods as the Administrator determines to be appropriate to carry out this section, except that the Administrator shall ensure that all small business sources are provided a reasonable opportunity to submit proposals.

[(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

[(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (1):

[(i) For fiscal year 2000, 17 percent.

[(ii) For fiscal year 2001, 18.8 percent.

[(iii) For fiscal year 2002, 30.2 percent.

[(iv) For fiscal year 2003, 30.2 percent.

[(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (1)(1)(B), the Administration is authorized to use the unawarded amount to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).]

(l) NOTIFICATION REQUIREMENTS UNDER THE WOMEN'S BUSINESS CENTER PROGRAM.—*The Administrator shall provide—*

(1) *a public announcement of any opportunity to be awarded grants under this section, and such announcement shall include the standards by which such award will be made, including the regulations issued pursuant to subsection (f)(2)(A)(ii);*

(2) *the opportunity for any applicant for a grant under this section that failed to obtain such a grant a debriefing with the Assistant Administrator to review the reasons for the applicant's failure; and*

(3) *with respect to any site visit or evaluation of an eligible entity receiving a grant under this section that is carried out by an officer or employee of the Administration (other than the Inspector General), a copy of the site visit report or evaluation, as applicable, within 30 calendar days of the completion of such vision or evaluation.*

(m) CONTINUED FUNDING FOR CENTERS.—

(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

(2) APPLICABILITY.—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under [subsection (b) or (l)] *this subsection or subsection (b).*

[(3) APPLICATION AND APPROVAL CRITERIA.—

[(A) CRITERIA.—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

[(B) CONTENTS.—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (1), as in effect on the date of enactment of this Act.

[(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each such application.]

(3) APPLICATION AND APPROVAL FOR CONTINUATION GRANTS.—

(A) SOLICITATION OF APPLICATIONS.—*The Administrator shall solicit applications and award continuation grants under this subsection for the first fiscal year beginning after the date of enactment of this paragraph, and every third fiscal year thereafter.*

(B) CONTENTS OF APPLICATION.—*Each eligible entity desiring a grant under this subsection shall submit to the Administrator an application that contains—*

(i) *a certification that the applicant—*

(I) *is an eligible entity;*

(II) *has designated an executive director or program manager to manage the women's business center operated by the applicant; and*

(III) *as a condition of receiving a grant under this subsection, agrees—*

(aa) *to receive a site visit as part of the final selection process, at the discretion of the Administrator; and*

(bb) *to remedy any problem identified pursuant to the site visit under item (aa);*

(ii) *information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center for which a grant under this subsection is sought, including the ability to obtain the non-Federal contribution required under paragraph (4)(C);*

(iii) *information relating to assistance to be provided by the women's business center in the geographic area served by the women's business center for which a grant under this subsection is sought;*

(iv) *information demonstrating that the applicant has worked with resource partners of the Administration and other entities;*

(v) *a 3-year plan that describes the services provided by the women's business center for which a grant under this subsection is sought—*

(I) *to serve women who are business owners or potential business owners by conducting training and counseling activities; and*

(II) to provide training and services to a representative number of women who are socially or economically disadvantaged; and

(vi) any additional information that the Administrator may reasonably require.

(C) REVIEW AND APPROVAL OF APPLICATIONS FOR GRANTS.—

(i) IN GENERAL.—The Administrator—

(I) shall review each application submitted under subparagraph (B), based on the information described in such subparagraph and the criteria set forth under clause (ii) of this subparagraph; and

(II) as part of the final selection process, may, at the discretion of the Administrator, conduct a site visit to each women's business center for which a grant under this subsection is sought, in particular to evaluate the women's business center using the selection criteria described in clause (ii)(II).

(ii) SELECTION CRITERIA.—

(I) IN GENERAL.—The Administrator shall evaluate applicants for grants under this subsection in accordance with selection criteria that are—

(aa) established before the date on which applicants are required to submit the applications;

(bb) stated in terms of relative importance; and

(cc) publicly available and stated in each solicitation for applications for grants under this subsection made by the Administrator.

(II) REQUIRED CRITERIA.—The selection criteria for a grant under this subsection shall include—

(aa) the total number of entrepreneurs served by the applicant;

(bb) the total number of new startup companies assisted by the applicant;

(cc) the percentage of clients of the applicant that are socially or economically disadvantaged;

(dd) the percentage of individuals in the community served by the applicant who are socially or economically disadvantaged;

(ee) the successful accreditation of the applicant under the accreditation program developed under subsection (g)(5); and

(ff) any additional criteria that the Administrator may reasonably require.

(iii) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to make a grant under this subsection, the Administrator—

(I) shall consider the results of the most recent evaluation of the women's business center for which a grant under this subsection is sought, and, to a lesser extent, previous evaluations; and

(II) may withhold a grant under this subsection, if the Administrator determines that the applicant has failed to provide the information required to be provided under this paragraph, or the information provided by the applicant is inadequate.

(D) NOTIFICATION.—Not later than 60 calendar days after the date of each deadline to submit applications under this paragraph, the Administrator shall approve or deny each submitted application and notify the applicant for each such application of the approval or denial.

(E) RECORD RETENTION.—

(i) IN GENERAL.—The Administrator shall maintain a copy of each application submitted under this paragraph for not less than 5 years.

(ii) PAPERWORK REDUCTION.—The Administrator shall take steps to reduce, to the maximum extent practicable, the paperwork burden associated with carrying out clause (i).

(4) AWARD OF GRANTS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the application to each applicant approved under this subsection.

(B) AMOUNT.—A grant under this subsection shall be for not more than \$150,000, for each year of that grant.

(C) FEDERAL SHARE.—The Federal share under this subsection shall be not more than 50 percent.

(D) PRIORITY.—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection **or subsection (1)** priority over first-time applications under subsection (b).

[(5) RENEWAL.—

[(A) IN GENERAL.—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

[(B) UNLIMITED RENEWALS.—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).]

(5) AWARD TO PREVIOUS RECIPIENTS.—There shall be no limitation on the number of times the Administrator may award a grant to an applicant under this subsection.

(n) PRIVACY REQUIREMENTS.—

(1) IN GENERAL.—A women's business center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit

of a women's business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

(2) ADMINISTRATION USE OF INFORMATION.—This subsection shall not—

(A) restrict Administration access to program activity data; or

(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

(3) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under paragraph (1)(B).

(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

(1) STUDY.—The Administrator shall periodically conduct a study to identify industries, as defined under the North American Industry Classification System, underrepresented by small business concerns owned and controlled by women.

(2) REPORT.—Not later than 3 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.

* * * * *

SEC. 48. USE OF AUTHORIZED ENTREPRENEURIAL DEVELOPMENT PROGRAMS.

(a) EXPANDED SUPPORT FOR ENTREPRENEURS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator shall only use the programs authorized in sections 7(j), 7(m), 8(a), 8(b)(1), 21, 22, 29, and 32 of this Act, and sections 358 and 389 of the Small Business Investment Act to deliver entrepreneurial development services, entrepreneurial education, support for the development and maintenance of clusters, or business training.

(2) EXCEPTION.—This section shall not apply to services provided to assist small business concerns owned by an Indian tribe (as such term is defined in section 8(a)(13)).

(b) ANNUAL REPORT.—Beginning on the first December 1 after the date of enactment of this subsection, the Administrator shall annually report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate on all entrepreneurial development activities undertaken in the current fiscal year. This report shall include—

(1) a description and operating details for each program and activity;

(2) operating circulars, manuals, and standard operating procedures for each program and activity;

(3) a description of the process used to award grants under each program and activity;

(4) a list of all awardees, contractors, and vendors (including organization name and location) and the amount of awards for the current fiscal year for each program and activity;

- (5) *the amount of funding obligated for the current fiscal year for each program and activity; and*
- (6) *the names and titles for those individuals responsible for each program and activity.*

* * * * *

**CHILDREN’S HEALTH INSURANCE PROGRAM
REAUTHORIZATION ACT OF 2009**

* * * * *

**TITLE VI—PROGRAM INTEGRITY AND
OTHER MISCELLANEOUS PROVISIONS**

* * * * *

Subtitle C—Other Provisions

**SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS
AVAILABLE TO CHILDREN.**

(a) DEFINITIONS.—In this section—

(1) the terms “Administration” and “Administrator” means the Small Business Administration and the Administrator thereof, respectively;

(2) the term “certified development company” means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term “Medicaid program” means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

[(4) the term “Service Corps of Retired Executives” means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));]

(4) *the term “SCORE program” means the SCORE program authorized by section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B));*

(5) the term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term “small business development center” means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term “State” has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term “State Children’s Health Insurance Program” means the State Children’s Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term “task force” means the task force established under subsection (b)(1); and

(10) the term “women’s business center” means a women’s business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children’s Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women’s business center; and

(iv) the [Service Corps of Retired Executives] *SCORE* program;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children’s Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

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ENERGY POLICY AND CONSERVATION ACT

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TITLE III—IMPROVING ENERGY EFFICIENCY

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PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

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CONSUMER EDUCATION

SEC. 337. (a) IN GENERAL.—The Secretary shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

- (1) the significance of estimated annual operating costs;
- (2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and
- (3) such other matters as the Secretary determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those

products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.

(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

(A) becoming more energy efficient;

(B) understanding the cost savings from improved energy efficiency;

(C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and

(D) identifying financing options for energy efficiency upgrades.

(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall—

(A) make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women's business centers, and the **【Service Corps of Retired Executives (SCORE)】** *SCORE program*, and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture; and

(B) coordinate assistance with the Secretary of Commerce for manufacturing-related efforts, including the Manufacturing Extension Partnership Program.

(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

(4) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Ad-

ministration, as part of the outreach to small business concerns under the Energy Star Program for Small Business Program, may enter into cooperative agreements with qualified resources partners (including the National Center for Appropriate Technology) to establish, maintain, and promote a Small Business Energy Clearinghouse (in this subsection referred to as the "Clearinghouse").

(5) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall ensure that the Clearinghouse provides a centralized resource where small business concerns may access, telephonically and electronically, technical information and advice to help increase energy efficiency and reduce energy costs.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

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