

111TH CONGRESS
2D SESSION

H. R. 4929

To amend the Small Business Act to ensure that certain Federal contracts are set aside for small businesses, to enhance services to small businesses that are disadvantaged, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2010

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

A BILL

To amend the Small Business Act to ensure that certain Federal contracts are set aside for small businesses, to enhance services to small businesses that are disadvantaged, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Expanding Opportunities for Main Street Act of 2010”.

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

Sec. 1. Short title; table of contents.

DIVISION A—SMALL BUSINESS ADMINISTRATION PROVISIONS

TITLE I—CONTRACT OPPORTUNITIES FOR SMALL BUSINESS CONCERNS

Sec. 101. Contract opportunities for small business concerns.

TITLE II—MINORITY SMALL BUSINESS ENHANCEMENT

Sec. 201. Enhancement of services to small businesses that are disadvantaged.

Sec. 202. Surety bond guarantees.

Sec. 203. Bundled contracts.

Sec. 204. Federal contracting goals.

Sec. 205. Implementation of subcontracting plans.

Sec. 206. Requirement to consider use of small business concerns owned and controlled by socially and economically disadvantaged individuals when considering past compliance with subcontracting plans.

TITLE III—EXTENSION OF BUSINESS STABILIZATION LOANS

Sec. 301. Extension of business stabilization loans.

DIVISION B—MINORITY BUSINESS DEVELOPMENT AGENCY PROVISIONS

TITLE I—MINORITY BUSINESS DEVELOPMENT IMPROVEMENTS

Sec. 101. Minority Business Development Program.

Sec. 102. Qualified minority business.

Sec. 103. Technical assistance.

Sec. 104. Loan guarantees.

Sec. 105. Set-aside contracting opportunities.

Sec. 106. Termination from the Program.

Sec. 107. Reports.

Sec. 108. Definitions.

TITLE II—MINORITY BUSINESS DEVELOPMENT AGENCY DATABASE

Sec. 201. Minority Business Development Agency database.

DIVISION C—COMMUNITY ECONOMIC DEVELOPMENT PROVISIONS

TITLE I—ENSURING JOB QUALITY AND ACCESS IN THE CONSTRUCTION SECTOR

Sec. 101. Targeted hiring requirement for certain construction jobs.

TITLE II—2-YEAR EXTENSION OF NEW MARKETS TAX CREDIT NATIONAL LIMITATION

Sec. 201. 2-year extension of new markets tax credit national limitation.

TITLE III—EXTENSION OF EMPOWERMENT ZONE DESIGNATION

Sec. 301. Extension of empowerment zone designation.

1 **DIVISION A—SMALL BUSINESS**
2 **ADMINISTRATION PROVISIONS**
3 **TITLE I—CONTRACT OPPORTU-**
4 **NITIES FOR SMALL BUSINESS**
5 **CONCERNS**

6 **SEC. 101. CONTRACT OPPORTUNITIES FOR SMALL BUSI-**
7 **NESS CONCERNS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, a Federal department or agency shall, to the
10 extent practicable, award to a small business concern each
11 eligible contract of such department or agency.

12 (b) SOLE SOURCE CONTRACTS.—A Federal depart-
13 ment or agency may award an eligible contract to a small
14 business concern if at least one small business concern
15 submits an offer with respect to such contract.

16 (c) AWARD TO SMALL BUSINESS NOT PRAC-
17 TICABLE.—

18 (1) IN GENERAL.—If a contracting officer of a
19 Federal department or agency determines that
20 awarding an eligible contract to a small business
21 concern under subsection (a) is not practicable, such
22 contracting officer shall make available to the Ad-
23 ministrator of the Small Business Administration
24 and the public the following:

1 (A) The determination and reasoning of
2 such officer with respect to such eligible con-
3 tract.

4 (B) The names of each small business con-
5 cern that submitted an offer with respect to
6 such eligible contract.

7 (2) REVIEW.—The Administrator of the Small
8 Business Administration may review each determina-
9 tion under paragraph (1) and, if the Administrator
10 determines it appropriate, may open such contract
11 opportunity for the submission of additional offers.

12 (d) DEFINITIONS.—In this Act:

13 (1) ELIGIBLE CONTRACT.—The term “eligible
14 contract” means any contract for the acquisition of
15 goods or services that is in an amount (including op-
16 tions) of more than \$3,000 and less than \$500,000.

17 (2) SMALL BUSINESS CONCERN.—The term
18 “small business concern” has the meaning given
19 such term under section 3(a) of the Small Business
20 Act (15 U.S.C. 632(a)).

TITLE II—MINORITY SMALL BUSINESS ENHANCEMENT

SEC. 201. ENHANCEMENT OF SERVICES TO SMALL BUSI- NESSES THAT ARE DISADVANTAGED.

(a) NET WORTH.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended by inserting after “disadvantaged individual.” the following: “For purposes of eligibility for admission as a Program Participant and for continued eligibility after admission, the net worth of such individual may be any amount less than \$1,500,000.”.

(b) TIME LIMIT ON PARTICIPATION.—Section 7(j)(15) of the Small Business Act (15 U.S.C. 636(j)(15)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting “(A)” after “(15)”; and

(3) by adding at the end the following:

“(B) No time limitation relating to the period that a small business concern may receive developmental assistance under the Program and contracts under section 8(a) shall apply to a small business concern that has not completed a contract under section 8(a).”.

1 **SEC. 202. SURETY BOND GUARANTEES.**

2 Section 508(f) of title V of division A of the American
3 Recovery and Reinvestment Act of 2009 (Public Law 111–
4 5; 123 Stat. 159) is amended by striking “amendments
5 made by this section” and inserting “amendment made
6 by subsection (c)”.

7 **SEC. 203. BUNDLED CONTRACTS.**

8 (a) DEFINITION.—Section 3(o) of the Small Business
9 Act (15 U.S.C. 632(o)) is amended to read as follows:
10 “(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-
11 QUIREMENTS AND RELATED TERMS.—For purposes of
12 this Act:

13 “(1) BUNDLED CONTRACT.—

14 “(A) IN GENERAL.—The term ‘bundled
15 contract’ means a contract or order that is en-
16 tered into to meet procurement requirements
17 that are consolidated in a bundling of contract
18 requirements, without regard to its designation
19 by the procuring agency or whether a study of
20 the effects of the solicitation on civilian or mili-
21 tary personnel has been made.

22 “(B) EXCEPTIONS.—The term does not in-
23 clude—

24 “(i) a contract or order with an aggre-
25 gate dollar value below the dollar threshold
26 specified in paragraph (5); or

1 “(ii) a contract or order that is en-
2 tered into to meet procurement require-
3 ments, all of which are exempted require-
4 ments under paragraph (6).

5 “(2) BUNDLING OF CONTRACT REQUIRE-
6 MENTS.—

7 “(A) IN GENERAL.—The term ‘bundling of
8 contract requirements’ means the use of any
9 bundling methodology to satisfy 2 or more pro-
10 curement requirements for goods or services
11 previously supplied or performed under separate
12 smaller contracts or orders, or to satisfy 2 or
13 more procurement requirements for construc-
14 tion services of a type historically performed
15 under separate smaller contracts or orders, that
16 is likely to be unsuitable for award to a small
17 business concern due to—

18 “(i) the diversity, size, or specialized
19 nature of the elements of the performance
20 specified;

21 “(ii) the aggregate dollar value of the
22 anticipated award;

23 “(iii) the geographical dispersion of
24 the contract or order performance sites; or

1 “(iv) any combination of the factors
2 described in clauses (i), (ii), and (iii).

3 “(B) INCLUSION OF NEW FEATURES OR
4 FUNCTIONS.—A combination of contract re-
5 quirements that would meet the definition of a
6 bundling of contract requirements but for the
7 addition of a procurement requirement with at
8 least one new good or service shall be consid-
9 ered to be a bundling of contract requirements
10 unless the new features or functions substan-
11 tially transform the goods or services and will
12 provide measurably substantial benefits to the
13 government in terms of quality, performance, or
14 price.

15 “(C) EXCEPTIONS.—The term does not in-
16 clude—

17 “(i) the use of a bundling method-
18 ology for an anticipated award with an ag-
19 gregate dollar value below the dollar
20 threshold specified in paragraph (5); or

21 “(ii) the use of a bundling method-
22 ology to meet procurement requirements,
23 all of which are exempted requirements
24 under paragraph (6).

1 “(3) BUNDLING METHODOLOGY.—The term
2 ‘bundling methodology’ means—

3 “(A) a solicitation to obtain offers for a
4 single contract or order, or a multiple award
5 contract or order; or

6 “(B) a solicitation of offers for the
7 issuance of a task or a delivery order under an
8 existing single or multiple award contract or
9 order.

10 “(4) SEPARATE SMALLER CONTRACT.—The
11 term ‘separate smaller contract’, with respect to
12 bundling of contract requirements, means a contract
13 or order that has been performed by 1 or more small
14 business concerns or was suitable for award to 1 or
15 more small business concerns.

16 “(5) DOLLAR THRESHOLD.—The term ‘dollar
17 threshold’ means \$65,000,000, if solely for construc-
18 tion services, and \$5,000,000 with respect to all
19 other circumstances.

20 “(6) EXEMPTED REQUIREMENTS.—The term
21 ‘exempted requirement’ means a procurement re-
22 quirement solely for items that are not commercial
23 items (as the term ‘commercial item’ is defined in
24 section 4(12) of the Office of Federal Procurement
25 Policy Act (41 U.S.C. 403(12))).

1 “(7) PROCUREMENT REQUIREMENT.—The term
2 ‘procurement requirement’ means a determination
3 by an agency that a specified good or service is
4 needed to satisfy the mission of the agency.”.

5 (b) PROPOSED PROCUREMENT REQUIREMENTS.—
6 Section 15(a) of the Small Business Act (15 U.S.C.
7 644(a)) is amended—

8 (1) by striking “necessary and justified.” and
9 inserting “necessary and justified, as well as identi-
10 fying information on the incumbent contract holders,
11 a description of the industries which might be inter-
12 ested in bidding on the contract requirements, and
13 the number of small businesses listed in the industry
14 categories that could be excluded from future bid-
15 ding if the contract is combined or packaged.”; and

16 (2) by striking the sentence beginning “When-
17 ever the Administration and the contracting procure-
18 ment agency fail to agree,” and inserting the fol-
19 lowing: “Whenever the Administration and the con-
20 tracting procurement agency fail to agree, the Ad-
21 ministrator may review the proposed procurement,
22 may delay the solicitation process for not more than
23 10 days to make recommendations, and the matter
24 shall be submitted to the Director of the Office of

1 Management and Budget to mediate the disagree-
2 ment.”.

3 **SEC. 204. FEDERAL CONTRACTING GOALS.**

4 (a) INCREASE IN CERTAIN GOALS.—Section 15(g)(1)
5 of the Small Business Act (15 U.S.C. 644(g)(1)) is
6 amended—

7 (1) by striking “not less than 23 percent” and
8 inserting “not less than 25 percent”; and

9 (2) by striking “not less than 5 percent” each
10 place it appears and inserting “not less than 10 per-
11 cent”.

12 (b) LIMITATION ON NUMBER OF CATEGORIES FOR
13 WHICH A BUSINESS MAY QUALIFY.—Section 15(g) of the
14 Small Business Act (15 U.S.C. 644(g)) is amended by
15 adding at the end the following:

16 “(3) For purposes of this subsection and subsection
17 (h), with respect to each procurement contract a small
18 business concern may not qualify as more than 2 specified
19 categories, regardless of whether such small business con-
20 cern satisfies the definition of more than 2 specified cat-
21 egories. The specified categories are small business con-
22 cerns, small business concerns owned and controlled by
23 service-disabled veterans, qualified HUBZone small busi-
24 ness concerns, small business concerns owned and con-
25 trolled by socially and economically disadvantaged individ-

1 uals, and small business concerns owned and controlled
2 by women.”.

3 **SEC. 205. IMPLEMENTATION OF SUBCONTRACTING PLANS.**

4 Section 8(d) of the Small Business Act (15 U.S.C.
5 637(d)) is amended by adding at the end the following:

6 “(12) In the case of any contract containing a sub-
7 contracting plan included pursuant to paragraph (4) or
8 (5), the following apply:

9 “(A) The Federal agency awarding the contract
10 shall include in the contract a clause providing for
11 the withholding of not less than (i) \$5,000 in the
12 case of a contract in the amount of \$100,000 or
13 less, (ii) 3 percent of the contract amount in the
14 case of a contract in an amount of more than
15 \$100,000 and less than \$5,000,000, and (iii) 5 per-
16 cent of the contract amount in the case of a contract
17 in an amount of \$5,000,000 or more, if the con-
18 tractor does not achieve the percentage goal for the
19 utilization of small business concerns owned and
20 controlled by socially and economically disadvan-
21 taged individuals as set forth in the subcontracting
22 plan.

23 “(B) The Federal agency awarding the contract
24 shall require the contractor to provide written jus-
25 tification to the agency whenever the contractor, in

1 performing the contract, does not enter into a sub-
 2 contract with, or substitutes another subcontractor
 3 for, a specific small business concern identified in
 4 the subcontracting plan.

5 “(13) The Administration shall establish a telephone
 6 line or other electronic means of communication through
 7 which any small business concern identified in a subcon-
 8 tracting plan by an offeror or bidder may communicate
 9 to the Administration any concerns regarding major devi-
 10 ations by prime contractors from the use of small business
 11 concerns as subcontractors under the prime contract as
 12 described in subcontracting plans.”.

13 **SEC. 206. REQUIREMENT TO CONSIDER USE OF SMALL**
 14 **BUSINESS CONCERNS OWNED AND CON-**
 15 **TROLLED BY SOCIALLY AND ECONOMICALLY**
 16 **DISADVANTAGED INDIVIDUALS WHEN CON-**
 17 **SIDERING PAST COMPLIANCE WITH SUBCON-**
 18 **TRACTING PLANS.**

19 Paragraphs (4)(C) and (5)(B) of section 8(d) of the
 20 Small Business Act (15 U.S.C. 637(d)) are each amended
 21 in the second sentence by inserting “, especially compli-
 22 ance with the goal set forth in such plans for the utiliza-
 23 tion of small business concerns owned and controlled by
 24 socially and economically disadvantaged individuals,” after
 25 “other such subcontracting plans”.

1 **TITLE III—EXTENSION OF BUSI-**
2 **NESS STABILIZATION LOANS**

3 **SEC. 301. EXTENSION OF BUSINESS STABILIZATION LOANS.**

4 Section 506(j) of title V of division A of the American
5 Recovery and Reinvestment Act of 2009 (Public Law 111–
6 5; 123 Stat. 157) is amended by striking “September 30,
7 2010” and inserting “September 30, 2011”.

8 **DIVISION B—MINORITY BUSI-**
9 **NESS DEVELOPMENT AGENCY**
10 **PROVISIONS**

11 **TITLE I—MINORITY BUSINESS**
12 **DEVELOPMENT IMPROVEMENTS**

13 **SEC. 101. MINORITY BUSINESS DEVELOPMENT PROGRAM.**

14 The Director of the Minority Business Development
15 Agency shall establish the Minority Business Development
16 Program (in this title referred to as the “Program”) to
17 assist qualified minority businesses. The Program shall
18 provide to such businesses the following:

- 19 (1) Technical assistance.
20 (2) Loan guarantees.
21 (3) Contract procurement assistance.

22 **SEC. 102. QUALIFIED MINORITY BUSINESS.**

23 (a) CERTIFICATION.—For purposes of the Program,
24 the Director may certify as a qualified minority business
25 any entity that satisfies each of the following:

1 (1) Not less than 51 percent of the entity is di-
2 rectly and unconditionally owned or controlled by
3 historically disadvantaged individuals.

4 (2) Each officer or other individual who exer-
5 cises control over the regular operations of the entity
6 is a historically disadvantaged individual.

7 (3) The net worth of each principal of the enti-
8 ty is not greater than \$2,000,000. (The equity of a
9 disadvantaged owner in a primary personal residence
10 shall be considered in this calculation.)

11 (4) The principal place of business of the entity
12 is in the United States.

13 (5) Each principal of the entity maintains good
14 character in the determination of the Director.

15 (6) The entity engages in competitive and bona
16 fide commercial business operations in not less than
17 one sector of industry that has a North American
18 Industry Classification System code.

19 (7) The entity submits reports to the Director
20 at such time, in such form, and containing such in-
21 formation as the Director may require.

22 (8) Any additional requirements that the Direc-
23 tor determines appropriate.

1 (b) TERM OF CERTIFICATION.—A certification under
2 this section shall be for a term of 5 years and may not
3 be renewed.

4 **SEC. 103. TECHNICAL ASSISTANCE.**

5 (a) IN GENERAL.—In carrying out the Program, the
6 Director may provide to qualified minority businesses
7 technical assistance with regard to the following:

8 (1) Writing business plans.

9 (2) Marketing.

10 (3) Management.

11 (4) Securing sufficient financing for business
12 operations.

13 (b) CONTRACT AUTHORITY.—The Director may enter
14 into agreements with persons to provide technical assist-
15 ance under this section.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$200,000,000 to the Di-
18 rector to carry out this section. Such sums shall remain
19 available until expended.

20 **SEC. 104. LOAN GUARANTEES.**

21 (a) IN GENERAL.—Subject to subsection (b), the Di-
22 rector may guarantee up to 90 percent of the amount of
23 a loan made to a qualified minority business to be used
24 for business purposes, including the following:

25 (1) Purchasing essential equipment.

1 (2) Payroll expenses.

2 (3) Purchasing facilities.

3 (4) Renovating facilities.

4 (b) TERMS AND CONDITIONS.—

5 (1) IN GENERAL.—The Director may make
6 guarantees under this section for projects on such
7 terms and conditions as the Director determines ap-
8 propriate, after consultation with the Secretary of
9 the Treasury, in accordance with this section.

10 (2) REPAYMENT.—No guarantee shall be made
11 under this section unless the Director determines
12 that there is reasonable prospect of repayment of the
13 principal and interest on the obligation by the bor-
14 rower.

15 (3) DEFAULTS.—

16 (A) PAYMENT BY DIRECTOR.—

17 (i) IN GENERAL.—If a borrower de-
18 faults on the obligation (as defined in reg-
19 ulations promulgated by the Director and
20 specified in the guarantee contract), the
21 holder of the guarantee shall have the
22 right to demand payment of the unpaid
23 amount from the Director.

24 (ii) PAYMENT REQUIRED.—Within
25 such period as may be specified in the

1 guarantee or related agreements, the Di-
2 rector shall pay to the holder of the guar-
3 antee the unpaid interest on, and unpaid
4 principal of the obligation as to which the
5 borrower has defaulted, unless the Director
6 finds that there was no default by the bor-
7 rower in the payment of interest or prin-
8 cipal or that the default has been rem-
9 edied.

10 (iii) FORBEARANCE.—Nothing in this
11 paragraph precludes any forbearance by
12 the holder of the obligation for the benefit
13 of the borrower which may be agreed upon
14 by the parties to the obligation and ap-
15 proved by the Director.

16 (B) SUBROGATION.—

17 (i) IN GENERAL.—If the Director
18 makes a payment under subparagraph (A),
19 the Director shall be subrogated to the
20 rights of the recipient of the payment as
21 specified in the guarantee or related agree-
22 ments including, where appropriate, the
23 authority (notwithstanding any other pro-
24 vision of law) to—

1 (I) complete, maintain, operate,
2 lease, or otherwise dispose of any
3 property acquired pursuant to such
4 guarantee or related agreements; or

5 (II) permit the borrower, pursu-
6 ant to an agreement with the Direc-
7 tor, to continue to pursue the pur-
8 poses of the project if the Director de-
9 termines this to be in the public inter-
10 est.

11 (ii) SUPERIORITY OF RIGHTS.—The
12 rights of the Director, with respect to any
13 property acquired pursuant to a guarantee
14 or related agreements, shall be superior to
15 the rights of any other person with respect
16 to the property.

17 (iii) TERMS AND CONDITIONS.—A
18 guarantee agreement shall include such de-
19 tailed terms and conditions as the Director
20 determines appropriate to—

21 (I) protect the interests of the
22 United States in the case of default;
23 and

24 (II) have available all the patents
25 and technology necessary for any per-

1 son selected, including the Director, to
2 complete and operate the project.

3 (C) PAYMENT OF PRINCIPAL AND INTER-
4 EST BY DIRECTOR.—With respect to any obliga-
5 tion guaranteed under this section, the Director
6 may enter into a contract to pay, and pay, hold-
7 ers of the obligation, for and on behalf of the
8 borrower, from funds appropriated for that pur-
9 pose, the principal and interest payments which
10 become due and payable on the unpaid balance
11 of the obligation if the Director finds that—

12 (i)(I) the borrower is unable to meet
13 the payments and is not in default;

14 (II) it is in the public interest to per-
15 mit the borrower to continue to pursue the
16 purposes of the project; and

17 (III) the probable net benefit to the
18 Federal Government in paying the prin-
19 cipal and interest will be greater than that
20 which would result in the event of a de-
21 fault;

22 (ii) the amount of the payment that
23 the Director is authorized to pay shall be
24 no greater than the amount of principal
25 and interest that the borrower is obligated

1 to pay under the agreement being guaran-
2 teed; and

3 (iii) the borrower agrees to reimburse
4 the Director for the payment (including in-
5 terest) on terms and conditions that are
6 satisfactory to the Director.

7 (D) ACTION BY ATTORNEY GENERAL.—

8 (i) NOTIFICATION.—If the borrower
9 defaults on an obligation, the Director
10 shall notify the Attorney General of the de-
11 fault.

12 (ii) RECOVERY.—On notification, the
13 Attorney General shall take such action as
14 is appropriate to recover the unpaid prin-
15 cipal and interest due from—

16 (I) such assets of the defaulting
17 borrower as are associated with the
18 obligation; or

19 (II) any other security pledged to
20 secure the obligation.

21 (4) FEES.—

22 (A) IN GENERAL.—The Director shall
23 charge and collect fees for guarantees in
24 amounts the Director determines are sufficient

1 to cover applicable administrative expenses, not
2 to exceed 1 percent of the amount guaranteed.

3 (B) AVAILABILITY.—Fees collected under
4 this paragraph shall—

5 (i) be deposited by the Director into
6 the Treasury; and

7 (ii) remain available until expended,
8 subject to such other conditions as are con-
9 tained in annual appropriations Acts.

10 (c) CREDIT REQUIREMENTS.—To receive a loan
11 guaranteed under this section a qualified minority busi-
12 ness shall—

13 (1) be in good standing with regard to the cred-
14 it of that business in the determination of the Direc-
15 tor;

16 (2) have received technical assistance under sec-
17 tion 103; and

18 (3) submit reports, at such time, in such form,
19 and containing such information as the Director
20 may require regarding the credit of the business.

21 (d) LIMITS ON GUARANTEE AMOUNTS.—

22 (1) MAXIMUM AMOUNT OF GUARANTEE.—The
23 Director may not guarantee more than \$450,000 of
24 any loan under this section.

1 (2) MAXIMUM GROSS LOAN AMOUNT.—A loan
2 guaranteed under this section may not be for a gross
3 loan amount in excess of \$500,000.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Director not more
6 than \$500,000,000 to carry out this section during fiscal
7 years 2011 through 2016.

8 **SEC. 105. SET-ASIDE CONTRACTING OPPORTUNITIES.**

9 (a) IN GENERAL.—The Director may enter into
10 agreements with the United States Government and any
11 department, agency, or officer thereof having procurement
12 powers for purposes of providing for the fulfillment of pro-
13 curement contracts and providing opportunities for quali-
14 fied minority businesses with regard to such contracts.

15 (b) QUALIFICATIONS ON PARTICIPATION.—The Di-
16 rector shall by rule establish requirements for participa-
17 tion under this section by a qualified minority business
18 in a contract.

19 (c) ANNUAL LIMIT ON NUMBER OF CONTRACTS PER
20 QUALIFIED MINORITY BUSINESS.—A qualified minority
21 business may not participate under this section in con-
22 tracts in an amount that exceeds \$10,000,000 for goods
23 and services each fiscal year.

24 (d) LIMITS ON CONTRACT AMOUNTS.—

1 (1) GOODS AND SERVICES.—Except as provided
2 in paragraph (2), a contract for goods and services
3 under this section may not exceed \$6,000,000.

4 (2) MANUFACTURING AND CONSTRUCTION.—A
5 contract for manufacturing and construction services
6 under this section may not exceed \$10,000,000.

7 **SEC. 106. TERMINATION FROM THE PROGRAM.**

8 The Director may terminate a qualified minority
9 business from the Program for any violation of a require-
10 ment of sections 102 through 105 of this Act by that
11 qualified minority business, including the following:

12 (1) Conduct by a principal of the qualified mi-
13 nority business that indicates a lack of business in-
14 tegrity.

15 (2) Willful failure to comply with applicable
16 labor standards and obligations.

17 (3) Consistent failure to tender adequate per-
18 formance with regard to contracts under the Pro-
19 gram.

20 (4) Failure to obtain and maintain relevant cer-
21 tifications.

22 (5) Failure to pay outstanding obligations owed
23 to the Federal Government.

1 **SEC. 107. REPORTS.**

2 (a) REPORT OF THE DIRECTOR.—Not later than Oc-
3 tober 1, 2011, and annually thereafter, the Director shall
4 submit to the Committee on Energy and Commerce of the
5 House of Representatives and the Committee on Com-
6 merce, Science, and Transportation of the Senate a report
7 describing the activities of the Director during the pre-
8 ceding year with respect to the Program.

9 (b) REPORT OF THE SECRETARY OF COMMERCE.—
10 Not later than October 1, 2011, and annually thereafter,
11 the Secretary of Commerce shall submit to the Committee
12 on Energy and Commerce of the House of Representatives
13 and the Committee on Commerce, Science, and Transpor-
14 tation of the Senate a report describing the activities the
15 Secretary engaged in during the preceding year to build
16 wealth among historically disadvantaged individuals.

17 **SEC. 108. DEFINITIONS.**

18 In this Act:

19 (1) The term “historically disadvantaged indi-
20 vidual” means any individual who is a member of a
21 group that is designated as eligible to receive assist-
22 ance under section 1400.1 of title 15, Code of Fed-
23 eral Regulations, as in effect on January 1, 2009.

24 (2) The term “principal” means any person
25 that the Director determines to exercise significant

1 control over the regular operations of a business en-
 2 tity.

3 **TITLE II—MINORITY BUSINESS**
 4 **DEVELOPMENT AGENCY**
 5 **DATABASE**

6 **SEC. 201. MINORITY BUSINESS DEVELOPMENT AGENCY**
 7 **DATABASE.**

8 Not later than 90 days after the date of enactment
 9 of this Act, the National Director of the Minority Business
 10 Development Agency shall establish a database to assist
 11 prime contractors in identifying historically disadvantaged
 12 firms for subcontracting.

13 **DIVISION C—COMMUNITY ECO-**
 14 **NOMIC DEVELOPMENT PRO-**
 15 **VISIONS**

16 **TITLE I—ENSURING JOB QUAL-**
 17 **ITY AND ACCESS IN THE CON-**
 18 **STRUCTION SECTOR**

19 **SEC. 101. TARGETED HIRING REQUIREMENT FOR CERTAIN**
 20 **CONSTRUCTION JOBS.**

21 (a) **CONTRACTS SUBJECT TO THIS SECTION.**—The
 22 requirements of this section shall apply to all contracts
 23 for construction and rehabilitation of facilities and infra-
 24 structure funded directly by or assisted in whole or in part
 25 by or through the Federal Government in fiscal year 2011.

1 (b) EMPLOYMENT OF TARGETED WORKERS.—

2 (1) PROJECT WORK HOURS REQUIREMENT.—

3 The Secretary of Labor shall establish a minimum
4 percentage of construction work hours to be per-
5 formed by targeted workers for each contract subject
6 to this section in each labor market area.

7 (2) UTILIZATION OF APPRENTICESHIP PRO-
8 GRAMS.—

9 (A) CONTRACTOR PARTICIPATION RE-
10 QUIREMENTS.—Each contractor and subcon-
11 tractor that seeks to provide construction serv-
12 ices on contracts subject to this section shall
13 submit adequate assurances with its bid or pro-
14 posal that it participates in a qualified appren-
15 ticeship program, with a written arrangement
16 with a qualified pre-apprenticeship program, as
17 defined by the Secretary of Labor, for each
18 craft or trade classification of worker that the
19 contractor or subcontractor intends to employ
20 to perform work on the project.

21 (B) CERTIFICATION OF OTHER PROGRAMS
22 IN CERTAIN LOCALITIES.—In the event that the
23 Secretary of Labor certifies that a qualified ap-
24 prenticeship program (as defined in subpara-
25 graph (A)) for a craft or trade classification

1 that a prospective contractor or subcontractor
2 intends to employ, is not operated in the local-
3 ity where the contract or subcontract will be
4 performed, an apprenticeship or other training
5 program that is not an employee welfare benefit
6 plan (as defined in such section) may be cer-
7 tified by the Secretary as a qualified appren-
8 ticeship or other training program provided it is
9 registered with the Department of Labor, Office
10 of Apprenticeship, or a State apprenticeship
11 agency recognized by the Office of Apprentice-
12 ship for Federal purposes.

13 (C) APPRENTICE UTILIZATION.—Each con-
14 tractor and subcontractor performing work on
15 contracts subject to this section shall employ
16 apprentices or trainees enrolled in qualified ap-
17 prenticeship programs to the maximum extent
18 permitted in the program’s written standards,
19 and shall submit adequate assurances that it is
20 not party to contractual agreements that pre-
21 clude its ability to meet the targeted hiring re-
22 quirements set forth in paragraph (1).

23 (3) DEFINITIONS.—For purposes of this sec-
24 tion—

1 (A) the term “labor market area” has the
2 meaning given such term in section 101(18) of
3 the Workforce Investment Act of 1998 (29
4 U.S.C. 2801(18));

5 (B) the term “qualified apprenticeship pro-
6 gram” means an apprenticeship or other train-
7 ing program that qualifies as an “employee wel-
8 fare benefit plan” as defined in section 3(1) of
9 the Employee Retirement Income Security Act
10 of 1974 (29 U.S.C. 1002(1)); and

11 (C) the term “targeted workers” means in-
12 dividuals who reside in the same labor market
13 area as the applicable project and who—

14 (i)(I) are members of families that re-
15 ceived a total income, that during the 2-
16 year period prior to employment on the
17 project or admission to the pre-apprentice-
18 ship program, did not exceed 200 percent
19 of the Federal poverty guidelines (exclusive
20 of unemployment compensation, child sup-
21 port payments, payments described in 29
22 United States Code section 2801(25)(A),
23 and old-age and survivors insurance bene-
24 fits received under section 202 of the So-
25 cial Security Act (42 U.S.C. 402); and

1 (II) reside in a census tract in which
 2 not less than 20 percent of the households
 3 have income below the Federal poverty
 4 guidelines;

5 (ii) are members of a targeted group,
 6 within the meaning of section 51 of the In-
 7 ternal Revenue Code of 1986; or

8 (iii) qualify as “displaced home-
 9 makers” as such term is defined in section
 10 3(10) of the Carl D. Perkins Career and
 11 Technical Education Act of 2006 (20
 12 U.S.C. 2302(10)).

13 (c) FACILITATING COMPLIANCE AND PROJECT EFFI-
 14 CIENCY.—In order to achieve the purposes of this section
 15 and to promote prompt completion of construction projects
 16 undertaken pursuant to this Act, the Secretary of Labor
 17 may require that contractors and subcontractors per-
 18 forming construction work under a contract subject to this
 19 section enter into an agreement consistent with the stand-
 20 ards set forth in section 4 of Executive Order 13502 and
 21 the requirements of subsection (b)(1) of this section.

22 (d) IMPLEMENTATION.—

23 (1) IN GENERAL.—No law or regulation gov-
 24 erning the operations or activities of any agency re-
 25 sponsible for implementing provisions of this section

1 shall be interpreted to prohibit Federal agencies,
2 funding recipients, contractors, or subcontractors,
3 from advancing the purposes of this section through
4 additional project requirements or actions. The Sec-
5 retary of Labor shall be responsible for ensuring the
6 implementation and enforcement of this section, in-
7 cluding investigating noncompliance, and shall, not
8 later than 180 days after the date of enactment of
9 this Act, adopt such rules, regulations, and guid-
10 ance, and issue such orders as the Secretary deter-
11 mines necessary and appropriate to achieve the pur-
12 poses of this section.

13 (2) COMPLIANCE.—In the event of material
14 noncompliance with this section by a recipient, con-
15 tractor, or subcontractor, the Secretary of Labor
16 shall have the authority to assess and collect pen-
17 alties from such recipient, contractor, or subcon-
18 tractor of not more than 5 percent of the contract
19 amount. The Secretary shall allow for reduction or
20 avoidance of penalty assessments for non-compliance
21 with the targeted hiring requirements of subsection
22 (b)(1) only where the entity in question dem-
23 onstrates that—

1 (A) compliance was impossible because of a
2 shortage of targeted workers in the local labor
3 market; and

4 (B) the employer utilized all specified
5 measures to obtain targeted workers.

6 The Secretary may specify measures required to be
7 taken to obtain targeted workers.

8 (e) DEDICATED RESOURCES FOR TRAINING AND RE-
9 CRUITMENT.—In order to facilitate the objectives of this
10 section, not less than 1 percent of any funds authorized
11 and appropriated or otherwise allocated for construction
12 for fiscal year 2011 shall be set aside to—

13 (1) provide pre-apprenticeship training and
14 other support services through programs that have
15 strong track records of placing targeted workers into
16 sustained employment in the construction trades and
17 that have written agreements with qualified appren-
18 ticeship programs;

19 (2) provide support to community-based organi-
20 zations that have written agreements with programs
21 described in subsection (b)(2) to participate in such
22 programs by recruiting targeted workers; or

23 (3) provide support to contractors either—

24 (A) that are community-based nonprofit
25 organizations that both—

1 (i) have a governing body in which a
2 majority the members qualify as targeted
3 workers; and

4 (ii) have less than one million dollars
5 in annual revenue from construction work
6 of any type, or

7 (B) in which such a community-based non-
8 profit organization has a 100 percent control-
9 ling interest for work relating to such Act to
10 meet the cost of participating in apprenticeship
11 programs.

12 (f) SENSE OF CONGRESS REGARDING PARTICIPATION
13 OF SOCIALLY AND ECONOMICALLY DISADVANTAGED
14 BUSINESSES.—It is the sense of Congress that each agen-
15 cy responsible for implementing provisions relating to con-
16 struction contracting and subcontracting in fiscal year
17 2011 should ensure that any regulation, policy, or funding
18 disbursement made provides for the inclusive participation
19 by socially and economically disadvantaged small business
20 concerns, as defined under section 8(a) of the Small Busi-
21 ness Act (15 U.S.C. 637(a)), including through bidding
22 credits, program eligibility standards, and other means.

1 **TITLE II—2-YEAR EXTENSION OF**
2 **NEW MARKETS TAX CREDIT**
3 **NATIONAL LIMITATION**

4 **SEC. 201. 2-YEAR EXTENSION OF NEW MARKETS TAX CRED-**
5 **IT NATIONAL LIMITATION.**

6 (a) IN GENERAL.—Subparagraph (F) of section
7 45D(f)(1) of the Internal Revenue Code of 1986 is amend-
8 ed by striking “2009” and inserting “2009, 2010, and
9 2011”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to investments made after Decem-
12 ber 31, 2009.

13 **TITLE III—EXTENSION OF EM-**
14 **POWERMENT ZONE DESIGNA-**
15 **TION**

16 **SEC. 301. EXTENSION OF EMPOWERMENT ZONE DESIGNA-**
17 **TION.**

18 (a) IN GENERAL.—Clause (i) of section
19 1391(d)(1)(A) of the Internal Revenue Code of 1986 is
20 amended by striking “December 31, 2009” and inserting
21 “December 31, 2011”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to areas with respect to which a

- 1 designation under section 1391 of such Code is in effect
- 2 on December 31, 2009.

