

111TH CONGRESS
2D SESSION

S. 4026

To establish in the Department of Commerce the Minority Business Development Program to provide qualified minority businesses with technical assistance and contracting opportunities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2010

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish in the Department of Commerce the Minority Business Development Program to provide qualified minority businesses with technical assistance and contracting opportunities, 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.**

4 This Act may be cited as the “Minority Business De-
5 velopment Improvements Act of 2010”.

6 **SEC. 2. MINORITY BUSINESS DEVELOPMENT PROGRAM.**

7 The Director of the Minority Business Development
8 Agency shall establish the Minority Business Development

1 Program (in this Act referred to as the “Program”) to
2 assist qualified minority businesses. The Program shall
3 provide to such businesses the following:

4 (1) Technical assistance.

5 (2) Contract procurement assistance.

6 **SEC. 3. QUALIFIED MINORITY BUSINESS.**

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

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

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

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

20 (4) The principal place of business of the entity
21 is in the United States.

22 (5) Each principal of the entity maintains good
23 character in the determination of the Director.

24 (6) The entity engages in competitive and bona
25 fide commercial business operations in not less than

1 one sector of industry that has a North American
2 Industry Classification System code.

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

6 (8) Any additional requirements that the Direc-
7 tor determines appropriate.

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

11 **SEC. 4. TECHNICAL ASSISTANCE.**

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

15 (1) Writing business plans.

16 (2) Marketing.

17 (3) Management.

18 (4) Securing sufficient financing for business
19 operations.

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

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated \$200,000,000 to the Di-

1 rector to carry out this section. Such sums shall remain
2 available until expended.

3 **SEC. 5. SET-ASIDE CONTRACTING OPPORTUNITIES.**

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

10 (b) QUALIFICATIONS ON PARTICIPATION.—The Di-
11 rector shall by rule establish requirements for participa-
12 tion under this section by a qualified minority business
13 in a contract.

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

19 (d) LIMITS ON CONTRACT AMOUNTS.—

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

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

1 **SEC. 6. TERMINATION FROM THE PROGRAM.**

2 The Director may terminate a qualified minority
3 business from the Program for any violation of a require-
4 ment of sections 3 through 5 of this Act by that qualified
5 minority business, including the following:

6 (1) Conduct by a principal of the qualified mi-
7 nority business that indicates a lack of business in-
8 tegrity.

9 (2) Willful failure to comply with applicable
10 labor standards and obligations.

11 (3) Consistent failure to tender adequate per-
12 formance with regard to contracts under the Pro-
13 gram.

14 (4) Failure to obtain and maintain relevant cer-
15 tifications.

16 (5) Failure to pay outstanding obligations owed
17 to the Federal Government.

18 **SEC. 7. REPORTS.**

19 (a) REPORT OF THE DIRECTOR.—Not later than Oc-
20 tober 1, 2011, and annually thereafter, the Director shall
21 submit to the Committee on Energy and Commerce of the
22 House of Representatives and the Committee on Com-
23 merce, Science, and Transportation of the Senate a report
24 describing the activities of the Director during the pre-
25 ceding year with respect to the Program.

1 (b) REPORT OF THE SECRETARY OF COMMERCE.—
2 Not later than October 1, 2011, and annually thereafter,
3 the Secretary of Commerce shall submit to the Committee
4 on Energy and Commerce of the House of Representatives
5 and the Committee on Commerce, Science, and Transpor-
6 tation of the Senate a report describing the activities the
7 Secretary engaged in during the preceding year to build
8 wealth among historically disadvantaged individuals.

9 **SEC. 8. DEFINITIONS.**

10 In this Act:

11 (1) HISTORICALLY DISADVANTAGED INDIVIDUAL.—The term “historically disadvantaged indi-
12 VIDUAL” means any individual who is a member of a
13 group that is designated as eligible to receive assist-
14 ance under section 1400.1 of title 15, Code of Fed-
15 eral Regulations, as in effect on January 1, 2009.

17 (2) PRINCIPAL.—The term “principal” means
18 any person that the Director determines exercises
19 significant control over the regular operations of a
20 business entity.

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