

104TH CONGRESS  
2D SESSION

# S. 1574

To provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 23), 1996

Mr. BOND introduced the following bill; which was read twice and referred to the Committee on Small Business

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## A BILL

To provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, 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 “HUBZone Act of  
5 1996”.

6 **SEC. 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.**

7 (a) DEFINITIONS.—Section 3 of the Small Business  
8 Act (15 U.S.C. 632) is amended by adding at the end the  
9 following new subsection:

1       “(o) DEFINITIONS RELATING TO HISTORICALLY  
2 UNDERUTILIZED BUSINESS ZONES.—For purposes of this  
3 section, the following definitions shall apply:

4           “(1) HISTORICALLY UNDERUTILIZED BUSINESS  
5 ZONE.—The term ‘historically underutilized business  
6 zone’ means any area located within one or more  
7 qualified census tracts or qualified nonmetropolitan  
8 counties.

9           “(2) SMALL BUSINESS CONCERN LOCATED IN A  
10 HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—  
11 The term ‘small business concern located in a his-  
12 torically underutilized business zone’ means a small  
13 business concern—

14           “(A) that is owned and controlled by one  
15 or more persons, each of whom is a United  
16 States citizen;

17           “(B) the principal office of which is located  
18 in a historically underutilized business zone;  
19 and

20           “(C) not less than 35 percent of the em-  
21 ployees of which reside in a historically  
22 underutilized business zone.

23           “(3) QUALIFIED AREAS.—

24           “(A) QUALIFIED CENSUS TRACT.—The  
25 term ‘qualified census tract’ has the same

1 meaning as in section 42(d)(5)(C)(i)(I) of the  
2 Internal Revenue Code of 1986.

3 “(B) QUALIFIED NONMETROPOLITAN  
4 COUNTY.—The term ‘qualified nonmetropolitan  
5 county’ means, based on the most recent data  
6 available from the Bureau of the Census of the  
7 Department of Commerce, any county—

8 “(i) that is not located in a metropoli-  
9 tan statistical area (as that term is defined  
10 in section 143(k)(2)(B) of the Internal  
11 Revenue Code of 1986); and

12 “(ii) in which the median household  
13 income is less than 80 percent of the  
14 nonmetropolitan State median household  
15 income.

16 “(4) QUALIFIED SMALL BUSINESS CONCERN  
17 LOCATED IN A HISTORICALLY UNDERUTILIZED BUSI-  
18 NESS ZONE.—

19 “(A) IN GENERAL.—A small business con-  
20 cern located in a historically underutilized busi-  
21 ness zone is ‘qualified’, if—

22 “(i) the small business concern has  
23 certified in writing to the Administrator  
24 that—

1           “(I) it is a small business con-  
2           cern located in a historically  
3           underutilized business zone;

4           “(II) it will comply with the sub-  
5           contracting limitations specified in  
6           Federal Acquisition Regulation  
7           52.219–14;

8           “(III) in the case of a contract  
9           for services (except construction), not  
10          less than 50 percent of the cost of  
11          contract performance incurred for  
12          personnel will be expended for employ-  
13          ees of that small business concern or  
14          for employees of other small business  
15          concerns located in historically  
16          underutilized business zones; and

17          “(IV) in the case of a contract  
18          for procurement of supplies (other  
19          than procurement from a regular  
20          dealer in such supplies), the small  
21          business concern (or a subcontractor  
22          of the small business concern that is  
23          also a small business concern located  
24          in a historically underutilized business  
25          zone) will perform work for not less

1 than 50 percent of the cost of manu-  
2 facturing the supplies (not including  
3 the cost of materials) in a historically  
4 underutilized business zone; and

5 “(ii) no certification made by the  
6 small business concern under clause (i) has  
7 been, in accordance with the procedures es-  
8 tablished under section 30(c)(2)—

9 “(I) successfully challenged by an  
10 interested party; or

11 “(II) otherwise determined by the  
12 Administrator to be materially false.

13 “(B) CHANGE IN PERCENTAGES.—The Ad-  
14 ministrator may utilize a percentage other than  
15 the percentage specified in under subclause  
16 (III) or (IV) of subparagraph (A)(i), if the Ad-  
17 ministrator determines that such action is nec-  
18 essary to reflect conventional industry practices  
19 among small business concerns that are below  
20 the numerical size standard for businesses in  
21 that industry category.

22 “(C) CONSTRUCTION AND OTHER CON-  
23 TRACTS.—The Administrator shall promulgate  
24 final regulations imposing requirements that  
25 are similar to those specified in subclauses (III)

1 and (IV) of subparagraph (A)(i) on contracts  
2 for general and specialty construction, and on  
3 contracts for any other industry category that  
4 would not otherwise be subject to those require-  
5 ments. The percentage applicable to any such  
6 requirement shall be determined in accordance  
7 with subparagraph (B).

8 “(D) LIST OF QUALIFIED SMALL BUSINESS  
9 CONCERNS.—The Administrator shall establish  
10 and maintain a list of qualified small business  
11 concerns located in historically underutilized  
12 business zones, which list shall—

13 “(i) include the name, address, and  
14 type of business with respect to each such  
15 small business concern;

16 “(ii) be updated by the Administrator  
17 not less than annually; and

18 “(iii) be provided upon request to any  
19 Federal agency or other entity.”.

20 (b) FEDERAL CONTRACTING PREFERENCES.—The  
21 Small Business Act (15 U.S.C. 631 et seq.) is amended—

22 (1) by redesignating section 30 as section 31;

23 and

24 (2) by inserting after section 29 the following

25 new section:

1 **“SEC. 30. HISTORICALLY UNDERUTILIZED BUSINESS ZONES**  
2 **PROGRAM.**

3 “(a) IN GENERAL.—There is established within the  
4 Administration a program to be carried out by the Admin-  
5 istrator to provide for Federal contracting assistance to  
6 qualified small business concerns located in historically  
7 underutilized business zones in accordance with this sec-  
8 tion.

9 “(b) CONTRACTING PREFERENCES.—

10 “(1) CONTRACT SET-ASIDE.—

11 “(A) REQUIREMENT.—The head of an ex-  
12 ecutive agency shall afford the opportunity to  
13 participate in a competition for award of a con-  
14 tract of the executive agency, exclusively to  
15 qualified small business concerns located in his-  
16 torically underutilized business zones, if the Ad-  
17 ministrator determines that—

18 “(i) it is reasonable to expect that not  
19 less than 2 qualified small business con-  
20 cerns located in historically underutilized  
21 business zones will submit offers for the  
22 contract; and

23 “(ii) the award can be made on the  
24 restricted basis at a fair market price.

25 “(B) COVERED CONTRACTS.—Subpara-  
26 graph (A) applies to a contract that is esti-

1 mated to exceed the simplified acquisition  
2 threshold.

3 “(2) SOLE-SOURCE CONTRACTS.—

4 “(A) REQUIREMENT.—The head of an ex-  
5 ecutive agency, in the exercise of authority pro-  
6 vided in any other law to award a contract of  
7 the executive agency on a sole-source basis,  
8 shall award the contract on that basis to a  
9 qualified small business concern located in a  
10 historically underutilized business zone, if any,  
11 that—

12 “(i) submits a reasonable and respon-  
13 sive offer for the contract; and

14 “(ii) is determined by the Adminis-  
15 trator to be a responsible contractor.

16 “(B) COVERED CONTRACTS.—Subpara-  
17 graph (A) applies to a contract that is esti-  
18 mated to exceed the simplified acquisition  
19 threshold and not to exceed \$5,000,000.

20 “(3) PRICE EVALUATION PREFERENCE IN FULL  
21 AND OPEN COMPETITIONS.—In any case in which a  
22 contract is to be awarded by the head of an execu-  
23 tive agency on the basis of full and open competi-  
24 tion, the price offered by a qualified small business  
25 concern located in a historically underutilized busi-

1       ness zone shall be deemed as being lower than the  
2       price offered by another offeror (other than another  
3       qualified small business concern located in a histori-  
4       cally underutilized business zone) if the price offered  
5       by the qualified small business concern located in a  
6       historically underutilized business zone is not more  
7       than 10 percent higher than the price offered by the  
8       other offeror.

9               “(4) RELATIONSHIP TO OTHER CONTRACTING  
10       PREFERENCES.—

11               “(A) SUBORDINATE RELATIONSHIP.—A  
12       procurement may not be made from a source on  
13       the basis of a preference provided in paragraph  
14       (1), (2), or (3) if the procurement would other-  
15       wise be made from a different source under sec-  
16       tion 4124 or 4125 of title 18, United States  
17       Code, or the Javits-Wagner-O’Day Act.

18               “(B) SUPERIOR RELATIONSHIP.—A pro-  
19       curement may not be made from a source on  
20       the basis of a preference provided in section  
21       8(a), if the procurement would otherwise be  
22       made from a different source under paragraph  
23       (1), (2), or (3) of this subsection.

24               “(5) DEFINITIONS.—For purposes of this sub-  
25       section, the terms ‘executive agency’, ‘full and open

1 competition’, and ‘simplified acquisition threshold’  
2 have the meanings given such terms in section 4 of  
3 the Office of Federal Procurement Policy Act.

4 “(c) ENFORCEMENT; PENALTIES.—

5 “(1) IN GENERAL.—The Administrator shall  
6 enforce the requirements of this section.

7 “(2) VERIFICATION OF ELIGIBILITY.—In carry-  
8 ing out this subsection, the Administrator shall es-  
9 tablish procedures relating to—

10 “(A) the filing, investigation, and disposi-  
11 tion by the Administration of any challenge to  
12 the eligibility of a small business concern to re-  
13 ceive assistance under this section (including a  
14 challenge, filed by an interested party, relating  
15 to the veracity of a certification made by a  
16 small business concern under section  
17 3(o)(4)(A)); and

18 “(B) verification by the Administrator of  
19 the accuracy of any certification made by a  
20 small business concern under section  
21 3(o)(4)(A).

22 “(3) RANDOM INSPECTIONS.—The procedures  
23 established under paragraph (2) may provide for  
24 random inspections by the Administrator of any

1 small business concern making a certification under  
2 section 3(o)(4).

3 “(4) PROVISION OF DATA.—Upon the request  
4 of the Administrator, the Secretary of Labor and the  
5 Secretary of Housing and Urban Development shall  
6 promptly provide to the Administrator such informa-  
7 tion as the Administrator determines to be necessary  
8 to carry out this subsection.

9 “(5) PENALTIES.—In addition to the penalties  
10 described in section 16(d), any small business con-  
11 cern that is determined by the Administrator to have  
12 misrepresented the status of that concern as a ‘small  
13 business concern located in a historically  
14 underutilized business zone’ for purposes of this sec-  
15 tion, shall be subject to the provisions of—

16 “(A) section 1001 of title 18, United  
17 States Code; and

18 “(B) sections 3729 through 3733 of title  
19 31, United States Code.”.

20 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO**  
21 **THE SMALL BUSINESS ACT.**

22 (a) PERFORMANCE OF CONTRACTS.—Section 8(d) of  
23 the Small Business Act (15 U.S.C. 637(d)) is amended—

24 (1) in paragraph (1)—

1 (A) in the first sentence, by striking “,,  
2 small business concerns owned and controlled  
3 by socially and economically disadvantaged indi-  
4 viduals” and inserting “, qualified small busi-  
5 ness concerns located in historically  
6 underutilized business zones, small business  
7 concerns owned and controlled by socially and  
8 economically disadvantaged individuals”; and

9 (B) in the second sentence, by inserting  
10 “qualified small business concerns located in  
11 historically underutilized business zones,” after  
12 “small business concerns,”;

13 (2) in paragraph (3)—

14 (A) by inserting “qualified small business  
15 concerns located in historically underutilized  
16 business zones,” after “small business con-  
17 cerns,” each place that term appears; and

18 (B) by adding at the end the following new  
19 subparagraph:

20 “(F) For purposes of this contract, the term  
21 ‘qualified small business concern located in a histori-  
22 cally underutilized business zone’ has the same  
23 meaning as in section 3(o) of the Small Business  
24 Act.”;

25 (3) in paragraph (4)—

1 (A) in subparagraph (D), by inserting  
2 “qualified small business concerns located in  
3 historically underutilized business zones,” after  
4 “small business concerns,”; and

5 (B) in subparagraph (E), by striking  
6 “small business concerns and” and inserting  
7 “small business concerns, qualified small busi-  
8 ness concerns located in historically  
9 underutilized business zones, and”;

10 (4) in paragraph (6), by inserting “qualified  
11 small business concerns located in historically  
12 underutilized business zones,” after “small business  
13 concerns,” each place that term appears; and

14 (5) in paragraph (10), by inserting “qualified  
15 small business concerns located in historically  
16 underutilized business zones,” after “small business  
17 concerns,”.

18 (b) AWARDS OF CONTRACTS.—Section 15 of the  
19 Small Business Act (15 U.S.C. 644) is amended—

20 (1) in subsection (g)(1)—

21 (A) by inserting “qualified small business  
22 concerns located in historically underutilized  
23 business zones,” after “small business con-  
24 cerns,” each place that term appears; and

1 (B) by inserting after the second sentence  
2 the following: “The Governmentwide goal for  
3 participation by qualified small business con-  
4 cerns located in historically underutilized busi-  
5 ness zones shall be established at not less than  
6 1 percent of the total value of all prime con-  
7 tract awards for fiscal year 1997, not less than  
8 2 percent of the total value of all prime con-  
9 tract awards for fiscal year 1998, not less than  
10 3 percent of the total value of all prime con-  
11 tract awards for fiscal year 1999, and not less  
12 than 4 percent of the total value of all prime  
13 contract awards for fiscal year 2000 and each  
14 fiscal year thereafter.”;

15 (2) in subsection (g)(2)—

16 (A) in the first sentence, by striking “, by  
17 small business concerns owned and controlled  
18 by socially and economically disadvantaged indi-  
19 viduals” and inserting “, by qualified small  
20 business concerns located in historically  
21 underutilized business zones, by small business  
22 concerns owned and controlled by socially and  
23 economically disadvantaged individuals”;

24 (B) in the second sentence, by inserting  
25 “qualified small business concerns located in

1 historically underutilized business zones,” after  
 2 “small business concerns,”; and

3 (C) in the fourth sentence, by striking “by  
 4 small business concerns owned and controlled  
 5 by socially and economically disadvantaged indi-  
 6 viduals and participation by small business con-  
 7 cerns owned and controlled by women” and in-  
 8 serting “by qualified small business concerns lo-  
 9 cated in historically underutilized business  
 10 zones, by small business concerns owned and  
 11 controlled by socially and economically dis-  
 12 advantaged individuals, and by small business  
 13 concerns owned and controlled by women”; and  
 14 (3) in subsection (h), by inserting “qualified  
 15 small business concerns located in historically  
 16 underutilized business zones,” after “small business  
 17 concerns,” each place that term appears.

18 (c) OFFENSES AND PENALTIES.—Section 16 of the  
 19 Small Business Act (15 U.S.C. 645) is amended—

20 (1) in subsection (d)(1)—

21 (A) by inserting “, a ‘qualified small busi-  
 22 ness concern located in a historically  
 23 underutilized business zone,’” after “‘small  
 24 business concern,’”; and

1 (B) in subparagraph (A), by striking “sec-  
 2 tion 9 or 15” and inserting “section 9, 15, or  
 3 30”; and

4 (2) in subsection (e), by inserting “, a ‘small  
 5 business concern located in a historically  
 6 underutilized business zone,’” after “‘small business  
 7 concern’”.

8 **SEC. 4. OTHER TECHNICAL AND CONFORMING AMEND-**  
 9 **MENTS.**

10 (a) TITLE 10, UNITED STATES CODE.—Section 2323  
 11 of title 10, United States Code, is amended—

12 (1) in subsection (a)(1)(A), by inserting before  
 13 the semicolon the following: “, and qualified small  
 14 business concerns located in historically  
 15 underutilized business zones (as that term is defined  
 16 in section 3(o) of the Small Business Act)”; and

17 (2) in subsection (f), by inserting “or as a  
 18 qualified small business concern located in a histori-  
 19 cally underutilized business zone (as that term is de-  
 20 fined in section 3(o) of the Small Business Act)”  
 21 after “subsection (a)”.

22 (b) FEDERAL HOME LOAN BANK ACT.—Section  
 23 21A(b)(13) of the Federal Home Loan Bank Act (12  
 24 U.S.C. 1441a(b)(13)) is amended—

1           (1) by striking “concerns and small” and in-  
2           serting “concerns, small”; and

3           (2) by inserting “, and qualified small business  
4           concerns located in historically underutilized busi-  
5           ness zones (as that term is defined in section 3(o)  
6           of the Small Business Act)” after “disadvantaged  
7           individuals”.

8           (c) SMALL BUSINESS ECONOMIC POLICY ACT OF  
9           1980.—Section 303(e) of the Small Business Economic  
10          Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

11           (1) in paragraph (1), by striking “and” at the  
12          end;

13           (2) in paragraph (2), by striking the period at  
14          the end and inserting “; and”; and

15           (3) by adding at the end the following new  
16          paragraph:

17           “(3) qualified small business concerns located  
18          in historically underutilized business zones (as that  
19          term is defined in section 3(o) of the Small Business  
20          Act).”.

21          (d) SMALL BUSINESS INVESTMENT ACT OF 1958.—  
22          Section 411(c)(3)(B) of the Small Business Investment  
23          Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by in-  
24          serting before the semicolon the following: “, or to a quali-  
25          fied small business concern located in a historically

1 underutilized business zone, as that term is defined in sec-  
2 tion 3(o) of the Small Business Act”.

3 (e) TITLE 31, UNITED STATES CODE.—

4 (1) CONTRACTS FOR COLLECTION SERVICES.—  
5 Section 3718(b) of title 31, United States Code, is  
6 amended—

7 (A) in paragraph (1)(B), by inserting “and  
8 law firms that are qualified small business con-  
9 cerns located in historically underutilized busi-  
10 ness zones (as that term is defined in section  
11 3(o) of the Small Business Act)” after “dis-  
12 advantaged individuals”; and

13 (B) in paragraph (3)—

14 (i) in the first sentence, by inserting  
15 before the period “and law firms that are  
16 qualified small business concerns located in  
17 historically underutilized business zones”;

18 (ii) in subparagraph (A), by striking  
19 “and” at the end;

20 (iii) in subparagraph (B), by striking  
21 the period at the end and inserting “;  
22 and”; and

23 (iv) by adding at the end the following  
24 new subparagraph:

1           “(C) the term ‘qualified small business  
2           concern located in a historically underutilized  
3           business zone’ has the same meaning as in sec-  
4           tion 3(o) of the Small Business Act.”.

5           (2) PAYMENTS TO LOCAL GOVERNMENTS.—Sec-  
6           tion 6701(f) of title 31, United States Code, is  
7           amended—

8           (A) in paragraph (1)—

9           (i) in subparagraph (A), by striking  
10          “and” at the end;

11          (ii) in subparagraph (B), by striking  
12          the period at the end and inserting “;  
13          and”; and

14          (iii) by adding at the end the follow-  
15          ing new subparagraph:

16          “(C) qualified small business concerns lo-  
17          cated in historically underutilized business  
18          zones.”; and

19          (B) in paragraph (3)—

20          (i) in subparagraph (A), by striking  
21          “and” at the end;

22          (ii) in subparagraph (B), by striking  
23          the period at the end and inserting “;  
24          and”; and

1 (iii) by adding at the end the follow-  
2 ing new subparagraph:

3 “(C) the term ‘qualified small business  
4 concern located in a historically underutilized  
5 business zone’ has the same meaning as in sec-  
6 tion 3(o) of the Small Business Act.”.

7 (3) REGULATIONS.—Section 7505(c) of title 31,  
8 United States Code, is amended by striking “small  
9 business concerns and” and inserting “small busi-  
10 ness concerns, qualified small business concerns lo-  
11 cated in historically underutilized business zones,  
12 and”.

13 (f) OFFICE OF FEDERAL PROCUREMENT POLICY  
14 ACT.—

15 (1) ENUMERATION OF INCLUDED FUNC-  
16 TIONS.—Section 6(d) of the Office of Federal Pro-  
17 curement Policy Act (41 U.S.C. 405(d)) is amend-  
18 ed—

19 (A) in paragraph (5)(C), by inserting “and  
20 of qualified small business concerns located in  
21 historically underutilized business zones” after  
22 “other minorities”;

23 (B) in paragraph (10), by inserting “quali-  
24 fied small business concerns located in histori-  
25 cally underutilized business zones (as that term

1 is defined in section 3(o) of the Small Business  
2 Act),” after “small businesses,”; and

3 (C) in paragraph (11), by inserting “quali-  
4 fied small business concerns located in histori-  
5 cally underutilized business zones (as that term  
6 is defined in section 3(o) of the Small Business  
7 Act),” after “small businesses,”.

8 (2) PROCUREMENT DATA.—Section 19A of the  
9 Office of Federal Procurement Policy Act (41 U.S.C.  
10 417a) is amended—

11 (A) in subsection (a)—

12 (i) by inserting “the number of quali-  
13 fied small business concerns located in his-  
14 torically underutilized business zones,”  
15 after “Procurement Policy”; and

16 (ii) by inserting a comma after  
17 “women”; and

18 (B) in subsection (b), by adding at the end  
19 the following: “For purposes of this section, the  
20 term ‘qualified small business concern located  
21 in a historically underutilized business zone’ has  
22 the same meaning as in section 3(o) of the  
23 Small Business Act.”.

1 (g) ENERGY POLICY ACT OF 1992.—Section 3021 of  
2 the Energy Policy Act of 1992 (42 U.S.C. 13556) is  
3 amended—

4 (1) in subsection (a)—

5 (A) in paragraph (2), by striking “or”;

6 (B) in paragraph (3), by striking the pe-  
7 riod and inserting “; or”; and

8 (C) by adding at the end the following new  
9 paragraph:

10 “(4) qualified small business concerns located  
11 in historically underutilized business zones.”; and

12 (2) in subsection (b), by adding at the end the  
13 following new paragraph:

14 “(3) The term ‘qualified small business concern  
15 located in a historically underutilized business zone’  
16 has the same meaning as in section 3(o) of the  
17 Small Business Act.”.

18 (h) TITLE 49, UNITED STATES CODE.—

19 (1) PROJECT GRANT APPLICATION APPROVAL  
20 CONDITIONED ON ASSURANCES ABOUT AIRPORT OP-  
21 ERATION.—Section 47107(e) of title 49, United  
22 States Code, is amended—

23 (A) in paragraph (1), by inserting before  
24 the period “or qualified small business concerns  
25 located in historically underutilized business

1 zones (as that term is defined in section 3(o) of  
2 the Small Business Act)”;

3 (B) in paragraph (4)(B), by inserting be-  
4 fore the period “or as a qualified small business  
5 concern located in a historically underutilized  
6 business zone (as that term is defined in section  
7 3(o) of the Small Business Act)”; and

8 (C) in paragraph (6), by inserting “or a  
9 qualified small business concern located in a  
10 historically underutilized business zone (as that  
11 term is defined in section 3(o) of the Small  
12 Business Act)” after “disadvantaged individ-  
13 ual”.

14 (2) MINORITY AND DISADVANTAGED BUSINESS  
15 PARTICIPATION.—Section 47113 of title 49, United  
16 States Code, is amended—

17 (A) in subsection (a)—

18 (i) in paragraph (1), by striking the  
19 period at the end and inserting a semi-  
20 colon;

21 (ii) in paragraph (2), by striking the  
22 period at the end and inserting “; and”;  
23 and

24 (iii) by adding at the end the follow-  
25 ing new paragraph:

1           “(3) the term ‘qualified small business concern  
2           located in a historically underutilized business zone’  
3           has the same meaning as in section 3(o) of the  
4           Small Business Act.”; and

5           (B) in subsection (b), by inserting before  
6           the period “or qualified small business concerns  
7           located in historically underutilized business  
8           zones”.

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