

105TH CONGRESS  
1ST SESSION

# S. 208

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

JANUARY 28, 1997

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 1997”.

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:

1       “(o) DEFINITIONS RELATING TO HISTORICALLY  
2 UNDERUTILIZED BUSINESS ZONES.—In this section:

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

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

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

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

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

22           “(3) QUALIFIED AREAS.—

23           “(A) QUALIFIED CENSUS TRACT.—The  
24 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 non-  
14 metropolitan State median household in-  
15 come.

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 underuti-  
3           lized 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 under-  
16          utilized 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:

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.

1           “(B) COVERED CONTRACTS.—Subpara-  
2 graph (A) applies to a contract that is esti-  
3 mated to exceed the simplified acquisition  
4 threshold.

5           “(2) SOLE-SOURCE CONTRACTS.—

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

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

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

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

22           “(3) PRICE EVALUATION PREFERENCE IN FULL  
23 AND OPEN COMPETITIONS.—In any case in which a



1 contract is to be awarded by the head of an execu-  
2 tive agency on the basis of full and open competi-  
3 tion, the price offered by a qualified small business  
4 concern located in a historically underutilized busi-  
5 ness zone shall be deemed as being lower than the  
6 price offered by another offeror (other than another  
7 qualified small business concern located in a histori-  
8 cally underutilized business zone) if the price offered  
9 by the qualified small business concern located in a  
10 historically underutilized business zone is not more  
11 than 10 percent higher than the price offered by the  
12 other offeror.

13 “(4) RELATIONSHIP TO OTHER CONTRACTING  
14 PREFERENCES.—

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

22 “(B) SUPERIOR RELATIONSHIP.—A pro-  
23 curement may not be made from a source on  
24 the basis of a preference provided in section  
25 8(a), if the procurement would otherwise be

1           made from a different source under paragraph  
2           (1), (2), or (3) of this subsection.

3           “(5) DEFINITIONS.—In this subsection, the  
4           terms ‘executive agency’, ‘full and open competition’,  
5           and ‘simplified acquisition threshold’ have the mean-  
6           ings given such terms in section 4 of the Office of  
7           Federal Procurement Policy Act.

8           “(c) ENFORCEMENT; PENALTIES.—

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

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

14                 “(A) the filing, investigation, and disposi-  
15                 tion by the Administration of any challenge to  
16                 the eligibility of a small business concern to re-  
17                 ceive assistance under this section (including a  
18                 challenge, filed by an interested party, relating  
19                 to the veracity of a certification made by a  
20                 small business concern under section  
21                 3(o)(4)(A)); and

22                 “(B) verification by the Administrator of  
23                 the accuracy of any certification made by a  
24                 small business concern under section  
25                 3(o)(4)(A).

1           “(3) RANDOM INSPECTIONS.—The procedures  
2 established under paragraph (2) may provide for  
3 random inspections by the Administrator of any  
4 small business concern making a certification under  
5 section 3(o)(4).

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

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

19                   “(A) section 1001 of title 18, United  
20 States Code; and

21                   “(B) sections 3729 through 3733 of title  
22 31, United States Code.”.

1 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO**  
2 **THE SMALL BUSINESS ACT.**

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

5 (1) in paragraph (1)—

6 (A) in the first sentence, by striking “,,  
7 small business concerns owned and controlled  
8 by socially and economically disadvantaged indi-  
9 viduals” and inserting “, qualified small busi-  
10 ness concerns located in historically underuti-  
11 lized business zones, small business concerns  
12 owned and controlled by socially and economi-  
13 cally disadvantaged individuals”; and

14 (B) in the second sentence, by inserting  
15 “qualified small business concerns located in  
16 historically underutilized business zones,” after  
17 “small business concerns,”;

18 (2) in paragraph (3)—

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

23 (B) by adding at the end the following:

1           “(F) In this contract, the term ‘qualified small  
2 business concern located in a historically underuti-  
3 lized business zone’ has the same meaning as in sec-  
4 tion 3(o) of the Small Business Act.”;

5           (3) in paragraph (4)—

6           (A) in subparagraph (D), by inserting  
7 “qualified small business concerns located in  
8 historically underutilized business zones,” after  
9 “small business concerns,”; and

10          (B) in subparagraph (E), by striking  
11 “small business concerns and” and inserting  
12 “small business concerns, qualified small busi-  
13 ness concerns located in historically underuti-  
14 lized business zones, and”;

15          (4) in paragraph (6), by inserting “qualified  
16 small business concerns located in historically under-  
17 utilized business zones,” after “small business con-  
18 cerns,” each place that term appears; and

19          (5) in paragraph (10), by inserting “qualified  
20 small business concerns located in historically under-  
21 utilized business zones,” after “small business con-  
22 cerns,”.

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

25          (1) in subsection (g)(1)—

1 (A) by inserting “qualified small business  
2 concerns located in historically underutilized  
3 business zones,” after “small business con-  
4 cerns,” each place that term appears; and

5 (B) by inserting after the second sentence  
6 the following: “The Governmentwide goal for  
7 participation by qualified small business con-  
8 cerns located in historically underutilized busi-  
9 ness zones shall be established at not less than  
10 1 percent of the total value of all prime con-  
11 tract awards for fiscal year 1998, not less than  
12 2 percent of the total value of all prime con-  
13 tract awards for fiscal year 1999, not less than  
14 3 percent of the total value of all prime con-  
15 tract awards for fiscal year 2000, and not less  
16 than 4 percent of the total value of all prime  
17 contract awards for fiscal year 2001 and each  
18 fiscal year thereafter.”;

19 (2) in subsection (g)(2)—

20 (A) in the first sentence, by striking “,, by  
21 small business concerns owned and controlled  
22 by socially and economically disadvantaged indi-  
23 viduals” and inserting “, by qualified small

1 business concerns located in historically under-  
2 utilized business zones, by small business con-  
3 cerns owned and controlled by socially and eco-  
4 nomically disadvantaged individuals”;

5 (B) in the second sentence, by inserting  
6 “qualified small business concerns located in  
7 historically underutilized business zones,” after  
8 “small business concerns,”; and

9 (C) in the fourth sentence, by striking “by  
10 small business concerns owned and controlled  
11 by socially and economically disadvantaged indi-  
12 viduals and participation by small business con-  
13 cerns owned and controlled by women” and in-  
14 serting “by qualified small business concerns lo-  
15 cated in historically underutilized business  
16 zones, by small business concerns owned and  
17 controlled by socially and economically dis-  
18 advantaged individuals, and by small business  
19 concerns owned and controlled by women”; and

20 (3) in subsection (h), by inserting “qualified  
21 small business concerns located in historically under-  
22 utilized business zones,” after “small business con-  
23 cerns,” each place that term appears.

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

1 (1) in subsection (d)(1)—

2 (A) by inserting “, a ‘qualified small busi-  
3 ness concern located in a historically underuti-  
4 lized business zone’,” after “‘small business  
5 concern’,”; and

6 (B) in subparagraph (A), by striking “sec-  
7 tion 9 or 15” and inserting “section 9, 15, or  
8 30”; and

9 (2) in subsection (e), by inserting “, a ‘small  
10 business concern located in a historically underuti-  
11 lized business zone’,” after “‘small business con-  
12 cern’,”.

13 **SEC. 4. OTHER TECHNICAL AND CONFORMING AMEND-**  
14 **MENTS.**

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

17 (1) in subsection (a)(1)(A), by inserting before  
18 the semicolon the following: “, and qualified small  
19 business concerns located in historically underuti-  
20 lized business zones (as that term is defined in sec-  
21 tion 3(o) of the Small Business Act)”; and



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

6           (b) FEDERAL HOME LOAN BANK ACT.—Section  
7           21A(b)(13) of the Federal Home Loan Bank Act (12  
8           U.S.C. 1441a(b)(13)) is amended—

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

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

16          (c) SMALL BUSINESS ECONOMIC POLICY ACT OF  
17          1980.—Section 303(e) of the Small Business Economic  
18          Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

19          (1) in paragraph (1), by striking “and” at the  
20          end;

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

23          (3) by adding at the end the following:

24                 “(3) qualified small business concerns located  
25                 in historically underutilized business zones (as that

1 term is defined in section 3(o) of the Small Business  
2 Act).”.

3 (d) SMALL BUSINESS INVESTMENT ACT OF 1958.—

4 Section 411(c)(3)(B) of the Small Business Investment  
5 Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by in-  
6 serting before the semicolon the following: “, or to a quali-  
7 fied small business concern located in a historically under-  
8 utilized business zone, as that term is defined in section  
9 3(o) of the Small Business Act”.

10 (e) TITLE 31, UNITED STATES CODE.—

11 (1) CONTRACTS FOR COLLECTION SERVICES.—

12 Section 3718(b) of title 31, United States Code, is  
13 amended—

14 (A) in paragraph (1)(B), by inserting “and  
15 law firms that are qualified small business con-  
16 cerns located in historically underutilized busi-  
17 ness zones (as that term is defined in section  
18 3(o) of the Small Business Act)” after “dis-  
19 advantaged individuals”; and

20 (B) in paragraph (3)—

21 (i) in the first sentence, by inserting  
22 before the period “and law firms that are  
23 qualified small business concerns located in  
24 historically underutilized business zones”;

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

3 (iii) in subparagraph (B), by striking  
4 the period at the end and inserting “;  
5 and”; and

6 (iv) by adding at the end the follow-  
7 ing:

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

12 (2) PAYMENTS TO LOCAL GOVERNMENTS.—Sec-  
13 tion 6701(f) of title 31, United States Code, is  
14 amended—

15 (A) in paragraph (1)—

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

18 (ii) in subparagraph (B), by striking  
19 the period at the end and inserting “;  
20 and”; and

21 (iii) by adding at the end the follow-  
22 ing:

23 “(C) qualified small business concerns lo-  
24 cated in historically underutilized business  
25 zones.”; and

1 (B) in paragraph (3)—

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

4 (ii) in subparagraph (B), by striking  
5 the period at the end and inserting “;  
6 and”; and

7 (iii) by adding at the end the follow-  
8 ing:

9 “(C) the term ‘qualified small business  
10 concern located in a historically underutilized  
11 business zone’ has the same meaning as in sec-  
12 tion 3(o) of the Small Business Act (15 U.S.C.  
13 632(o)).”.

14 (3) REGULATIONS.—Section 7505(c) of title 31,  
15 United States Code, is amended by striking “small  
16 business concerns and” and inserting “small busi-  
17 ness concerns, qualified small business concerns lo-  
18 cated in historically underutilized business zones,  
19 and”.

20 (f) OFFICE OF FEDERAL PROCUREMENT POLICY  
21 ACT.—

22 (1) ENUMERATION OF INCLUDED FUNC-  
23 TIONS.—Section 6(d) of the Office of Federal Pro-  
24 curement Policy Act (41 U.S.C. 405(d)) is amend-  
25 ed—

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

6 (B) in paragraph (12), by inserting “quali-  
7 fied small business concerns located in histori-  
8 cally underutilized business zones (as that term  
9 is defined in section 3(o) of the Small Business  
10 Act (15 U.S.C. 632(o)),” after “small busi-  
11 nesses,”.

12 (2) PROCUREMENT DATA.—Section 19A of the  
13 Office of Federal Procurement Policy Act (41 U.S.C.  
14 417a) is amended—

15 (A) in subsection (a)—

16 (i) by inserting “the number of quali-  
17 fied small business concerns located in his-  
18 torically underutilized business zones,”  
19 after “Procurement Policy”; and

20 (ii) by inserting a comma after  
21 “women”; and

22 (B) in subsection (b), by adding at the end  
23 the following: “In this section, the term ‘quali-  
24 fied small business concern located in a histori-  
25 cally underutilized business zone’ has the same

1 meaning as in section 3(o) of the Small Busi-  
 2 ness Act (15 U.S.C. 632(o)).”.

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

6 (1) in subsection (a)—

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

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

10 (C) by adding at the end the following:

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

13 (2) in subsection (b), by adding at the end the  
 14 following:

15 “(3) The term ‘qualified small business concern  
 16 located in a historically underutilized business zone’  
 17 has the same meaning as in section 3(o) of the  
 18 Small Business Act (15 U.S.C. 632(o)).”.

19 (h) TITLE 49, UNITED STATES CODE.—

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

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

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

4 (B) in paragraph (4)(B), by inserting be-  
 5 fore the period “or as a qualified small business  
 6 concern located in a historically underutilized  
 7 business zone (as that term is defined in section  
 8 3(o) of the Small Business Act)”; and

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

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

18 (A) in subsection (a)—

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

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

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

3 “(3) the term ‘qualified small business concern  
4 located in a historically underutilized business zone’  
5 has the same meaning as in section 3(o) of the  
6 Small Business Act (15 U.S.C. 632(o)).”; and

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

○