

Union Calendar No. 249

108TH CONGRESS
2D SESSION

H.R. 2802

[Report No. 108-325, Part I]

To reauthorize the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2003

Mr. MANZULLO (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business

OCTOBER 21, 2003

Reported with an amendment and referred to the Committee on Government Reform for a period ending not later than October 31, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 31, 2003

Referral to the Committee on Government Reform extended for a period ending not later than November 7, 2003

NOVEMBER 7, 2003

Referral to the Committee on Government Reform extended for a period ending not later than November 21, 2003

NOVEMBER 21, 2003

Referral to the Committee on Government Reform extended for a period ending not later than January 31, 2004

JANUARY 31, 2004

Referral to the Committee on Government Reform extended for a period ending not later than March 2, 2004

MARCH 2, 2004

Referral to the Committee on Government Reform extended for a period
ending not later than March 8, 2004

MARCH 8, 2004

Additional sponsor: Mr. BEREUTER

MARCH 8, 2004

Committee on Government Reform discharged; committed to the Committee
of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 21, 2003]

A BILL

To reauthorize the Small Business Act and the Small
Business Investment Act of 1958, 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 *“Small Business Reauthorization and Manufacturing Revi-*
6 *talization Act of 2003”.*

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

Sec. 1. Short title; table of contents.

*TITLE I—SMALL BUSINESS INVESTMENT ACT OF 1958
AMENDMENTS AND RELATED PROVISIONS*

Sec. 101. State defined.

Sec. 102. Small manufacturer defined.

Sec. 103. Maximum participating securities rate.

Sec. 104. Maximum leverage for buying operations.

Sec. 105. Maximum aggregate amount of leverage.

Sec. 106. Investments in smaller enterprises.

Sec. 107. Actions of Administrator with respect to capital impairment.

Sec. 108. Conditions for distribution.

Sec. 109. Modification of aggregate limitation.

- Sec. 110. Notice and comment rulemaking.*
- Sec. 111. Low-income geographic area definition.*
- Sec. 112. Unmet equity investment needs of certain small manufacturers.*
- Sec. 113. Participation agreement requirement.*
- Sec. 114. Final approval requirement.*
- Sec. 115. Conditionally approved companies.*
- Sec. 116. Applications for new markets venture capital companies.*
- Sec. 117. Authorization of appropriations.*
- Sec. 118. Repeal of lease guarantee authority.*
- Sec. 119. Amendment of congressional findings relating to State development companies.*
- Sec. 120. Qualification of State development companies.*
- Sec. 121. Job requirements; definition.*
- Sec. 122. Small business concern loan limitations.*
- Sec. 123. Approval requirement.*
- Sec. 124. Effective date for termination of certain fees.*
- Sec. 125. Accredited lenders program.*
- Sec. 126. Premier certified lenders program.*
- Sec. 127. Foreclosure and liquidation of loans.*
- Sec. 128. Additions to title V.*
- Sec. 129. Regulations to carry out amendments to loan program.*
- Sec. 130. Conforming amendments.*
- Sec. 131. Development company affiliates.*

TITLE II—SMALL BUSINESS ACT AMENDMENTS AND RELATED PROVISIONS.

- Sec. 201. Short title.*
- Sec. 202. Findings; statements of policy.*
- Sec. 203. Definitions.*
- Sec. 204. Small Business Administration.*
- Sec. 205. Financial management.*
- Sec. 206. Organization and staff.*
- Sec. 207. Loan programs.*
- Sec. 208. Government contract and business development assistance for small business concerns, etc.*
- Sec. 209. Training and assistance.*
- Sec. 210. Contracting assistance; etc.*
- Sec. 211. Authorization of appropriations; etc.*
- Sec. 212. Small business development centers.*
- Sec. 213. Assignment of employees of the Office of International Trade.*
- Sec. 214. Supervisory and enforcement authority for small business lending companies.*
- Sec. 215. Reauthorization of Paul D. Coverdell drug-free workplace program.*
- Sec. 216. Women's business center program.*
- Sec. 217. HUBZone program.*
- Sec. 218. Other repeals and reorganizations.*
- Sec. 219. Rules of construction.*

TITLE III—OTHER PROVISIONS

- Sec. 301. Report regarding national database of small manufacturers.*
- Sec. 302. Workforce transformation plan.*
- Sec. 303. Repeal of certain provisions of the Disaster Relief Act of 1970.*
- Sec. 304. Regulations on size standards of franchisees.*

- Sec. 305. Temporary small business development center assistance to Indian tribe members, Native Alaskans, and Native Hawaiians.*
- Sec. 306. Temporary small business development center assistance for vocational and technical entrepreneurship development.*
- Sec. 307. Very small business concern contract data collection.*
- Sec. 308. Very small business concern pilot program for competition award to home-based business.*
- Sec. 309. Socially and economically disadvantaged business.*
- Sec. 310. Study and report on effectiveness of aggregate limitations on amount of assistance to any single enterprise.*
- Sec. 311. Study and report on coordination of new markets venture capital program with new markets tax credit program.*
- Sec. 312. Study and report on premier certified lenders program.*
- Sec. 313. Data collection capabilities.*
- Sec. 314. Resubmission of disaster loan applications for businesses affected by September 11, 2001, terrorist attacks.*
- Sec. 315. National small business incubator program.*
- Sec. 316. Report regarding effects of sale of disaster loans on borrowers.*
- Sec. 317. Suspension and extension of certain disaster loans related to the terrorist attacks of September 11, 2001.*
- Sec. 318. Definitions.*

1 **TITLE I—SMALL BUSINESS IN-**
 2 **VESTMENT ACT OF 1958**
 3 **AMENDMENTS AND RELATED**
 4 **PROVISIONS**

5 **SEC. 101. STATE DEFINED.**

6 *Paragraph (4) of section 103 of the Small Business*
 7 *Investment Act of 1958 (15 U.S.C. 662) is amended to read*
 8 *as follows:*

9 *“(4) the term ‘State’ has the meaning given such*
 10 *term in section 3 of the Small Business Act;”.*

11 **SEC. 102. SMALL MANUFACTURER DEFINED.**

12 *Section 103 of the Small Business Investment Act of*
 13 *1958 (15 U.S.C. 662) is amended—*

14 *(1) in paragraph (16), by striking “and” after*
 15 *the semicolon at the end;*

1 (2) in paragraph (17), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following new para-
4 graph:

5 “(18) the term “small manufacturer” has the
6 meaning given that term in section 3 of the Small
7 Business Act (15 U.S.C. 632).”.

8 **SEC. 103. MAXIMUM PARTICIPATING SECURITIES RATE.**

9 Section 303(g)(2) of the Small Business Investment
10 Act of 1958 (15 U.S.C. 683(g)(2)) is amended by striking
11 “1.38 percent” and inserting “1.7 percent”.

12 **SEC. 104. MAXIMUM LEVERAGE FOR BUYING OPERATIONS.**

13 Section 303(b)(2) of the Small Business Investment
14 Act of 1958 (15 U.S.C. 683(b)(2)) is amended by striking
15 subparagraphs (A) and (B) and inserting the following new
16 subparagraphs:

17 “(A) *IN GENERAL.*—The outstanding lever-
18 age made available to a licensee under section
19 301(c) shall not exceed 300 percent of private
20 capital, up to a maximum of \$115,000,000, ex-
21 cept that the maximum shall be \$150,000,000 if
22 the licensee certifies in writing that more than
23 50 percent of its aggregate dollar amount of
24 financings are in small manufacturers.

1 “(B) COMMONLY CONTROLLED LICENS-
2 EES.—

3 “(i) *In the case of 2 or more licensees*
4 *that are commonly controlled (as deter-*
5 *mined by the Administrator), upon applica-*
6 *tion to the Administrator, the outstanding*
7 *leverage made available shall not exceed*
8 *\$150,000,000, except that the maximum*
9 *shall be \$185,000,000 if the licensees certify*
10 *in writing that more than 50 percent of*
11 *their aggregate dollar amount of financings*
12 *are in small manufacturers. The Adminis-*
13 *trator shall have 10 business days to ap-*
14 *prove or disapprove an application under*
15 *the preceding sentence. Approval or dis-*
16 *approval is final agency action for purposes*
17 *of chapter 7 of title 5, United States Code.*

18 “(ii) *Not later than 120 days after the*
19 *enactment of this subparagraph, the Adminis-*
20 *trator shall prescribe regulations pro-*
21 *viding standards and conditions for in-*
22 *creases in leverage, including the standards*
23 *for determining common control of licensees.*

24 “(iii) *Until regulations are prescribed*
25 *under clause (ii), the Administrator shall*

1 *approve the application of each commonly*
2 *controlled licensee under the definition of*
3 *common control in section 107.50 of title*
4 *13, Code of Federal Regulations, as in effect*
5 *on January 1, 2003.”.*

6 **SEC. 105. MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.**

7 *Section 303(b) of the Small Business Investment Act*
8 *of 1958 (15 U.S.C. 683(b)) is amended by striking para-*
9 *graph (4).*

10 **SEC. 106. INVESTMENTS IN SMALLER ENTERPRISES.**

11 *Sections 303(d) of the Small Business Investment Act*
12 *of 1958 (15 U.S.C. 683(d)) is amended to read as follows:*

13 *“(d) INVESTMENTS IN SMALLER ENTERPRISES.—As a*
14 *condition of approval of an application for leverage, the Ad-*
15 *ministrator shall require a licensee to certify in writing*
16 *that not less than 25 percent of the licensee’s aggregate dol-*
17 *lar amount of financings will be provided to smaller enter-*
18 *prises.”.*

19 **SEC. 107. ACTIONS OF ADMINISTRATOR WITH RESPECT TO**
20 **CAPITAL IMPAIRMENT.**

21 *Section 303(e) of the Small Business Investment Act*
22 *of 1958 (15 U.S.C. 683(e)) is amended—*

23 (1) *by striking “and” at the end of paragraph*
24 (1);

1 (2) *by striking the period at the end of para-*
2 *graph (2) and inserting “; and”; and*

3 (3) *by adding at the end the following new para-*
4 *graphs:*

5 “(3) *shall not, for reasons of capital impairment,*
6 *restrict the operations of the licensee or direct the use*
7 *of the licensee’s capital to any purpose other than the*
8 *purposes for which the license was granted; and*

9 “(4) *notwithstanding paragraph (3), may take*
10 *action to restrict the operations of, or liquidate a li-*
11 *cencee for failure to comply with any other provision*
12 *of the law or regulation promulgated pursuant to this*
13 *Act.”.*

14 **SEC. 108. CONDITIONS FOR DISTRIBUTION.**

15 *Sections 303(g)(9) of the Small Business Investment*
16 *Act of 1958 (15 U.S.C. 683(g)(9)) is amended to read as*
17 *follows:*

18 “(9)(A) *Subject to subparagraphs (B), (C), and*
19 *(D), after making distributions under paragraph (8),*
20 *a company with outstanding participating securities*
21 *may distribute the balance of income to its investors,*
22 *if there are no accumulated and unpaid prioritized*
23 *payments.*

24 “(B) *Amounts received by the Administration*
25 *under this paragraph and paragraph 8 shall be ap-*

1 *plied first as prepayment of the principal amount of*
2 *the outstanding participating securities or debentures*
3 *of the company at the time of such distribution and*
4 *then to the allocation under paragraph (11).*

5 *“(C) Distributions under this paragraph shall be*
6 *made to private investors and to the Administration*
7 *in the ratio of private capital to leverage as of the*
8 *day before the distribution until the outstanding par-*
9 *ticipating securities or debentures of the company are*
10 *paid in full, after which any remaining distributions*
11 *under this paragraph shall be made to private inves-*
12 *tors and to the Administration in the ratio that is*
13 *provided for the allocation of profits in paragraph*
14 *(11).*

15 *“(D) The Administrator shall prescribe such reg-*
16 *ulations as are required to assure that management*
17 *fees for the company are not unreasonably reduced*
18 *due to a reduction in combined capital as a result of*
19 *distributions made under this paragraph.”.*

20 **SEC. 109. MODIFICATION OF AGGREGATE LIMITATION.**

21 *Section 306(a) of the Small Business Investment Act*
22 *of 1958 (15 U.S.C. 686(a)) is amended by inserting “(and*
23 *not including any obligations or securities issued under sec-*
24 *tion 7(a) of the Small Business Act or title V of this Act)”*
25 *after “under the provisions of this title”.*

1 **SEC. 110. NOTICE AND COMMENT RULEMAKING.**

2 *Section 308(c) of the Small Business Investment Act*
3 *of 1958 (15 U.S.C. 687) is amended by adding at the end*
4 *the following: “Any rules or regulations issued under this*
5 *Act, other than those relating to agency management or per-*
6 *sonnel, shall be issued pursuant to section 553(b) of title*
7 *5, United States Code.”.*

8 **SEC. 111. LOW-INCOME GEOGRAPHIC AREA DEFINITION.**

9 *(a) IN GENERAL.—Section 351(3)(A)(ii)(I) of the*
10 *Small Business Investment Act of 1958 (15 U.S.C.*
11 *689(3)(A)(ii)(I)) is amended by striking “50 percent” and*
12 *all that follows through the end and inserting “the median*
13 *family income in that tract does not exceed 80 percent of*
14 *the greater of statewide median family income or the metro-*
15 *politan area median family income; or”.*

16 *(b) APPLICATION OF AMENDED DEFINITION.—The def-*
17 *inition of low-income geographic area in section 351(3) of*
18 *the Small Business Investment Act of 1958 (15 U.S.C.*
19 *689(3)), as amended by subsection (a), shall apply to pri-*
20 *vate capital raised under section 354(d)(1) of the Small*
21 *Business Investment Act of 1958 (15 U.S.C. 689c(d)(1)) be-*
22 *fore, on, or after the effective date of the amendment made*
23 *by subsection (a).*

1 **SEC. 112. UNMET EQUITY INVESTMENT NEEDS OF CERTAIN**
2 **SMALL MANUFACTURERS.**

3 *Section 352(2) of the Small Business Investment Act*
4 *of 1958 (15 U.S.C. 689a(2)) is amended by inserting after*
5 *“small enterprises” the following: “and small manufactur-*
6 *ers”.*

7 **SEC. 113. PARTICIPATION AGREEMENT REQUIREMENT.**

8 *Section 353(1) of the Small Business Investment Act*
9 *of 1958 (15 U.S.C. 689b(1)) is amended by inserting after*
10 *“section 352” the following: “(with at least one such agree-*
11 *ment to be with a company engaged primarily in develop-*
12 *ment of and investment in small manufacturers)”.*

13 **SEC. 114. FINAL APPROVAL REQUIREMENT.**

14 *Section 354(d) of the Small Business Investment Act*
15 *of 1958 (15 U.S.C. 689c(d)) is amended, in the matter be-*
16 *fore paragraph (1), by striking “a period of time, not to*
17 *exceed 2 years,” and inserting “2 years”.*

18 **SEC. 115. CONDITIONALLY APPROVED COMPANIES.**

19 *Section 358(a) of the Small Business Investment Act*
20 *of 1958 (15 U.S.C. 689(a)) is amended by adding at the*
21 *end the following new paragraphs:*

22 *“(6) GRANTS TO CONDITIONALLY APPROVED COM-*
23 *PANIES.—Upon the request of a company condi-*
24 *tionally-approved under section 354(c), the Adminis-*
25 *trator shall provide up to \$50,000 in grant assistance*

1 *for establishment of an operational assistance pro-*
2 *gram under this title.*

3 “(7) *REPAYMENT.*—*If a company receives a*
4 *grant under paragraph (6) and does not enter into a*
5 *participation agreement for final approval, the com-*
6 *pany shall repay the amount of the grant to the Ad-*
7 *ministrator.*

8 “(8) *DEDUCTION.*—*If a company receives a*
9 *grant under paragraph (6) and receives final ap-*
10 *proval under section 354(e), the Administrator shall*
11 *deduct the amount of the grant under that paragraph*
12 *from the total grant amount that the company re-*
13 *ceives for operational assistance.”.*

14 **SEC. 116. APPLICATIONS FOR NEW MARKETS VENTURE CAP-**
15 **ITAL COMPANIES.**

16 *Not later than 60 days after the date of the enactment*
17 *of this section, the Administrator shall prescribe standard*
18 *documents for final New Markets Venture Capital Company*
19 *approval application under section 354(e) of the Small*
20 *Business Investment Act of 1958 (15 U.S.C. 689c(e)). The*
21 *Administrator shall assure that the standard documents*
22 *shall be designed to substantially reduce the cost burden of*
23 *the application process on the companies involved.*

1 **SEC. 117. AUTHORIZATION OF APPROPRIATIONS.**

2 *Section 368(a) of the Small Business Investment Act*
3 *of 1958 (15 U.S.C. 689q(a)) is amended—*

4 *(1) in the matter before paragraph (1) by strik-*
5 *ing “fiscal years 2001 through 2006” and inserting*
6 *“fiscal years 2004 and 2005”;*

7 *(2) in paragraph (1), by striking*
8 *“\$150,000,000” and inserting “\$75,000,000”; and*

9 *(3) in paragraph (2), by striking “\$30,000,000”*
10 *and inserting “\$15,000,000”.*

11 **SEC. 118. REPEAL OF LEASE GUARANTEE AUTHORITY.**

12 *(a) REPEAL.—Sections 401, 402, and 404 of the Small*
13 *Business Investment Act of 1958 (15 U.S.C. 692, 693, and*
14 *694-1) are hereby repealed.*

15 *(b) APPLICATION TO OUTSTANDING GUARANTEES.—*
16 *The repeals made by subsection (a) shall not affect the*
17 *rights, powers, duties, or obligations of the Administrator*
18 *or any other person with respect to any guarantee made*
19 *under section 401 or 404 of the Small Business Investment*
20 *Act of 1958 on or before the date of the enactment of this*
21 *Act.*

22 **SEC. 119. AMENDMENT OF CONGRESSIONAL FINDINGS RE-**
23 **LATING TO STATE DEVELOPMENT COMPA-**
24 **NIES.**

25 *Section 501(a) of the Small Business Investment Act*
26 *of 1958 (15 U.S.C. 695(a)) is amended by striking “pur-*

1 pose” and all that follows through “areas” and inserting
2 the following: “purposes of this title are to foster economic
3 development and create or preserve job opportunities in both
4 urban and rural areas, and to enhance the ability of Amer-
5 ica’s small manufacturers to expand”.

6 **SEC. 120. QUALIFICATION OF STATE DEVELOPMENT COM-**
7 **PANIES.**

8 *Section 501(d) of the Small Business Investment Act*
9 *of 1958 (15 U.S.C. 695(d)) is amended—*

10 *(1) in paragraph (2), by inserting after “area,”*
11 *the following: “increasing the productive capacity of*
12 *small manufacturers,”;*

13 *(2) in paragraph (3) by striking subparagraph*
14 *(D) and inserting the following:*

15 *“(D) development in a community with a*
16 *population of less than 50,000 that is not located*
17 *within a standard metropolitan statistical*
18 *area,”; and*

19 *(3) by striking the sentence beginning “If eligi-*
20 *bility” after subparagraph (H) of paragraph (3).*

21 **SEC. 121. JOB REQUIREMENTS; DEFINITION.**

22 *Section 501 of the Small Business Investment Act of*
23 *1958 (15 U.S.C. 695) is amended by adding at the end the*
24 *following new subsection:*

1 “(e)(1) A project meets the objective set forth in sub-
2 section (d)(1) if the project creates or retains one job for
3 every \$50,000 guaranteed by the Administration, except
4 that the amount is \$100,000 in the case of a project of a
5 small manufacturer.

6 “(2) Paragraph (1) does not apply to a project for
7 which eligibility is based on the objectives set forth in para-
8 graph (2) or (3) of subsection (d), if the development com-
9 pany’s portfolio of outstanding debentures creates or retains
10 one job for every \$50,000 guaranteed by the Administration.

11 “(3) For projects in Alaska, Hawaii, State-designated
12 enterprise zones, empowerment zones and enterprise com-
13 munities, labor surplus areas, as determined by the Sec-
14 retary of Labor, and for other areas designated by the Ad-
15 ministrator, the development company’s portfolio may aver-
16 age not more than \$75,000 per job created or retained.

17 “(4) Loans for projects of small manufacturers shall
18 be excluded from calculations under paragraph (2) or (3).

19 “(5) Under regulations prescribed by the Adminis-
20 trator, the Administrator may waive any requirement of
21 this subsection (other than paragraph (4)).”.

22 **SEC. 122. SMALL BUSINESS CONCERN LOAN LIMITATIONS.**

23 Section 502(2) of the Small Business Investment Act
24 of 1958 (15 U.S.C. 696(2)) is amended—

1 (1) by striking “\$1,000,000” and inserting
2 “\$2,000,000”;

3 (2) by striking “\$1,300,000” and inserting
4 “\$2,500,000”; and

5 (3) by inserting after “small business concern”
6 the last place it appears the following: “and loans to
7 small manufacturers shall be limited to \$4,000,000
8 and loans under this section shall not be limited by
9 reason of any loan guaranteed by the Administration
10 under section 7(a) of the Small Business Act (15
11 U.S.C. 636(a))”.

12 **SEC. 123. APPROVAL REQUIREMENT.**

13 Section 503(b) of the Small Business Investment Act
14 of 1958 (15 U.S.C. 697(b)) is amended by striking para-
15 graph (6) and inserting the following:

16 “(6) except as provided in section 508, the Ad-
17 ministration approves each loan to be made from
18 such proceeds in accordance with section 512, (but
19 such approval shall not require a small business in-
20 vestment company licensed under title III of this Act
21 to guarantee a loan without regard to its ownership
22 percentage of the borrower); and”.

1 **SEC. 124. EFFECTIVE DATE FOR TERMINATION OF CERTAIN**
2 **FEES.**

3 *Section 503(f) of the Small Business Investment Act*
4 *of 1958 (15 U.S.C. 697(f)) is amended by striking “2003”*
5 *and inserting “2005”.*

6 **SEC. 125. ACCREDITED LENDERS PROGRAM.**

7 *Section 507 of the Small Business Investment Act of*
8 *1958 (15 U.S.C. 697d) is amended—*

9 *(1) in subsection (b)(1), by inserting “and” after*
10 *the semicolon at the end;*

11 *(2) in subsection (b), by striking paragraphs (2)*
12 *through (6) and inserting the following:*

13 *“(2) has a loan default rate, as determined by*
14 *the Bureau of Premier Certified Lenders Program*
15 *Oversight, that is—*

16 *“(A) less than the national average;*

17 *“(B) one percent higher than the national*
18 *average, if at least 20 percent of the development*
19 *company’s portfolio is for projects in areas re-*
20 *ferred to in section 501(e)(3); or*

21 *“(C) two percent higher than the national*
22 *average, if at least 30 percent of the development*
23 *company’s portfolio is for projects of small man-*
24 *ufacturers.”;*

25 *(3) by striking subsection (c); and*

1 (4) in subsection (d)(1), by striking “that—”
2 and all that follows through the end and inserting:
3 “that the development company has not continued to
4 meet the requirements of subsection (b).”.

5 **SEC. 126. PREMIER CERTIFIED LENDERS PROGRAM.**

6 Section 508 of the Small Business Investment Act of
7 1958 (15 U.S.C. 697e) is amended to read as follows:

8 **“SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM.**

9 “(a) *ESTABLISHMENT.*—The Administrator may es-
10 tablish a Premier Certified Lenders Program for qualified
11 State and local development companies that meet the re-
12 quirements of subsection (b).

13 “(b) *REQUIREMENTS.*—

14 “(1) *APPLICATION.*—To be eligible to participate
15 in the Premier Certified Lenders Program established
16 under subsection (a), a qualified State and local de-
17 velopment company shall prepare and submit to the
18 Administrator an application at such time, in such
19 manner, and containing such information as the Ad-
20 ministrator may require.

21 “(2) *DESIGNATION.*—The Administrator may
22 designate a qualified State and local development
23 company as a premier certified lender—

24 “(A) if the company is an active qualified
25 State and local development company in good

1 *standing and has been an active participant in*
2 *the accredited lenders program during the entire*
3 *12-month period preceding the date on which the*
4 *company submits an application under para-*
5 *graph (1), except that the Administrator may*
6 *waive this requirement if the company is quali-*
7 *fied to participate in the accredited lenders pro-*
8 *gram;*

9 “(B) if the company has a history of—

10 “(i) submitting to the Administrator
11 adequately analyzed debenture guarantee
12 application packages; and

13 “(ii) of properly closing section 504
14 loans and servicing its loan portfolio;

15 “(C) if the company agrees to assume and
16 to reimburse the Administration for 10 percent
17 of any loss sustained by the Administration as
18 a result of default by the company in the pay-
19 ment of principal or interest on a debenture
20 issued by such company and guaranteed by the
21 Administrator under this section (15 percent in
22 the case of any such loss attributable to a deben-
23 ture issued by the company during any period
24 for which an election is in effect under subsection
25 (c)(7) for such company); and

1 “(D) the Administrator determines, with re-
2 spect to the company, that the loss reserve estab-
3 lished in accordance with subsection (c) is suffi-
4 cient for the company to meet its obligations to
5 protect the Federal Government from risk of loss.

6 “(3) *APPLICABILITY OF CRITERIA AFTER DES-*
7 *IGNATION.*—The Administrator may revoke the des-
8 ignation of a qualified State and local development
9 company as a premier certified lender under this sec-
10 tion at any time, if the Administrator determines
11 that the qualified State and local development com-
12 pany does not meet any requirement described in sub-
13 paragraphs (A) through (D) of paragraph (2).

14 “(c) *LOSS RESERVE.*—

15 “(1) *ESTABLISHMENT.*—A company designated
16 as a premier certified lender shall establish a loss re-
17 serve for financing approved pursuant to this section.

18 “(2) *AMOUNT.*—The amount of each loss reserve
19 established under paragraph (1) shall be 10 percent of
20 the amount of the company’s exposure, as determined
21 under subsection (b)(2)(C).

22 “(3) *ASSETS.*—Each loss reserve established
23 under paragraph (1) shall be comprised of—

24 “(A) segregated funds on deposit in an ac-
25 count or accounts with a federally insured depos-

1 *itory institution or institutions selected by the*
2 *company, subject to a collateral assignment in*
3 *favor of, and in a format acceptable to, the Ad-*
4 *ministrator;*

5 *“(B) irrevocable letter or letters of credit,*
6 *with a collateral assignment in favor of, and a*
7 *commercially reasonable format acceptable to,*
8 *the Administrator; or*

9 *“(C) any combination of the assets described*
10 *in subparagraphs (A) and (B).*

11 *“(4) CONTRIBUTIONS.—The company shall make*
12 *contributions to the loss reserve, either cash or letters*
13 *of credit as provided above, in the following amounts*
14 *and at the following intervals:*

15 *“(A) 50 percent when a debenture is closed.*

16 *“(B) 25 percent additional not later than 1*
17 *year after a debenture is closed.*

18 *“(C) 25 percent additional not later than 2*
19 *years after a debenture is closed.*

20 *“(5) REPLENISHMENT.—If a loss has been sus-*
21 *tained by the Administration, any portion of the loss*
22 *reserve, and other funds provided by the premier com-*
23 *pany as necessary, may be used to reimburse the Ad-*
24 *ministrator for the premier company’s 10 percent*
25 *share of the loss as provided in subsection (b)(2)(C).*

1 *If the company utilizes the reserve, within 30 days it*
2 *shall replace an equivalent amount of funds.*

3 *“(6) DISBURSEMENTS.—The Administrator shall*
4 *allow the qualified State and local development com-*
5 *pany to withdraw from the loss reserve such amounts*
6 *as are in excess of 1 percent of the aggregate out-*
7 *standing balances of debentures to which such loss re-*
8 *serve relates. The preceding sentence shall not apply*
9 *with respect to any debenture before 100 percent of*
10 *the contribution described in paragraph (4) with re-*
11 *spect to such debenture has been made.*

12 *“(7) ALTERNATIVE LOSS RESERVE.—*

13 *“(A) ELECTION.—With respect to any eligi-*
14 *ble calendar quarter, a qualified high loss reserve*
15 *premier certified lender may elect to have the re-*
16 *quirements of this paragraph apply in lieu of the*
17 *requirements of paragraphs (2) and (4) for that*
18 *quarter.*

19 *“(B) CONTRIBUTIONS.—*

20 *“(i) ORDINARY RULES INAPPLI-*
21 *CABLE.—Except as provided under clause*
22 *(ii) and paragraph (5), a qualified high loss*
23 *reserve premier certified lender that makes*
24 *the election described in subparagraph (A)*
25 *with respect to a calendar quarter shall not*

1 *be required to make contributions to its loss*
2 *reserve during that quarter.*

3 “(ii) *BASED ON LOSS.—A qualified*
4 *high loss reserve premier certified lender*
5 *that makes the election described in sub-*
6 *paragraph (A) with respect to a calendar*
7 *quarter shall, before the last day of that*
8 *quarter, make such contributions to its loss*
9 *reserve as are necessary to ensure that the*
10 *amount of the loss reserve of the lender—*

11 “(I) *is not less than \$100,000;*

12 *and*

13 “(II) *is sufficient, as determined*
14 *by a qualified independent auditor, for*
15 *the lender to meet its obligations to*
16 *protect the Government from risk of*
17 *loss.*

18 “(iii) *CERTIFICATION.—Before the end*
19 *of a calendar quarter for which an election*
20 *is in effect under subparagraph (A), the*
21 *head of the premier certified lender shall*
22 *submit to the Administrator a certification*
23 *that the loss reserve of the lender is suffi-*
24 *cient to meet the lender’s obligation to pro-*
25 *tect the Government from risk of loss. The*

1 *certification shall be submitted in such form*
2 *and manner as the Administrator may re-*
3 *quire and shall be signed by the head of the*
4 *lender and by the auditor making the deter-*
5 *mination under clause (ii)(II).*

6 “(C) *DISBURSEMENTS.*—

7 “(i) *ORDINARY RULE INAPPLICABLE.*—
8 *Paragraph (6) shall not apply with respect*
9 *to any qualified high loss reserve premier*
10 *certified lender for any calendar quarter for*
11 *which an election is in effect under sub-*
12 *paragraph (A).*

13 “(ii) *EXCESS FUNDS.*—*At the end of*
14 *each calendar quarter for which an election*
15 *is in effect under subparagraph (A), the Ad-*
16 *ministrator shall allow the qualified high*
17 *loss reserve premier certified lender to with-*
18 *draw from its loss reserve the excess of—*

19 “(I) *the amount of the loss reserve,*

20 *over*

21 “(II) *the greater of \$100,000 or*
22 *the amount which is determined under*
23 *subparagraph (B)(ii) to be sufficient to*
24 *meet the lender’s obligation to protect*
25 *the Government from risk of loss.*

1 “(D) *RECONTRIBUTION.*—If the require-
2 ments of this paragraph apply to a qualified
3 high loss reserve premier certified lender for a
4 calendar quarter and cease to apply to that lend-
5 er for any subsequent calendar quarter, the lend-
6 er shall make a contribution to its loss reserve in
7 such amount as the Administrator may require,
8 except that the amount shall not exceed the
9 amount which would result in the total amount
10 in the loss reserve being equal to the amount
11 which would have been in the loss reserve had
12 this paragraph never applied to the lender. The
13 Administrator may require that the contribution
14 be made as a single payment or as a series of
15 payments.

16 “(E) *RISK MANAGEMENT.*—If a qualified
17 high loss reserve premier certified lender fails to
18 meet the requirement of subparagraph (F)(iii)
19 during any period for which an election is in ef-
20 fect under subparagraph (A) and the failure con-
21 tinues for 180 days, the requirements of para-
22 graphs (2), (4), and (6) shall apply to the lender
23 as of the end of the 180-day period and the lend-
24 er shall make the contribution described in sub-

1 *paragraph (D). The Administrator may waive*
2 *the requirements of this subparagraph.*

3 “(F) *QUALIFIED HIGH LOSS RESERVE PRE-*
4 *MIER CERTIFIED LENDER.—The term ‘qualified*
5 *high loss reserve premier certified lender’ means,*
6 *with respect to a calendar year, a premier cer-*
7 *tified lender so designated by the Administrator*
8 *for that year. The Administrator shall not des-*
9 *ignate a company under the preceding sentence*
10 *unless the Administrator determines that—*

11 “(i) *the amount of the loss reserve of*
12 *the company is not less than \$100,000;*

13 “(ii) *the company has established and*
14 *is utilizing an appropriate and effective*
15 *process for analyzing the risk of loss associ-*
16 *ated with its portfolio of Premier Certified*
17 *Lenders Program loans and for grading*
18 *each Premier Certified Lenders Program*
19 *loan made by the company on the basis of*
20 *the risk of loss associated with such loan;*
21 *and*

22 “(iii) *the company meets or exceeds 4*
23 *or more of the specified risk management*
24 *benchmarks as of the most recent assessment*
25 *by the Administration or the Administrator*

1 *has issued a waiver with respect to the re-*
2 *quirement of this clause.*

3 “(G) *SPECIFIED RISK MANAGEMENT BENCH-*
4 *MARKS.—For purposes of this paragraph, the*
5 *term ‘specified risk management benchmarks’*
6 *means the following rates, as determined by the*
7 *Administrator:*

8 “(i) *Currency rate.*

9 “(ii) *Delinquency rate.*

10 “(iii) *Default rate.*

11 “(iv) *Liquidation rate.*

12 “(v) *Loss rate.*

13 “(H) *QUALIFIED INDEPENDENT AUDITOR.—*
14 *For purpose of this paragraph, the term ‘quali-*
15 *fied independent auditor’ means an auditor*
16 *who—*

17 “(i) *is compensated by the qualified*
18 *high loss reserve premier certified lender;*

19 “(ii) *is independent of the lender; and*

20 “(iii) *has been approved by the Ad-*
21 *ministrator during the preceding year.*

22 “(I) *PREMIER CERTIFIED LENDERS PRO-*
23 *GRAM LOAN.—For purposes of this paragraph,*
24 *the term ‘Premier Certified Lenders Program*

1 *loan’ means a loan guaranteed under this sec-*
2 *tion.*

3 “(J) *ELIGIBLE CALENDAR QUARTER.*—*For*
4 *purposes of this paragraph, the term ‘eligible cal-*
5 *endar quarter’ means—*

6 “(i) *the first calendar quarter that be-*
7 *gins after the end of the 90-day period be-*
8 *ginning with the date of the enactment of*
9 *this paragraph; and*

10 “(ii) *the 7 succeeding calendar quar-*
11 *ters.*

12 “(K) *REGULATIONS.*—*Not later than 60*
13 *days after the date of the enactment of this para-*
14 *graph, the Administrator shall publish in the*
15 *Federal Register and transmit to the Congress*
16 *regulations to carry out this paragraph. Such*
17 *regulations shall include provisions relating to—*

18 “(i) *the approval of auditors under*
19 *subparagraph (H); and*

20 “(ii) *the designation of qualified high*
21 *loss reserve premier certified lenders under*
22 *subparagraph (F), including the determina-*
23 *tion of whether a process for analyzing risk*
24 *of loss is appropriate and effective for pur-*
25 *poses of subparagraph (F)(ii).*

1 “(8) *BUREAU OF PREMIER CERTIFIED LENDERS*
2 *PROGRAM OVERSIGHT.*—

3 “(A) *ESTABLISHMENT.*—*There is hereby es-*
4 *tablished in the Administration a bureau to be*
5 *known as the Bureau of Premier Certified Lend-*
6 *ers Program Oversight, within the Office of*
7 *Lender Oversight established pursuant to section*
8 *6 of the Small Business Act.*

9 “(B) *PURPOSE.*—*The Bureau shall carry*
10 *out such functions under this subsection as the*
11 *Administrator may designate. The functions of*
12 *the Bureau under the preceding sentence may*
13 *not be delegated to a district director or any*
14 *other employee assigned to a district office or re-*
15 *gional office established by the Administrator*
16 *under section 4 of the Small Business Act (15*
17 *U.S.C. 633).*

18 “(C) *DEADLINE.*—*Not later than 90 days*
19 *after the date of the enactment of this para-*
20 *graph—*

21 “(i) *the Administrator shall ensure*
22 *that the Bureau is prepared to carry out the*
23 *functions designated under subparagraph*
24 *(B), and*

1 “(ii) the Inspector General of the Ad-
2 ministration shall report to the Congress on
3 the preparedness of the Bureau to carry out
4 such functions.

5 “(D) If the Administrator does not comply
6 with subparagraph (C)(i), the certifications re-
7 quired under this section shall be deemed ap-
8 proved until the date of compliance. Certifi-
9 cations so deemed approved shall continue in ef-
10 fect notwithstanding any later compliance with
11 that subparagraph.

12 “(d) SALE OF CERTAIN DEFAULTED LOANS.—

13 “(1) NOTICE.—If, upon default in repayment,
14 the Administrator acquires a loan guaranteed under
15 this section and identifies such loan for inclusion in
16 a bulk asset sale of defaulted or repurchased loans or
17 other financings, it shall give prior notice thereof to
18 any qualified State and local development company
19 which has a contingent liability under this section.
20 The notice shall be given to the company as soon as
21 possible after the financing is identified, but not less
22 than 90 days before the date the Administrator first
23 makes any records on such financing available for ex-
24 amination by prospective purchasers prior to its of-
25 fering in a package of loans for bulk sale.

1 “(2) *LIMITATIONS.*—*The Administrator shall not*
2 *offer any loan described in paragraph (1) as part of*
3 *a bulk sale unless it—*

4 “(A) *provides prospective purchasers with*
5 *the opportunity to examine the Administrator’s*
6 *records with respect to such loan; and*

7 “(B) *provides the notice required by para-*
8 *graph (1).*

9 “(e) *LOAN APPROVAL AUTHORITY.*—

10 “(1) *IN GENERAL.*—*Notwithstanding section*
11 *503(b)(6), and subject to such terms and conditions as*
12 *the Administrator may establish, the Administrator*
13 *may permit a company designated as a premier cer-*
14 *tified lender under this section to approve, authorize,*
15 *close, service, foreclose, litigate (except that the Ad-*
16 *ministrator may monitor the conduct of any such liti-*
17 *gation to which a premier certified lender is a party),*
18 *and liquidate loans that are funded with the proceeds*
19 *of a debenture issued by such company and may au-*
20 *thorize the guarantee of such debenture.*

21 “(2) *SCOPE OF REVIEW.*—*The approval of a loan*
22 *by a premier certified lender shall be subject to final*
23 *approval as to eligibility of any guarantee by the Ad-*
24 *ministrator pursuant to section 503(a), but such final*
25 *approval shall not include review of decisions by the*

1 *lender involving creditworthiness, loan closing, or*
2 *compliance with legal requirements imposed by law*
3 *or regulation.*

4 “(f) *REVIEW.*—*After the issuance and sale of debentures under this section, the Administrator, at intervals not*
5 *greater than 12 months, shall review the financings made*
6 *by each premier certified lender. The review shall include*
7 *the lender’s credit decisions and general compliance with*
8 *the eligibility requirements for each financing approved*
9 *under the program authorized under this section. The Ad-*
10 *ministrator shall consider the findings of the review in car-*
11 *rying out its responsibilities under subsection (g), but such*
12 *review shall not affect any outstanding debenture guar-*
13 *antee.*

15 “(g) *SUSPENSION OR REVOCATION.*—*The designation*
16 *of a qualified State and local development company as a*
17 *premier certified lender may be suspended or revoked if the*
18 *Administrator determines that the company—*

19 “(1) *has not continued to meet the criteria for*
20 *eligibility under subsection (b);*

21 “(2) *has not established or maintained the loss*
22 *reserve required under subsection (c);*

23 “(3) *is failing to adhere to the Administrator’s*
24 *rules and regulations; or*

1 “(4) is violating any other applicable provision
2 of law.

3 “(h) *EFFECT OF SUSPENSION OR REVOCATION.*—A
4 suspension or revocation under subsection (g) shall not af-
5 fect any outstanding debenture guarantee.

6 “(i) *PROGRAM GOALS.*—Each qualified State and
7 local development company participating in the program
8 under this section shall establish a goal of processing a min-
9 imum of not less than 50 percent of the loan applications
10 for assistance under section 504 pursuant to the program
11 authorized under this section.

12 “(j) *REPORT.*—The Administrator shall annually re-
13 port to the Committee on Small Business of the House of
14 Representatives and the Committee on Small Business and
15 Entrepreneurship of the Senate on the implementation of
16 this section. Each report shall include—

17 “(1) the number of qualified State and local de-
18 velopment companies designated as premier certified
19 lenders;

20 “(2) the debenture guarantee volume of such
21 companies;

22 “(3) a comparison of the loss rate for premier
23 certified lenders to the loss rate for accredited and
24 other lenders, specifically comparing default rates and
25 recovery rates on liquidations; and

1 “(4) such other information as the Administrator
2 deems appropriate.”.

3 (b) *EFFECTIVE DATE.*—Section 508(c)(6) of the Small
4 *Business Investment Act of 1958* (as amended by subsection
5 (a)) shall apply to withdrawals after the end of the 90-day
6 period beginning on the date of the enactment of this Act.

7 **SEC. 127. FORECLOSURE AND LIQUIDATION OF LOANS.**

8 Section 510 of the *Small Business Investment Act of*
9 *1958* (15 U.S.C. 697g) is amended—

10 (1) in subsection (a), by striking “that meets the
11 eligibility requirements of subsection (b)(1)”; and

12 (2) by striking subsection (b) and all that follows
13 through the end of such section and inserting the fol-
14 lowing new subsections:

15 “(b) *ELECTION BY QUALIFIED STATE OR LOCAL DE-*
16 *VELOPMENT COMPANY.*—

17 “(1) A qualified State or local development com-
18 pany shall be eligible for the delegation of authority
19 under subsection (a) if such company elects to accept
20 such delegation during the 90-day period beginning
21 on the date of the enactment of this subsection.

22 “(2) One year after the date of the initial elec-
23 tion, and annually thereafter by a date specified by
24 the Administrator, a qualified State or local develop-

1 *ment company may make a new election to accept the*
2 *delegation under subsection (a).*

3 *“(3) An election under this subsection shall*
4 *apply to all loans in the portfolio involved. An elec-*
5 *tion made in a subsequent year does not terminate*
6 *any foreclosure or liquidation under a previous elec-*
7 *tion.*

8 *“(c) SCOPE OF DELEGATED AUTHORITY.—*

9 *“(1) Each qualified State or local development*
10 *company that makes an election under subsection (b)*
11 *shall perform all functions related to liquidation and*
12 *foreclosure without obtaining prior approval of the*
13 *Administrator.*

14 *“(2) Not later than 5 calendar days after exer-*
15 *cising delegated authority with respect to a specific*
16 *loan, the qualified State or local development com-*
17 *pany shall report to the Administrator the actions*
18 *that the company proposes to take with respect to the*
19 *loan.*

20 *“(3) The Administrator may prohibit an action*
21 *proposed under paragraph (2) by so notifying the*
22 *company in writing. The notification shall state the*
23 *reasons for the prohibition, including a detailed ex-*
24 *planation of how the proposed actions—*

1 “(A) will have a serious adverse effect on
2 management of the Administration’s activities
3 under this title; or

4 “(B) will affect the legal rights of the Ad-
5 ministration or other agencies or instrumental-
6 ities of the United States.

7 “(4) A prohibition under paragraph (3) shall
8 apply only to the loan involved and shall not affect
9 any other delegation.

10 “(d) *PURCHASE OF INDEBTEDNESS.*—A qualified
11 State or local development company may not commit the
12 Administration to the purchase of additional indebtedness
13 secured by property that is the subject of a defaulted loan
14 without the written approval of the Administrator. The Ad-
15 ministrator shall have 7 calendar days in which to act on
16 a request for approval for such an additional purchase. Ac-
17 tion by the Administrator under this subsection shall have
18 no other effect on the delegation of authority exercised by
19 the qualified State or local development company.

20 “(e) *FORECLOSURE AND LIQUIDATION BY ADMINIS-*
21 *TRATOR.*—

22 “(1) The Administrator shall issue contracts to
23 foreclose or liquidate loans made during any year for
24 which a qualified State or local development company
25 did not make an election under subsection (b).

1 “(2) *In awarding contracts under this sub-*
2 *section, the Administrator shall not consolidate con-*
3 *tract requirements that relate to more than one quali-*
4 *fied State or local development company unless the*
5 *Administrator determines that such consolidation will*
6 *achieve—*

7 “(A) *a reduction in cost of not less than 10*
8 *percent; or*

9 “(B) *an increase in the recovered amount of*
10 *not less than 10 percent.*

11 “(3) *In awarding contracts under this section,*
12 *the Administrator shall consider the experience and*
13 *expertise of the offeror regarding the conduct of simi-*
14 *lar foreclosure and liquidation of indebtedness, the*
15 *bankruptcy laws of the United States, valuation of*
16 *property, and successful litigation.*

17 “(4) *Reimbursement to contractors under this*
18 *subsection shall be based on recovery of their costs (in-*
19 *cluding salaries, expenses, and overhead) and a con-*
20 *tingent fee, with respect to each loan which is subject*
21 *to the contract, as follows:*

22 “(A) *In the case of recovery of at least 50*
23 *percent of outstanding amount of such loan, a*
24 *contingent fee equal to 5 percent of the recovery.*

1 “(B) *In the case of recovery of at least 75*
2 *percent of such amount, a contingent fee equal to*
3 *10 percent of the recovery.*”.

4 **SEC. 128. ADDITIONS TO TITLE V.**

5 *Title V of the Small Business Investment Act of 1958*
6 *(15 U.S.C. 695 et seq.) is amended by adding at the end*
7 *the following new sections:*

8 **“SEC. 511. SHORT FORM APPLICATION.**

9 “(a) *IN GENERAL.*—*Not later than 120 days after the*
10 *date of the enactment of this section, the Administrator*
11 *shall prescribe—*

12 “(1) *a low documentation loan application form*
13 *for use in making loans under section 502 for guar-*
14 *antees of not more than \$500,000; and*

15 “(2) *for all other loans made under section 502,*
16 *a short form application form that reduces the*
17 *amount of information needed to process the loan by*
18 *30 percent from the size of the loan application in ef-*
19 *fect on January 1, 2003.*

20 “(b) *USE OF DEVELOPMENT COMPANY FORMS.*—*If the*
21 *Administrator does not comply with paragraph (1) or (2)*
22 *of subsection (a), a qualified State or local development*
23 *company may use its own forms until the Administrator*
24 *prescribes the form involved.*

1 **“SEC. 512. CENTRALIZED DEVELOPMENT COMPANY LOAN**
2 **PROCESSING.**

3 *“(a) ESTABLISHMENT.—*

4 *“(1) Not later than 180 days after the date of the*
5 *enactment of this section, the Administrator shall,*
6 *using already appropriated funds and fees paid by*
7 *qualified State and local development companies, es-*
8 *tablish two centers for approving loans under section*
9 *502, except as otherwise provided in section 508.*

10 *“(2) The loan centers may not be located in the*
11 *same Federal Region. One center shall be located in*
12 *Region 1, 2, 3, 4, or 5, and one center shall be located*
13 *in Region 6, 7, 8, 9, or 10.*

14 *“(3) The Administrator is authorized to locate*
15 *the centers with its existing LowDoc Loan Applica-*
16 *tion Centers in Hazard, KY and Sacramento, CA, but*
17 *employees who review applications for loans under*
18 *section 502 shall not review applications for loan*
19 *guarantees under section 7 of the Small Business Act*
20 *(15 U.S.C. 636).*

21 *“(4) If the Administrator does not establish the*
22 *centers required by paragraph (1), the qualified State*
23 *and local development companies shall have the au-*
24 *thority to approve or deny applications without the*
25 *consent of the Administrator.*

26 *“(b) TIMING.—*

1 “(1)(A) *From the date on which a loan applica-*
2 *tion is received at a center established under sub-*
3 *section (a), the Administration shall have 5 business*
4 *days to approve or deny the application.*

5 “(B) *Not later than one business day after the*
6 *date on which an application is received, the Admin-*
7 *istration shall notify the applicant and the qualified*
8 *State or local development company in writing that*
9 *the application was received and was either complete*
10 *or incomplete. The notification shall specify the date*
11 *and time at which the application was received. If the*
12 *application is incomplete, the notification shall speci-*
13 *fy the material needed to make the application com-*
14 *plete.*

15 “(C) *The Administration may return an appli-*
16 *cation for incompleteness not more than 3 times after*
17 *which the applicant may use forms developed by the*
18 *qualified State or local development company.*

19 “(2) *An accredited lender designated under sec-*
20 *tion 507 shall have the authority to approve or deny*
21 *a loan application if the Administration does not act*
22 *within 5 business days from the date a complete ap-*
23 *plication is received by the center. Notwithstanding*
24 *any other law, a qualified State or local development*
25 *company that is not designated as an accredited or*

1 *premier certified lender shall have the authority to*
2 *approve or deny a loan if the Administration does*
3 *not make a decision within 20 business days.*

4 “(c) *APPEAL OF DENIAL.*—

5 “(1) *An applicant shall have the right to appeal*
6 *a denial to the Regional Administrator for the region*
7 *in which the qualified State or local development*
8 *company is headquartered. Not later than 3 business*
9 *days after receipt, the Regional Administrator shall*
10 *either concur with the denial or approve the loan.*

11 “(2) *If the Regional Administrator denies the*
12 *loan, the applicant shall have the right of appeal to*
13 *the Deputy Administrator. Not later than 3 business*
14 *days after receipt, the Deputy Administrator shall ei-*
15 *ther concur with the denial by the Regional Adminis-*
16 *trator or approve the loan.*

17 “(3) *The decision of the Deputy Administrator*
18 *shall constitute final agency action for purposes of*
19 *chapter 7 of title 5, United States Code.*

20 **“SEC. 513. REPORTS.**

21 *“The Administrator shall report on the performance*
22 *of the loans made under this title on a semi-annual basis*
23 *to the Committee on Small Business of the House of Rep-*
24 *resentatives and the Committee on Small Business and En-*

1 *trepreneurship of the Senate. Such report shall include the*
2 *currency and default rates.”.*

3 **SEC. 129. REGULATIONS TO CARRY OUT AMENDMENTS TO**
4 **LOAN PROGRAM.**

5 (a) *ISSUANCE.—Except as otherwise provided in title*
6 *I, the Administrator shall, not later than 90 days after the*
7 *date of the enactment of this Act, prescribe such regulations*
8 *as are necessary to carry out the provisions of this Act that*
9 *relate to title V of the Small Business Investment Act of*
10 *1958 and shall provide a minimum of 30 days notice and*
11 *comment with respect to such regulations.*

12 (b) *TEMPORARY PROHIBITION ON OTHER RULE-*
13 *MAKING.—During the period beginning on the date of the*
14 *enactment of this Act and ending on the date that is 1 year*
15 *after the date on which the centralized loan processing cen-*
16 *ters described in section 512 of the Small Business Invest-*
17 *ment Act of 1958 begin operations, the Administration shall*
18 *not begin or conclude any rulemaking to modify the pro-*
19 *gram established by title V of such Act unless such rule-*
20 *making is necessary to carry out the provisions of this Act*
21 *described in subsection (a).*

22 **SEC. 130. CONFORMING AMENDMENTS.**

23 *Section 503(c)(1) and section 503(e)(2) of the Small*
24 *Business Investment Act of 1958 (15 U.S.C. 697(c)(1) and*

1 697(e)(2)) are each amended by striking “certified” and in-
2 serting “qualified State or local”.

3 **SEC. 131. DEVELOPMENT COMPANY AFFILIATES.**

4 Section 501 of the Small Business Investment Act of
5 1958 (15 U.S.C. 695(e)), as amended by section 121, is fur-
6 ther amended by adding at the end the following new sub-
7 section:

8 “(f) *DEVELOPMENT COMPANY AFFILIATES.*—

9 “(1) *IN GENERAL.*—The Administrator shall per-
10 mit a qualified State development company under
11 this section and section 502 to affiliate with a lender
12 authorized to make loans under section 7(a) of the
13 Small Business Act (15 U.S.C. 636(a)) if—

14 “(A) the affiliate is a qualified State devel-
15 opment company under this section or section
16 502;

17 “(B) the affiliate is chartered by a special
18 Act of the State legislature for purposes of eco-
19 nomic development and job creation through in-
20 vestment of public and private capital, without
21 regard to any return on the expected capital; or

22 “(C) the affiliate is a business development
23 company chartered by the State with the pri-
24 mary purpose of economic development through
25 small business financing programs.

1 “(2) *SPECIAL RULE.*—An affiliate that meets a
2 criterion under subparagraph (A), (B), or (C) of
3 paragraph (1) is not required to have a full-time
4 manager if the qualified State development company
5 has management in common with the affiliate.”.

6 **TITLE II—SMALL BUSINESS ACT**
7 **AMENDMENTS AND RELATED**
8 **PROVISIONS.**

9 **SEC. 201. SHORT TITLE.**

10 *This title may be cited as the “Small Business Amend-*
11 *ments Act of 2003”.*

12 **SEC. 202. FINDINGS; STATEMENTS OF POLICY.**

13 *Section 2 of the Small Business Act (15 U.S.C. 631)*
14 *is amended to read as follows:*

15 **“SEC. 2. FINDINGS; STATEMENTS OF POLICY.**

16 **“(a) AID, COUNSEL, ASSISTANCE, ETC., TO SMALL**
17 **BUSINESS CONCERNS.**—*The essence of the American eco-*
18 *nomie system of private enterprise is free competition. The*
19 *preservation and expansion of such competition is basic not*
20 *only to the economic well-being but to the security of this*
21 *Nation. Such security and well-being cannot be realized un-*
22 *less the actual and potential capacity of small business, in-*
23 *cluding small manufacturers, is encouraged and developed.*
24 *It is the declared policy of the Congress that the Government*
25 *should aid, counsel, assist, and protect, insofar as is pos-*

1 sible, the interests of small business concerns, including
2 small manufacturers, in order to preserve free competitive
3 enterprise, to insure that a fair proportion of the total pur-
4 chases and contracts or subcontracts for manufactured
5 goods, and property and services for the Government (in-
6 cluding but not limited to contracts or subcontracts for
7 maintenance, repair, and construction) be placed with
8 small business concerns, to insure that a fair proportion
9 of the total sales of Government property be made to such
10 concerns, and to maintain and strengthen the overall econ-
11 omy of the Nation.

12 “(b) ASSISTANCE TO COMPETE IN INTERNATIONAL
13 MARKETS.—

14 “(1) It is the declared policy of the Congress that
15 the Federal Government, through the Small Business
16 Administration, acting in cooperation with the De-
17 partment of Commerce and other relevant State and
18 Federal agencies, should aid and assist small business
19 concerns and small manufacturers to increase their
20 ability to compete in international markets by—

21 “(A) enhancing their ability to export;

22 “(B) facilitating technology transfers;

23 “(C) enhancing their ability to compete ef-
24 fectively and efficiently against imports;

1 “(D) increasing the access of small business
2 concerns to long-term capital for the purchase of
3 new plant and equipment used in the production
4 of goods and services involved in international
5 trade;

6 “(E) disseminating information concerning
7 State, Federal, and private programs and initia-
8 tives to enhance the ability of small business con-
9 cerns to compete in international markets;

10 “(F) ensuring that the interests of small
11 business concerns are adequately represented in
12 bilateral and multilateral trade negotiations;
13 and

14 “(G) improving the economic health of
15 small manufacturers through reduction in unnec-
16 essary regulation and improvements in the pro-
17 curement process that will enhance the ability of
18 small manufacturers to compete against foreign
19 manufacturers.

20 “(2) The Congress recognizes that the Depart-
21 ment of Commerce is the principal Federal agency for
22 trade development, export promotion, and manufac-
23 turing assistance, and that the Department of Com-
24 merce and the Small Business Administration work

1 *together to advance joint interests. It is the purpose*
2 *of this Act to enhance, not alter, their respective roles.*

3 “(c) *AID FOR AGRICULTURALLY RELATED INDUS-*
4 *TRIES; FINANCIAL ASSISTANCE.—It is the declared policy*
5 *of the Congress that the Government, through the Small*
6 *Business Administration, should provide aid and assist-*
7 *ance, including the financial assistance authorized by this*
8 *Act, to small business concerns which are engaged in the*
9 *production of food and fiber, ranching, and raising of live-*
10 *stock, aquaculture, and all other farming and agricultural*
11 *related industries.*

12 “(d) *USE OF ASSISTANCE PROGRAMS TO ESTABLISH,*
13 *PRESERVE, AND STRENGTHEN SMALL BUSINESS CON-*
14 *CERNS.—*

15 “(1) *The assistance programs authorized by sec-*
16 *tions 7(i), 8(a), and 8(b) should be utilized to assist*
17 *in the establishment, preservation, and strengthening*
18 *of small business concerns and the improvement of the*
19 *managerial skills employed in such concerns, with*
20 *special attention to small business concerns—*

21 “(A) *located in urban or rural areas with*
22 *high proportions of unemployed or low-income*
23 *individuals; and*

24 “(B) *owned by low-income individuals.*

1 “(2) *With respect to the programs authorized by*
2 *section 8(a), the Congress finds—*

3 “(A) *that ownership and control of produc-*
4 *tive capital is concentrated in the economy of the*
5 *United States and certain groups, therefore, own*
6 *and control little productive capital;*

7 “(B) *that certain groups in the United*
8 *States own and control little productive capital*
9 *because they have limited opportunities for small*
10 *business ownership;*

11 “(C) *that the broadening of small business*
12 *ownership among groups that presently own and*
13 *control little productive capital is essential to*
14 *provide for the well-being of this Nation by pro-*
15 *moting their increased participation in the free*
16 *enterprise system of the United States;*

17 “(D) *that such development of business own-*
18 *ership among groups that presently own and*
19 *control little productive capital will be greatly*
20 *facilitated through the creation of a small busi-*
21 *ness ownership development program, which*
22 *shall provide services, including, but not limited*
23 *to, financial, management, and technical assist-*
24 *ance;*

1 “(E) that the power to let Federal contracts
2 pursuant to section 8(a) can be an effective pro-
3 curement assistance tool for development of busi-
4 ness ownership, including ownership of small
5 manufacturers, among groups that own and con-
6 trol little productive capital; and

7 “(F) that the procurement authority under
8 section 8(a) shall be used only as a tool for devel-
9 oping business ownership among groups that
10 own and control little productive capital.

11 “(3) It is therefore the purpose of the programs
12 authorized by section 8(a) to—

13 “(A) foster business ownership and develop-
14 ment by individuals in groups that own and
15 control little productive capital; and

16 “(B) promote the competitive viability of
17 such firms in the marketplace by creating a
18 small business and capital ownership develop-
19 ment program to provide such available finan-
20 cial, technical, and management assistance as
21 may be necessary.

22 “(e) PARTICIPATION IN FREE ENTERPRISE SYSTEM BY
23 SOCIALLY AND ECONOMICALLY DISADVANTAGED PER-
24 SONS.—

1 “(1) *With respect to the business development*
2 *programs carried out by the Administrator, the Con-*
3 *gress finds—*

4 “(A) *that the opportunity for full participa-*
5 *tion in our free enterprise system by socially and*
6 *economically disadvantaged individuals is essen-*
7 *tial if we are to obtain social and economic*
8 *equality for such individuals and improve the*
9 *functioning of our national economy;*

10 “(B) *that many such individuals are so-*
11 *cially disadvantaged because of their identifica-*
12 *tion as members of certain groups that have suf-*
13 *fered the effects of discriminatory practices or*
14 *similar invidious circumstances over which they*
15 *have no control;*

16 “(C) *that such groups include, but are not*
17 *limited to, Black Americans, Hispanic Ameri-*
18 *cans, Native Americans, Asian Pacific Ameri-*
19 *cans, Native Hawaiian Organizations, and other*
20 *minorities;*

21 “(D) *that it is in the national interest to*
22 *expeditiously ameliorate the conditions of so-*
23 *cially and economically disadvantaged groups;*

24 “(E) *that such conditions can be improved*
25 *by providing the maximum practicable oppor-*

1 *tunity for the development of small business con-*
2 *cerns and small manufacturers owned by mem-*
3 *bers of socially and economically disadvantaged*
4 *groups;*

5 *“(F) that such development can be materi-*
6 *ally advanced through the procurement by the*
7 *United States of articles, equipment, supplies,*
8 *services, materials, and construction work from*
9 *small business concerns and small manufactur-*
10 *ers; and*

11 *“(G) that such procurements also benefit the*
12 *United States by encouraging the expansion of*
13 *suppliers for such procurements, thereby encour-*
14 *aging competition among such suppliers and*
15 *promoting economy in such procurements.*

16 *“(2) It is therefore the purpose of section 8(a)*
17 *to—*

18 *“(A) promote the business development of*
19 *small business concerns and small manufacturers*
20 *owned and controlled by socially and economi-*
21 *cally disadvantaged individuals so that such*
22 *concerns can compete on an equal basis in the*
23 *American economy;*

24 *“(B) promote the competitive viability of*
25 *such concerns in the marketplace by providing*

1 *such available contract, financial, technical, and*
2 *management assistance as may be necessary; and*

3 “(C) *clarify and expand the program for*
4 *the procurement by the United States of articles,*
5 *supplies, services, materials, and construction*
6 *work from small business concerns and small*
7 *manufacturers owned by socially and economi-*
8 *cally disadvantaged individuals.*

9 “(f) *ASSISTANCE TO DISASTER VICTIMS UNDER DIS-*
10 *ASTER LOAN PROGRAM.—In administering the disaster*
11 *loan program authorized by section 7, the Administrator*
12 *should—*

13 “(1) *provide assistance and counseling to dis-*
14 *aster victims in filing applications;*

15 “(2) *provide information relevant to loan proc-*
16 *essing and loan closing;*

17 “(3) *promptly disburse loan proceeds; and*

18 “(4) *give the disaster program a high priority in*
19 *allocating funds for administrative expenses.*

20 “(g) *ASSISTANCE TO WOMEN OWNED BUSINESS.—*

21 “(1) *With respect to the programs and activities*
22 *authorized by this Act, the Congress finds that—*

23 “(A) *women owned business has become a*
24 *major contributor to the American economy by*
25 *providing goods and services, revenues, and jobs;*

1 “(B) over the past two decades there have
2 been substantial gains in the social and economic
3 status of women as they have sought economic
4 equality and independence;

5 “(C) despite such progress, women, as a
6 group, are subjected to discrimination in entre-
7 preneurial endeavors due to their gender;

8 “(D) such discrimination takes many overt
9 and subtle forms adversely affecting the ability
10 to raise or secure capital, to acquire managerial
11 talents, and to capture market opportunities;

12 “(E) it is in the national interest to expedi-
13 tiously remove discriminatory barriers to the
14 creation and development of small business con-
15 cerns owned and controlled by women;

16 “(F) the removal of such barriers is essen-
17 tial to provide a fair opportunity for full par-
18 ticipation in the free enterprise system by
19 women and to further increase the economic vi-
20 tality of the Nation;

21 “(G) increased numbers of small business
22 concerns owned and controlled by women who
23 will directly benefit the United States Govern-
24 ment by expanding the potential number of sup-

1 *pliers of goods and services to the Government;*
2 *and*

3 *“(H) programs and activities designed to*
4 *assist small business concerns owned and con-*
5 *trolled by women must be implemented in such*
6 *a way as to remove such discriminatory barriers*
7 *while not adversely affecting the rights of socially*
8 *and economically disadvantaged individuals.*

9 *“(2) It is, therefore, the purpose of those pro-*
10 *grams and activities conducted under the authority of*
11 *this Act that assist women entrepreneurs to—*

12 *“(A) vigorously promote the legitimate in-*
13 *terests of small business concerns owned and con-*
14 *trolled by women;*

15 *“(B) remove, insofar as possible, the dis-*
16 *criminatory barriers that are encountered by*
17 *women in accessing capital and other factors of*
18 *production; and*

19 *“(C) require that the Government engage in*
20 *a systematic and sustained effort to identify, de-*
21 *fine and analyze those discriminatory barriers*
22 *facing women and that such effort directly in-*
23 *volve the participation of women business owners*
24 *in the partnership of the public and private sec-*
25 *tors.*

1 “(h) *CONTRACT BUNDLING.*—*It is the declared policy*
2 *of the Congress that each Federal agency should—*

3 “(1) *comply with congressional intent to foster*
4 *the participation of small business concerns, in the*
5 *following order, as prime contractors, subcontractors,*
6 *and suppliers;*

7 “(2) *structure its contracting requirements to fa-*
8 *cilitate competition by and among small business*
9 *concerns, taking all reasonable steps to eliminate ob-*
10 *stacles to their participation; and*

11 “(3) *avoid unnecessary and unjustified bundling*
12 *of contract requirements that precludes small business*
13 *participation in procurements as prime contractors.*

14 “(i) *SMALL MANUFACTURERS.*—

15 “(1) *With respect to the programs and activities*
16 *authorized by this Act, the Congress finds that—*

17 “(A) *the manufacturing sector is a critical*
18 *element of the Nation’s economic security because*
19 *it provides high-paying jobs that support other*
20 *sectors of the economy dominated by small busi-*
21 *ness;*

22 “(B) *America’s small manufacturers face*
23 *substantial competition from large manufactur-*
24 *ers that source components and equipment from*
25 *business concerns located in other countries with*

1 *lower wage rates, fewer regulatory restrictions,*
2 *and beneficial currency policies;*

3 “(C) *it is in the national interest to expedi-*
4 *tiously grow America’s small manufacturers;*
5 *and*

6 “(D) *such growth can be achieved through*
7 *better access to capital, improved technical as-*
8 *sistance, and increased procurement of manufac-*
9 *tured goods by the United States, America’s uni-*
10 *versities, and large businesses that would other-*
11 *wise source goods overseas.*

12 “(2) *It is therefore, the purpose of those pro-*
13 *grams and activities conducted under the authority of*
14 *this Act that assist small manufacturers to—*

15 “(A) *vigorously promote the legitimate in-*
16 *terests of small manufacturers;*

17 “(B) *remove, insofar as possible, barriers*
18 *that are encountered by small manufacturers in*
19 *accessing capital, obtaining necessary technical*
20 *assistance, and selling goods to the United*
21 *States, America’s universities, and large busi-*
22 *nesses that would otherwise source goods over-*
23 *seas;*

24 “(C) *require the Administrator to engage in*
25 *a systematic and sustained effort to identify, de-*

1 *fine, and analyze the barriers to growth facing*
2 *America’s small manufacturers, recommend*
3 *changes in policy that will reduce those barriers,*
4 *and promote the involvement of America’s small*
5 *manufacturers in the partnership of the public*
6 *and private sectors.”.*

7 **SEC. 203. DEFINITIONS.**

8 *Section 3 of the Small Business Act (15 U.S.C. 632)*
9 *is amended to read as follows:*

10 **“SEC. 3. DEFINITIONS.**

11 *“(a) SMALL BUSINESS CONCERNS.—*

12 *“(1) IN GENERAL.—For the purposes of this Act,*
13 *a small-business concern, including but not limited to*
14 *enterprises that are engaged in the business of produc-*
15 *tion of food and fiber, ranching and raising of live-*
16 *stock, aquaculture, and all other farming and agricul-*
17 *tural related industries, shall be deemed to be one*
18 *which is independently owned and operated and*
19 *which is not dominant in its field of operation.*

20 *“(2) ESTABLISHMENT OF SIZE STANDARDS.—*

21 *“(A) IN GENERAL.—In addition to the cri-*
22 *teria specified in paragraph (1), the Adminis-*
23 *trator may specify detailed definitions or stand-*
24 *ards by which a business concern may be deter-*

1 *mined to be a small business concern for the pur-*
2 *poses of this Act or any other Act.*

3 “(B) *ADDITIONAL CRITERIA.*—*The stand-*
4 *ards described in paragraph (1) may utilize*
5 *number of employees, dollar volume of business,*
6 *net worth, net income, a combination thereof, or*
7 *other appropriate factors.*

8 “(C) *REQUIREMENTS.*—*Unless specifically*
9 *authorized by statute, no Federal department or*
10 *agency may prescribe a size standard for catego-*
11 *rizing a business concern as a small business*
12 *concern, unless such proposed size standard—*

13 *“(i) is proposed after an opportunity*
14 *for public notice and comment;*

15 *“(ii) provides for determining—*

16 *“(I) the size of a manufacturing*
17 *concern as measured by the manufac-*
18 *turing concern’s average employment*
19 *based upon employment during each of*
20 *the manufacturing concern’s pay peri-*
21 *ods for the preceding 12 months;*

22 *“(II) the size of a business concern*
23 *providing services on the basis of the*
24 *annual average gross receipts of the*

1 *business concern over a period of not*
2 *less than 3 years;*

3 *“(III) the size of other business*
4 *concerns on the basis of data over a pe-*
5 *riod of not less than 3 years; or*

6 *“(IV) other appropriate factors;*
7 *and*

8 *“(iii) is approved by the Adminis-*
9 *trator.*

10 *“(D) INDUSTRY VARIATION.—When estab-*
11 *lishing or approving any size standard pursuant*
12 *to this paragraph, the Administrator shall en-*
13 *sure that the size standard varies from industry*
14 *to industry to the extent necessary to reflect the*
15 *differing characteristics of the various industries*
16 *and consider other factors deemed to be relevant*
17 *by the Administrator.*

18 *“(3) AGRICULTURAL ENTERPRISES.—Notwith-*
19 *standing paragraphs (1) and (2), an agricultural en-*
20 *terprise shall be deemed to be a small business con-*
21 *cern if it (including its affiliates) has annual receipts*
22 *not in excess of \$750,000.*

23 *“(4) RECERTIFICATIONS.—*

24 *“(A) TIMING RESTRICTION.—For purposes*
25 *of determining if a business concern that has*

1 *been awarded a contracting opportunity as a*
2 *small business concern is still a small business*
3 *concern, the Administrator shall not require such*
4 *concern to be recertified as a small business con-*
5 *cern more frequently than each 5 years, unless*
6 *there has been a change in ownership, control, or*
7 *affiliation, in which case the small business con-*
8 *cern shall recertify its status at that time.*

9 “(B) *GROWTH THRESHOLD.*—*In the case of*
10 *any recertification described in subparagraph*
11 *(A) of a business concern, such concern shall not*
12 *fail to be treated as a small business concern for*
13 *purposes of contracting opportunities awarded*
14 *before the date of such recertification solely be-*
15 *cause such concern exceeds—*

16 “(i) *the annual receipts standard ap-*
17 *plicable to such concern by 20 percent or*
18 *less of such standard; or*

19 “(ii) *the number of employees standard*
20 *applicable to such concern by 5 percent or*
21 *less of such standard.*

22 “(b) *AGENCY.*—*For purposes of this Act, any reference*
23 *to an agency or department of the United States, and the*
24 *term ‘Federal agency’, shall have the meaning given the*
25 *term ‘agency’ by section 551(1) of title 5, United States*

1 *Code, but does not include the United States Postal Service*
2 *or the General Accounting Office.*

3 “(c) *QUALIFIED EMPLOYEE TRUSTS.*—*For purposes of*
4 *this Act:*

5 “(1) *The term ‘qualified employee trust’ means,*
6 *with respect to a small business concern, a trust—*

7 “(A) *which forms part of an employee stock*
8 *ownership plan (as defined in section 4975(e)(7)*
9 *of the Internal Revenue Code of 1986)—*

10 “(i) *which is maintained by such con-*
11 *cern; and*

12 “(ii) *which provides that each partici-*
13 *part in the plan is entitled to direct the*
14 *plan as to the manner in which voting*
15 *rights under qualifying employer securities*
16 *(as defined in section 4975(e)(8) of such*
17 *Code) which are allocated to the account of*
18 *such participant are to be exercised with re-*
19 *spect to a corporate matter which (by law*
20 *or charter) must be decided by a majority*
21 *vote of outstanding common shares voted;*
22 *and*

23 “(B) *in the case of any loan guarantee*
24 *under section 7(a), the trustee of which enters*
25 *into an agreement with the Administrator which*

1 *is binding on the trust and on such small busi-*
2 *ness concern and which provides that—*

3 *“(i) the loan guaranteed under section*
4 *7(a) shall be used solely for the purchase of*
5 *qualifying employer securities of such con-*
6 *cern;*

7 *“(ii) all funds acquired by the concern*
8 *in such purchase shall be used by such con-*
9 *cern solely for the purposes for which such*
10 *loan was guaranteed;*

11 *“(iii) such concern will provide such*
12 *funds as may be necessary for the timely re-*
13 *payment of such loan, and the property of*
14 *such concern shall be available as security*
15 *for repayment of such loan; and*

16 *“(iv) all qualifying employer securities*
17 *acquired by such trust in such purchase*
18 *shall be allocated to the accounts of partici-*
19 *pants in such plan who are entitled to share*
20 *in such allocation, and each participant has*
21 *a nonforfeitable right, not later than the*
22 *date such loan is repaid, to all such quali-*
23 *fying employer securities which are so allo-*
24 *cated to the participant’s account.*

1 “(2) Under regulations which may be prescribed
2 by the Administrator, a trust may be treated as a
3 qualified employee trust with respect to a small busi-
4 ness concern if—

5 “(A) the trust is maintained by an em-
6 ployee organization which represents at least 51
7 percent of the employees of such concern; and

8 “(B) such concern maintains a plan—

9 “(i) which is an employee benefit plan
10 which is designed to invest primarily in
11 qualifying employer securities (as defined
12 in section 4975(e)(8) of the Internal Rev-
13 enue Code of 1986);

14 “(ii) which provides that each partici-
15 pant in the plan is entitled to direct the
16 plan as to the manner in which voting
17 rights under qualifying employer securities
18 which are allocated to the account of such
19 participant are to be exercised with respect
20 to a corporate matter which (by law or
21 charter) must be decided by a majority vote
22 of the outstanding common shares voted;

23 “(iii) which provides that each partici-
24 pant who is entitled to distribution from the
25 plan has a right, in the case of qualifying

1 *employer securities which are not readily*
2 *tradable on an established market, to re-*
3 *quire that the concern repurchase such secu-*
4 *rities under a fair valuation formula; and*

5 *“(iv) which meets such other require-*
6 *ments (similar to requirements applicable*
7 *to employee stock ownership plans as de-*
8 *finied in section 4975(e)(7) of such Code) as*
9 *the Administrator may prescribe; and*

10 *“(C) in the case of a loan guarantee under*
11 *section 7(a), such organization enters into an*
12 *agreement with the Administration which is de-*
13 *scribed in paragraph (2)(B).*

14 *“(d) DEFINITIONS RELATING TO INDIAN TRIBES.—*
15 *For purposes of this Act:*

16 *“(1) INDIAN TRIBE.—The term ‘Indian tribe’ has*
17 *the meaning given such term in section 4(e) of the In-*
18 *Indian Self-Determination and Education Assistance*
19 *Act.*

20 *“(2) QUALIFIED INDIAN TRIBE.—The term*
21 *‘qualified Indian tribe’ means any Indian tribe that*
22 *owns and controls 100 percent of a small business*
23 *concern, except as otherwise provided in section 8.*

24 *“(e) STATE; UNITED STATES.—For purposes of this*
25 *Act, the terms ‘State’ and ‘United States’ include each of*

1 *the several States, the District of Columbia, the Common-*
2 *wealth of Puerto Rico, the United States Virgin Islands,*
3 *Guam, American Samoa, and the Commonwealth of the*
4 *Northern Mariana Islands.*

5 “(f) *CONTRACTING OFFICER.*—*For purposes of this*
6 *Act, the term ‘contracting officer’ has the meaning given*
7 *such term in section 27(f)(5) of the Office of Federal Pro-*
8 *curement Policy Act (41 U.S.C. 423(f)(5)).*

9 “(g) *SMALL BUSINESS DEVELOPMENT CENTER.*—*For*
10 *purposes of this Act, the term ‘small business development*
11 *center’ means any office that provides any portion of the*
12 *services described in section 21 under such section.*

13 “(h) *CREDIT ELSEWHERE.*—*For purposes of this Act,*
14 *the term ‘credit elsewhere’ means the availability of credit*
15 *from non-Federal sources on reasonable terms and condi-*
16 *tions taking into consideration the prevailing rates and*
17 *terms in the community in or near where the concern trans-*
18 *acts business, or the homeowner resides, for similar pur-*
19 *poses and periods of time.*

20 “(i) *HOMEOWNERS.*—*For purposes of this Act, the*
21 *term ‘homeowners’ includes owners and lessees of residential*
22 *property and also includes personal property.*

23 “(j) *SMALL AGRICULTURAL COOPERATIVE.*—*For pur-*
24 *poses of this Act, the term ‘small agricultural cooperative’*
25 *means an association (corporate or otherwise) acting pursu-*

1 ant to the provisions of the Agricultural Marketing Act (12
2 U.S.C. 1141j), whose size does not exceed the size standard
3 established by the Administrator for other similar agricul-
4 tural small business concerns. In determining such size, the
5 Administrator shall regard the association as a business
6 concern and shall not include the income or employees of
7 any member shareholder of such cooperative.

8 “(k) *DISASTER*.—For purposes of this Act, the term
9 ‘disaster’ means a sudden event which causes severe damage
10 including floods, hurricanes, tornadoes, earthquakes, fires,
11 explosions, volcanoes, windstorms, landslides or mudslides,
12 tidal waves, riots, civil disorders, acts of terrorism, or other
13 catastrophes.

14 “(l) *AGRICULTURAL ENTERPRISES*.—For purposes of
15 this Act, the term ‘agricultural enterprises’ means those
16 businesses engaged in the production of food and fiber,
17 ranching, and raising of livestock, aquaculture, and all
18 other farming and agricultural related industries.

19 “(m) *SIMPLIFIED ACQUISITION THRESHOLD*.—For
20 purposes of this Act, the term ‘simplified acquisition thresh-
21 old’ has the meaning given such term in section 4(11) of
22 the Office of Federal Procurement Policy Act (41 U.S.C.
23 403(11)).

24 “(n) *SMALL BUSINESS CONCERN OWNED AND CON-*
25 *TROLLED BY WOMEN*.—For purposes of this Act, the term

1 *'small business concern owned and controlled by women'*
2 *means any small business concern if—*

3 *“(1) at least 51 percent of the small business*
4 *concern is owned by one or more women or, in the*
5 *case of any publicly owned business, at least 51 per-*
6 *cent of the stock of which is owned by one or more*
7 *women; and*

8 *“(2) the management and daily business oper-*
9 *ations of the business are controlled by one or more*
10 *women.*

11 *“(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-*
12 *QUIREMENTS AND RELATED TERMS.—For purposes of this*
13 *Act:*

14 *“(1) BUNDLED CONTRACT.—The term ‘bundled*
15 *contract’ means a contract that is entered into to*
16 *meet requirements that are consolidated in a bundling*
17 *of contract requirements without regard to its des-*
18 *ignation by the procuring agency or whether a study*
19 *of the effects of the solicitation on civilian or military*
20 *personnel has been made.*

21 *“(2) BUNDLING OF CONTRACT REQUIREMENTS.—*
22 *The term ‘bundling of contract requirements’ means*
23 *the use of any bundling methodology to satisfy 2 or*
24 *more requirements for goods or services, including*
25 *construction services, that have previously been pro-*

1 *vided to, or performed for, the Federal agency under*
2 *2 or more separate contracts lower in cost than the*
3 *total cost of the contract or order for which the offers*
4 *are solicited that is likely to be unsuitable for award*
5 *to a small business concern due to—*

6 *“(A) the diversity, size, or specialized na-*
7 *ture of the elements of the performance specified;*

8 *“(B) the aggregate dollar value of the an-*
9 *ticipated award;*

10 *“(C) the geographical dispersion of the con-*
11 *tract performance sites; or*

12 *“(D) any combination of the factors de-*
13 *scribed in subparagraphs (A), (B), and (C).*

14 *“(3) BUNDLING METHODOLOGY.—The term ‘bun-*
15 *dling methodology’ means—*

16 *“(A) a solicitation to obtain offers for a sin-*
17 *gle contract or a multiple award contract;*

18 *“(B) a solicitation of offers for the issuance*
19 *of a task or a delivery order under an existing*
20 *single or multiple award contract; or*

21 *“(C) the creation of any new procurement*
22 *requirement that permits a consolidation of con-*
23 *tract requirements.*

24 *“(4) SEPARATE SMALLER CONTRACT.—The term*
25 *‘separate smaller contract’, with respect to a bundling*

1 of contract requirements, means a contract that has
2 been performed by 1 or more small business concerns
3 or was suitable for award to 1 or more small business
4 concerns.

5 “(p) *DEFINITIONS RELATING TO HUBZONES.*—For
6 purposes of this Act:

7 “(1) *HISTORICALLY UNDERUTILIZED BUSINESS*
8 *ZONE.*—The term ‘historically underutilized business
9 zone’ means any area located within 1 or more—

10 “(A) qualified census tracts;

11 “(B) qualified nonmetropolitan counties;

12 “(C) lands within the external boundaries of
13 an Indian reservation; or

14 “(D) redesignated areas.

15 “(2) *HUBZONE.*—The term ‘HUBZone’ means a
16 historically underutilized business zone.

17 “(3) *HUBZONE SMALL BUSINESS CONCERN.*—

18 The term ‘HUBZone small business concern’ means—

19 “(A) a small business concern that is owned
20 and controlled by one or more persons, each of
21 whom is a United States citizen;

22 “(B) a small business concern that is—

23 “(i) an Alaska Native Corporation
24 owned and controlled by Natives (as deter-
25 mined pursuant to section 29(e)(1) of the

1 *Alaska Native Claims Settlement Act (43*
2 *U.S.C. 1626(e)(1))*); or

3 “(ii) a direct or indirect subsidiary
4 corporation, joint venture, or partnership of
5 an Alaska Native Corporation qualifying
6 pursuant to section 29(e)(1) of the Alaska
7 Native Claims Settlement Act (43 U.S.C.
8 1626(e)(1)), if that subsidiary, joint ven-
9 ture, or partnership is owned and controlled
10 by Natives (as determined pursuant to sec-
11 tion 29(e)(2)) of the Alaska Native Claims
12 Settlement Act (43 U.S.C. 1626(e)(2)));

13 “(C) a small business concern—

14 “(i) that is wholly owned by one or
15 more Indian tribal organizations, or by a
16 corporation that is wholly owned by one or
17 more Indian tribal organizations; or

18 “(ii) that is owned in part by one or
19 more Indian tribal organizations, or by a
20 corporation that is wholly owned by one or
21 more Indian tribal organizations, if all
22 other owners are either United States citi-
23 zens or small business concerns; or

24 “(D) a small business concern that is—

1 “(i) wholly owned by a community de-
2 velopment corporation that has received fi-
3 nancial assistance under part 1 of sub-
4 chapter A of the Community Economic De-
5 velopment Act of 1981 (42 U.S.C. 9805 et
6 seq.); or

7 “(ii) owned in part by one or more
8 community development corporations, if all
9 other owners are either United States citi-
10 zens or small business concerns.

11 “(4) QUALIFIED AREAS.—

12 “(A) QUALIFIED CENSUS TRACT.—The term
13 ‘qualified census tract’ has the meaning given
14 that term in section 42(d)(5)(C)(ii) of the Inter-
15 nal Revenue Code of 1986.

16 “(B) QUALIFIED NONMETROPOLITAN COUN-
17 TY.—The term ‘qualified nonmetropolitan coun-
18 ty’ means any county—

19 “(i) that was not located in a metro-
20 politan statistical area (as defined in sec-
21 tion 143(k)(2)(B) of the Internal Revenue
22 Code of 1986) at the time of the most recent
23 census taken for purposes of selecting quali-
24 fied census tracts under section
25 42(d)(5)(C)(ii) of such Code; and

1 “(ii) in which—

2 “(I) the median household income
3 is less than 80 percent of the nonmetro-
4 politan State median household in-
5 come, based on the most recent data
6 available from the Bureau of the Cen-
7 sus of the Department of Commerce; or

8 “(II) the unemployment rate is
9 not less than 140 percent of the State-
10 wide average unemployment rate for
11 the State in which the county is lo-
12 cated, based on the most recent data
13 available from the Secretary of Labor.

14 “(C) *REDESIGNATED AREA*.—The term ‘re-
15 designated area’ means any census tract that
16 ceases to be qualified under subparagraph (A)
17 and any nonmetropolitan county that ceases to
18 be qualified under subparagraph (B), except that
19 a census tract or a nonmetropolitan county may
20 be a ‘redesignated area’ only for the 3-year pe-
21 riod following the date on which the census tract
22 or nonmetropolitan county ceased to be so quali-
23 fied.

24 “(5) *QUALIFIED HUBZONE SMALL BUSINESS*
25 *CONCERN*.—

1 “(A) *IN GENERAL.*—*The term ‘qualified*
2 *HUBZone small business concern’ means any*
3 *small business concern if the small business con-*
4 *cern has certified in writing to the Adminis-*
5 *trator (or the Administrator otherwise deter-*
6 *mines, based on information submitted to the*
7 *Administrator by the small business concern, or*
8 *based on certification procedures, which shall be*
9 *established by regulation) that—*

10 “(i) *it is a HUBZone small business*
11 *concern—*

12 “(I) *pursuant to subparagraph*
13 *(A), (B), or (D) of paragraph (3), and*
14 *that its principal office is located in a*
15 *HUBZone and not fewer than 35 per-*
16 *cent of its employees reside in a*
17 *HUBZone; or*

18 “(II) *pursuant to paragraph*
19 *(3)(C), and not fewer than 35 percent*
20 *of its employees engaged in performing*
21 *a contract awarded to the small busi-*
22 *ness concern on the basis of a pref-*
23 *erence provided under section 31(b) re-*
24 *side within any Indian reservation*
25 *governed by one or more of the Indian*

1 *tribal organization owners, or reside*
2 *within any HUBZone adjoining any*
3 *such Indian reservation;*

4 “(ii) *the small business concern will*
5 *attempt to maintain the applicable employ-*
6 *ment percentage under clause (i) during the*
7 *performance of any contract awarded to the*
8 *small business concern on the basis of a*
9 *preference provided under section 31(b); and*

10 “(iii) *with respect to any subcontract*
11 *entered into by the small business concern*
12 *pursuant to a contract awarded to the small*
13 *business concern under section 31, the small*
14 *business concern will ensure that—*

15 “(I) *in the case of a contract for*
16 *services (except construction), not less*
17 *than 50 percent of the cost of contract*
18 *performance incurred for personnel*
19 *will be expended for its employees or*
20 *for employees of other HUBZone small*
21 *business concerns;*

22 “(II) *in the case of a contract for*
23 *procurement of supplies (other than*
24 *procurement from a regular dealer in*
25 *such supplies), not less than 50 percent*

1 of the cost of manufacturing the sup-
2 plies (not including the cost of mate-
3 rials) will be incurred in connection
4 with the performance of the contract in
5 a HUBZone by 1 or more HUBZone
6 small business concerns;

7 “(III) it is a small business con-
8 cern, the majority of which is owned
9 and controlled by one or more individ-
10 uals determined by the Administrator
11 to be economically disadvantaged; and

12 “(IV) it has received a site visit
13 from a district counsel to verify its eli-
14 gibility before first responding to a so-
15 licitation from a Federal agency for
16 goods or services under section 31 and
17 again before first responding to a solie-
18 itation from a Federal agency for
19 goods or services under section 31 after
20 any change in the primary location of
21 the concern.

22 “(B) *SITE VISITS BY DISTRICT COUNSEL.*—
23 *A district counsel, not later than 5 days after*
24 *conducting any site visit described in subpara-*
25 *graph (A)(iii)(IV), shall make a written certifi-*

1 *cation to the district director and general counsel*
2 *regarding the status of the concern as a qualified*
3 *HUBZone small business concern.*

4 “(C) *PROVISION OF FALSE INFORMATION.*—
5 *Such term shall not include any small business*
6 *concern if any certification made or information*
7 *provided by such concern under subparagraph*
8 *(A) has been, in accordance with the procedures*
9 *established under section 31(c)(1)—*

10 *“(i) successfully challenged by an in-*
11 *terested party; or*

12 *“(ii) otherwise determined by the Ad-*
13 *ministrator to be materially false.*

14 “(D) *PERCENTAGE ADJUSTMENTS.*—*The*
15 *Administrator may utilize a percentage other*
16 *than the percentage specified in subclause (I) or*
17 *(II) of subparagraph (A)(iii), if the Adminis-*
18 *trator determines that such action is necessary to*
19 *reflect conventional industry practices among*
20 *small business concerns that are below the nu-*
21 *merical size standard for businesses in that in-*
22 *dustry category, but under no circumstance shall*
23 *such adjustment reduce the percentage below 33*
24 *percent.*

1 “(E) CONSTRUCTION AND OTHER CON-
2 TRACTS.—The Administrator shall promulgate
3 final regulations imposing requirements that are
4 similar to those specified in subclauses (I) and
5 (II) of subparagraph (A)(iii) on contracts for
6 general and specialty construction, and on con-
7 tracts for any other industry category that would
8 not otherwise be subject to those requirements.
9 The percentage applicable to any such require-
10 ment shall be determined in accordance with
11 subparagraph (D).

12 “(6) NATIVE AMERICAN SMALL BUSINESS CON-
13 CERNS.—

14 “(A) ALASKA NATIVE CORPORATION.—The
15 term ‘Alaska Native Corporation’ has the same
16 meaning as the term ‘Native Corporation’ in sec-
17 tion 3 of the Alaska Native Claims Settlement
18 Act (43 U.S.C. 1602).

19 “(B) ALASKA NATIVE VILLAGE.—The term
20 ‘Alaska Native Village’ has the same meaning as
21 the term ‘Native village’ in section 3 of the Alas-
22 ka Native Claims Settlement Act (43 U.S.C.
23 1602).

24 “(C) INDIAN RESERVATION.—The term ‘In-
25 dian reservation’—

1 “(i) has the same meaning as the term
2 ‘Indian country’ in section 1151 of title 18,
3 United States Code, except that such term
4 does not include—

5 “(I) any lands that are located
6 within a State in which a tribe did
7 not exercise governmental jurisdiction
8 on December 21, 2000, unless that tribe
9 is recognized after that date by either
10 an Act of Congress or pursuant to reg-
11 ulations of the Secretary of the Inte-
12 rior; and

13 “(II) lands taken into trust or ac-
14 quired by an Indian tribe after Decem-
15 ber 21, 2000, if such lands are not lo-
16 cated within the external boundaries of
17 an Indian reservation or former res-
18 ervation or are not contiguous to the
19 lands held in trust or restricted status
20 on that date of the enactment; and

21 “(ii) in the State of Oklahoma, means
22 lands that—

23 “(I) are within the jurisdictional
24 areas of an Oklahoma Indian tribe (as

1 *determined by the Secretary of the In-*
2 *terior); and*

3 *“(II) are recognized by the Sec-*
4 *retary of the Interior as eligible for*
5 *trust land status under part 151 of*
6 *title 25, Code of Federal Regulations*
7 *(as in effect on December 21, 2000).*

8 *“(D) INDIAN TRIBAL ORGANIZATION.—The*
9 *term ‘Indian tribal organization’ has the mean-*
10 *ing given that term in section 4(l) of the Indian*
11 *Self-Determination and Education Assistance*
12 *Act (25 U.S.C. 4506(l)).*

13 *“(q) DEFINITIONS RELATING TO VETERANS.—For*
14 *purposes of this Act:*

15 *“(1) SERVICE-DISABLED VETERAN.—The term*
16 *‘service-disabled veteran’ means a veteran with a dis-*
17 *ability that is service-connected (as defined in section*
18 *101(16) of title 38, United States Code).*

19 *“(2) SMALL BUSINESS CONCERN OWNED AND*
20 *CONTROLLED BY SERVICE-DISABLED VETERANS.—The*
21 *term ‘small business concern owned and controlled by*
22 *service-disabled veterans’ means a small business con-*
23 *cern—*

24 *“(A) not less than 51 percent of which is*
25 *owned by one or more service-disabled veterans*

1 *or, in the case of any publicly owned business,*
2 *not less than 51 percent of the stock of which is*
3 *owned by one or more service-disabled veterans;*
4 *and*

5 *“(B) the management and daily business*
6 *operations of which are controlled by one or*
7 *more service-disabled veterans or, in the case of*
8 *a veteran with permanent and severe disability,*
9 *the spouse or permanent caregiver of such vet-*
10 *eran.*

11 *“(3) SMALL BUSINESS CONCERN OWNED AND*
12 *CONTROLLED BY VETERANS.—The term ‘small busi-*
13 *ness concern owned and controlled by veterans’ means*
14 *a small business concern—*

15 *“(A) not less than 51 percent of which is*
16 *owned by one or more veterans or, in the case of*
17 *any publicly owned business, not less than 51*
18 *percent of the stock of which is owned by one or*
19 *more veterans; and*

20 *“(B) the management and daily business*
21 *operations of which are controlled by one or*
22 *more veterans.*

23 *“(4) VETERAN.—The term ‘veteran’ has the*
24 *meaning given the term in section 101(2) of title 38,*
25 *United States Code.*

1 “(r) *SMALL MANUFACTURER.*—For purposes of this
2 Act, the term ‘small manufacturer’ means any small busi-
3 ness concern if—

4 “(1) the primary business of the concern is clas-
5 sified in sector 31, 32, or 33 of the North American
6 Industrial Classification System; and

7 “(2) all of its facilities that are used for produc-
8 tion are located in the United States.

9 “(s) *SMALL BUSINESS LENDING COMPANY.*—For pur-
10 poses of this Act, the term ‘small business lending company’
11 means a business concern that is authorized by the Admin-
12 istrator to make loans pursuant to section 7(a) and whose
13 lending activities are not subject to regulation by any Fed-
14 eral or State regulatory agency.

15 “(t) *NON-FEDERALLY REGULATED SBA LENDERS.*—
16 For purposes of this Act, the term ‘Non-federally regulated
17 SBA lenders’ means a business concern if—

18 “(1) such concern is authorized by the Adminis-
19 trator to make loans under section 7;

20 “(2) such concern is subject to regulation by a
21 State; and

22 “(3) the lending activities of such concern are
23 not regulated by any Federal banking authority.

24 “(u) *PROCUREMENT CENTER REPRESENTATIVE.*—For
25 purposes of this Act, the term ‘procurement center represent-

1 *ative’ means an employee of the Administration whose sole*
 2 *responsibility is to perform the functions referred to in sec-*
 3 *tion 15(l).*

4 “(v) *COMMERCIAL MARKETING REPRESENTATIVE.—*
 5 *For purposes of this Act, the term ‘commercial marketing*
 6 *representative’ means an employee of the Administration*
 7 *whose sole responsibility is to perform the functions referred*
 8 *to in section 8(d).*

9 “(w) *TEAM.—For purposes of this Act, the term ‘team’*
 10 *means two or more small business concerns who respond*
 11 *together to a solicitation, as one entity, for the purposes*
 12 *of providing goods or services to a Federal agency. A team*
 13 *shall be considered a small business concern provided that*
 14 *each member of the team is a small business concern.”.*

15 **SEC. 204. SMALL BUSINESS ADMINISTRATION.**

16 “(a) *IN GENERAL.—Section 4 of the Small Business Act*
 17 *(15 U.S.C. 633) is amended to read as follows:*

18 **“SEC. 4. SMALL BUSINESS ADMINISTRATION.**

19 “(a) *ESTABLISHMENT.—In order to carry out the poli-*
 20 *cies of this Act and the Small Business Investment Act of*
 21 *1958, there is an agency known as the ‘Small Business Ad-*
 22 *ministration’ (also referred to in this Act as the Adminis-*
 23 *tration), which Administration shall be under the general*
 24 *direction and supervision of the President and shall not be*
 25 *affiliated with or be within any other agency or department*

1 *of the Federal Government. The principal office of the Ad-*
2 *ministration shall be located in the District of Columbia.*

3 “(b) *APPOINTMENT OF ADMINISTRATOR AND DEPUTY*
4 *ADMINISTRATOR.—*

5 “(1) *ADMINISTRATOR.—The management of the*
6 *Administration shall be vested in an Administrator*
7 *who shall be appointed from civilian life by the Presi-*
8 *dent, by and with the advice and consent of the Sen-*
9 *ate, and who shall be a person of outstanding quali-*
10 *fications known to be familiar and sympathetic with*
11 *the needs and problems of small business concerns.*
12 *The Administrator shall not engage in any other*
13 *business, vocation, or employment other than that of*
14 *servicing as Administrator.*

15 “(2) *DEPUTY ADMINISTRATOR.—The President*
16 *shall appoint, by and with the advice and consent of*
17 *the Senate, a Deputy Administrator, whose principal*
18 *function shall be to assist the Administrator in the*
19 *daily management of the Administration.*

20 “(c) *POWERS OF THE ADMINISTRATOR.—*

21 “(1) *USE OF SEAL.—The Administrator may*
22 *adopt, alter, and use a seal, which shall be judicially*
23 *noticed.*

24 “(2) *SUE AND BE SUED.—The Administrator*
25 *may sue and be sued in any court of record of a State*

1 *having general jurisdiction, or in any United States*
2 *district court, and jurisdiction is conferred upon such*
3 *district court to determine such controversies without*
4 *regard to the amount in controversy; but no attach-*
5 *ment, garnishment, or other similar process, mesne or*
6 *final, shall be issued against the Administrator or his*
7 *property.*

8 “(3) *RULES AND REGULATIONS.*—*The Adminis-*
9 *trator may make such rules and regulations as he*
10 *deems necessary to carry out this Act and the Small*
11 *Business Investment Act of 1958 (15 U.S.C. 661 et*
12 *seq.). Any such rules or regulations, other than those*
13 *relating to agency management or personnel, shall be*
14 *issued pursuant to section 553(b) of title 5, United*
15 *States Code.*

16 “(4) *FACILITIES AND STAFF OF FEDERAL AGEN-*
17 *CIES.*—*Upon request of the Administrator, the head of*
18 *any Federal department or agency may provide, on*
19 *a reimbursable or nonreimbursable basis, informa-*
20 *tion, services, facilities (including any field service*
21 *thereof), or any of the personnel of that department*
22 *or agency to the Administrator to assist in carrying*
23 *out this Act and the Small Business Investment Act*
24 *of 1958.*

25 “(5) *INVESTIGATIONS; SUBPOENAS.*—

1 “(A) *INVESTIGATIONS.*—*The Administrator*
2 *may make such investigations as the Adminis-*
3 *trator deems necessary to determine whether a*
4 *recipient of or participant in any assistance*
5 *under this Act or any other person has engaged,*
6 *or is about to engage, in any acts or practices*
7 *which constitute, or will constitute, a violation of*
8 *any provision of this Act, or of any rule or regu-*
9 *lation under this Act, or of any order issued*
10 *under this Act.*

11 “(B) *STATEMENTS.*—*The Administrator*
12 *shall permit any person to file with it a state-*
13 *ment in writing, under oath or otherwise as the*
14 *Administrator shall determine, as to all the facts*
15 *and circumstances concerning the matter to be*
16 *investigated.*

17 “(C) *SUBPOENAS.*—*For the purpose of any*
18 *investigation, the Administrator may administer*
19 *oaths and affirmations, subpoena witnesses, com-*
20 *pel their attendance, take evidence, and require*
21 *the production of any books, papers, and docu-*
22 *ments which are relevant to the inquiry. Such*
23 *attendance of witnesses and the production of*
24 *any such records may be required from any*
25 *place in the United States.*

1 “(D) *CONTEMPT PROCEEDINGS.*—*In case of*
2 *contumacy by, or refusal to obey a subpoena*
3 *issued to, any person, including a recipient or*
4 *participant, the Administrator may invoke the*
5 *aid of any court of the United States within the*
6 *jurisdiction of which such investigation or pro-*
7 *ceeding is carried on, or where such person re-*
8 *sides or carries on business, in requiring the at-*
9 *tendance and testimony of witnesses and the pro-*
10 *duction of books, papers, and documents; and*
11 *such court may issue an order requiring such*
12 *person to appear before the Administrator, there*
13 *to produce records, if so ordered, or to give testi-*
14 *mony touching the matter under investigation.*
15 *Any failure to obey such order of the court may*
16 *be punished by such court as a contempt thereof.*
17 *All process in any such case may be served in*
18 *the judicial district whereof such person is an*
19 *inhabitant or wherever he may be found.*

20 “(6) *GIFTS.*—

21 “(A) *IN GENERAL.*—*The Administrator*
22 *may solicit, accept, hold, administer, and utilize*
23 *gifts, devises, bequests, cash, and temporary use*
24 *of property, both real and personal, and dona-*
25 *tions of personal services for the purpose of aid-*

1 *ing or facilitating the Administrator in pro-*
2 *viding training to persons, employees, small*
3 *business concerns and small manufacturers, and*
4 *technical assistance to small business concerns*
5 *and small manufacturers.*

6 “(B) *AUDITS.*—*Any such gifts, devises, or*
7 *bequests of property shall be held in a separate*
8 *account and shall be subject to quarterly audits*
9 *by the Inspector General of the Administration*
10 *who shall report quarterly to the Congress on the*
11 *Administrator’s use of such gifts, bequests, de-*
12 *vises, and donations of personal services includ-*
13 *ing an assessment of whether such gifts, bequests,*
14 *devises, and personal services have advanced the*
15 *purposes of this Act.*

16 “(C) *AUTHORITY TO CHARGE FEES.*—*Not-*
17 *withstanding any other provision of this Act, the*
18 *Administrator is authorized to charge nominal*
19 *fees to attendees in order to cover costs for any*
20 *event or publication produced pursuant to sub-*
21 *paragraph (A).*

22 “(D) *CONFLICTS OF INTEREST.*—*No em-*
23 *ployee of the Administration may accept or so-*
24 *licit any gift, bequest, devise, or donation of per-*
25 *sonal services if such acceptance or solicitation*

1 *would, in the opinion of the General Counsel,*
2 *create a conflict of interest.*

3 “(E) *ACCEPTANCE OF SERVICES AND FA-*
4 *CILITIES FOR DISASTER LOAN PROGRAM.—The*
5 *Administrator may accept the services and fa-*
6 *cilities of Federal, State, and local agencies and*
7 *groups, both public and private, and utilize such*
8 *gratuitous services and facilities as may, from*
9 *time to time, be necessary, to further the objec-*
10 *tives of section 7(b). Subparagraph (B) shall not*
11 *apply to any services or facilities accepted under*
12 *this subparagraph.*

13 “(7) *CO-SPONSORSHIP OF EVENTS.—*

14 “(A) *AUTHORIZATION.—The Administrator,*
15 *after consultation with the General Counsel, may*
16 *permit any eligible donor of any gift, bequest,*
17 *devise, or donation of personal services to be a*
18 *named cosponsor of any event conducted by the*
19 *Administrator or any publication of the Admin-*
20 *istrator.*

21 “(B) *ELIGIBLE DONOR.—For purposes of*
22 *this paragraph, the term ‘eligible donor’ means,*
23 *with respect to any event or publication, any*
24 *donor if such donor provides, directly or in-kind,*
25 *at least 50 percent of the cost of such event or*

1 *publication, provided further that any such co-*
2 *sponsorship must be approved by an Associate*
3 *Administrator, after consultation with the Gen-*
4 *eral Counsel.*

5 “(C) *LIMITED DELEGATION.*—*The Adminis-*
6 *trator may not delegate the authority described*
7 *in subparagraph (A) except to the Deputy Ad-*
8 *ministrator or any Associate Administrator.*

9 “(D) *REPORT TO CONGRESS.*—*The Inspec-*
10 *tor General of the Administration shall report*
11 *semi-annually to Congress on the Administra-*
12 *tor’s use of co-sponsorship. Such report shall in-*
13 *clude the Inspector General’s assessment of*
14 *whether such co-sponsorships have advanced the*
15 *purposes of this Act.*

16 “(d) *OTHER PROVISIONS.*—

17 “(1) *REQUIREMENTS FOR ASSISTANCE.*—*No loan*
18 *shall be made or equipment, facilities, or services fur-*
19 *nished by the Administrator under this Act to any*
20 *business concern unless the owners, partners, or offi-*
21 *cers of such business concern—*

22 “(A) *certify to the Administrator the names*
23 *of any attorneys, agents, or other persons en-*
24 *gaged by or on behalf of such business concern*
25 *for the purpose of expediting applications made*

1 to the Administrator for assistance of any sort,
2 and the fees paid or to be paid to any such per-
3 sons;

4 “(B) execute an agreement binding any
5 such business concern for a period of two years
6 after any assistance is rendered by the Adminis-
7 trator to such business concern, to refrain from
8 employing, tendering any office or employment
9 to, or retaining for professional services, any
10 person who, on the date such assistance or any
11 part thereof was rendered, or within one year
12 prior thereto, shall have served as an officer, at-
13 torney, agent, or employee of the Administration
14 occupying a position or engaging in activities
15 which the Administrator shall have determined
16 involve discretion with respect to the granting of
17 assistance under this Act; and

18 “(C) furnish the names of lending institu-
19 tions to which such business concern has applied
20 for loans together with dates, amounts, terms,
21 and proof of refusal.

22 “(2) *AUTHORITY RELATING TO TRANSFER OF*
23 *FUNCTIONS.*—The President may transfer to the Ad-
24 ministrato*r any functions, powers, and duties of any*
25 *department or agency which relate primarily to small*

1 *business problems. In connection with any such trans-*
2 *fer, the President may provide for appropriate trans-*
3 *fers of records, property, necessary personnel, and un-*
4 *expended balances of appropriations and other funds*
5 *available to the department or agency from which the*
6 *transfer is made.*

7 *“(3) FAIR CHARGES.—To the fullest extent the*
8 *Administrator deems practicable, he shall make a fair*
9 *charge for the use of Government-owned property and*
10 *make and let contracts on a basis that will result in*
11 *a recovery of the direct costs incurred by the Adminis-*
12 *trator.*

13 *“(4) NON-DUPLICATION.—The Administrator*
14 *shall not duplicate the work or activity of any other*
15 *department or agency of the Federal Government.*
16 *Nothing contained in this Act shall be construed to*
17 *authorize any such duplication unless such work or*
18 *activity is expressly provided for in this Act. If loan*
19 *applications are being refused or loans denied by such*
20 *other department or agency responsible for such work*
21 *or activity due to administrative withholding from*
22 *obligation or withholding from apportionment, or due*
23 *to administratively declared moratorium, then, for*
24 *purposes of this section, no duplication shall be*
25 *deemed to have occurred.*

1 “(5) *PREPAYMENT OF RENTALS.*—Subsections
2 (a) and (b) of section 3324 of title 31, United States
3 Code, shall not apply to prepayments of rentals made
4 by the Administration on safety deposit boxes used by
5 the Administration for the safeguarding of instru-
6 ments held as security for loans or for the safe-
7 guarding of other documents.

8 “(6) *NONDISCRIMINATION.*—In carrying out this
9 Act and the Small Business Investment Act of 1958,
10 the Administrator shall not discriminate on the basis
11 of sex or marital status against any person or small
12 business concern applying for or receiving assistance
13 from the Administrator.

14 “(7) *GROUPS RECEIVING SPECIAL CONSIDER-*
15 *ATION.*—In providing assistance under this Act and
16 the Small Business Investment Act of 1958, the Ad-
17 ministrator shall give special consideration to—

18 “(A) veterans of the Armed Forces of the
19 United States and their survivors or dependents;
20 and

21 “(B) small manufacturers.

22 “(8) *UNLAWFUL RESIDENTS.*—None of the funds
23 made available pursuant to this Act may be used to
24 provide any direct benefit or assistance to any indi-
25 vidual in the United States if the Administrator or

1 *the official to which the funds are made available re-*
2 *ceives notification that the individual is not lawfully*
3 *within the United States.*

4 “(9) *OBSCENE PRODUCTS AND SERVICES.—The*
5 *Administrator is prohibited from providing any fi-*
6 *nancial or other assistance to any business concern or*
7 *other person engaged in the production or distribu-*
8 *tion of any product or service that has been deter-*
9 *mined to be obscene by a court of competent jurisdic-*
10 *tion.*

11 “(10) *ECONOMIC DATABASE; INDICES AND RE-*
12 *PORTS.—The Administrator shall—*

13 “(A) *establish and maintain an external*
14 *small business economic data base for the pur-*
15 *pose of providing the Congress and the President*
16 *information on the economic condition and the*
17 *expansion or contraction of the small business*
18 *sector;*

19 “(B) *publish on a regular basis national*
20 *small business economic indices and, to the ex-*
21 *tent feasible, regional small business economic*
22 *indices, which shall include data on—*

23 “(i) *employment, layoffs, and new*
24 *hires;*

1 “(ii) number of business establishments
2 and the types of such establishments such as
3 sole proprietorships, corporations, and part-
4 nerships;

5 “(iii) number of business formations
6 and failures;

7 “(iv) sales and new orders;

8 “(v) back orders;

9 “(vi) investment in plant and equip-
10 ment;

11 “(vii) changes in inventory and rate of
12 inventory turnover;

13 “(viii) sources and amounts of capital
14 investment, including debt, equity, and in-
15 ternally generated funds;

16 “(ix) debt to equity ratios;

17 “(x) exports;

18 “(xi) number and dollar amount of
19 mergers and acquisitions by size of acquir-
20 ing and acquired firm; and

21 “(xii) concentration ratios; and

22 “(C) in consultation with the Chief Counsel
23 for Advocacy, publish annually a report giving
24 a comparative analysis and interpretation of the
25 historical trends of the small business sector as

1 *reflected by the data acquired pursuant to sub-*
2 *paragraph (A).”.*

3 ***(b) RELATED REPEALS.—***

4 ***(1) Section 13 of the Small Business Act (15***
5 ***U.S.C. 642) is amended to read as follows:***

6 **“SEC. 13. [RESERVED].”.**

7 ***(2) Section 14 of the Small Business Act (15***
8 ***U.S.C. 643) is amended to read as follows:***

9 **“SEC. 14. [RESERVED].”.**

10 ***(3) Section 18 of the Small Business Act (15***
11 ***U.S.C. 647) is amended to read as follows:***

12 **“SEC. 18. [RESERVED].”.**

13 **SEC. 205. FINANCIAL MANAGEMENT.**

14 ***(a) IN GENERAL.—Section 5 of the Small Business Act***
15 ***(15 U.S.C. 634) is amended to read as follows:***

16 **“SEC. 5. FINANCIAL MANAGEMENT.**

17 ***“(a) ACCOUNTS.—***

18 ***“(1) IN GENERAL.—All repayments of loans, de-***
19 ***bentures, payments of interest and other receipts aris-***
20 ***ing out of transactions heretofore or hereafter entered***
21 ***into by the Administrator shall be deposited into ap-***
22 ***propriate accounts and funds as determined by the***
23 ***Administrator.***

24 ***“(2) REPORT AND BUDGET.—The Administrator***
25 ***shall submit to the Committees on Appropriations, the***

1 *Committee on Small Business and Entrepreneurship*
2 *of the Senate, and the Committee on Small Business*
3 *of the House of Representatives, as soon as possible*
4 *after the beginning of each calendar quarter a full*
5 *and complete report on the status of each of the ac-*
6 *counts and funds referred to in paragraph (1). Busi-*
7 *ness-type budgets for each of the accounts and funds*
8 *referred to in paragraph (1) shall be prepared, trans-*
9 *mitted to the Committees on Appropriations, the*
10 *Committee on Small Business and Entrepreneurship*
11 *of the Senate, and the Committee on Small Business*
12 *of the House of Representatives, and considered, and*
13 *enacted in the manner prescribed for wholly owned*
14 *Government corporations under sections 9103 and*
15 *9104 of title 31, United States Code.*

16 *“(3) ISSUANCE OF NOTES.—*

17 *“(A) ISSUANCE.—The Administrator may*
18 *issue notes to the Secretary of the Treasury for*
19 *the purpose of obtaining funds necessary for dis-*
20 *charging obligations under the accounts and*
21 *funds referred to in paragraph (1) and for au-*
22 *thorized expenditures out of the accounts and*
23 *funds.*

24 *“(B) FORM.—The notes authorized by this*
25 *paragraph shall be in such form and denomina-*

1 *tions and have such maturities and be subject to*
2 *such terms and conditions as may be prescribed*
3 *by the Administrator with the approval of the*
4 *Secretary of the Treasury.*

5 *“(C) INTEREST RATE.—Such notes shall*
6 *bear interest at a rate fixed by the Secretary of*
7 *the Treasury, taking into consideration the cur-*
8 *rent average market yield of outstanding market-*
9 *able obligations of the United States having ma-*
10 *turities comparable to the notes issued by the Ad-*
11 *ministrator under this paragraph.*

12 *“(D) PURCHASE BY TREASURY.—The Sec-*
13 *retary of the Treasury shall purchase any notes*
14 *of the Administration issued under subpara-*
15 *graph (A). For purposes of purchasing such*
16 *notes, the Secretary of the Treasury may use as*
17 *a public debt transaction the proceeds from the*
18 *sale of any securities issued under chapter 31 of*
19 *title 31, United States Code. The purposes for*
20 *which such securities may be issued under such*
21 *chapter are extended to include the purchase of*
22 *notes issued by the Administrator under sub-*
23 *paragraph (A). All redemptions, purchases, and*
24 *sales by the Secretary of the Treasury of such*

1 *notes shall be treated as public debt transactions*
2 *of the United States.*

3 “(4) *PAYMENTS TO TREASURY.*—

4 “(A) *EXCESS FUNDS.*—*Moneys in any ac-*
5 *count or fund referred to in paragraph (1) which*
6 *are not needed for current operations shall re-*
7 *main in such account or fund and shall be avail-*
8 *able solely to carry out the provisions and pur-*
9 *poses of programs operated from such account or*
10 *fund pursuant to law as provided in appropria-*
11 *tions Acts.*

12 “(B) *ACTUAL INTEREST.*—*Following the*
13 *close of each fiscal year, the Administrator shall*
14 *pay into the miscellaneous receipts of the United*
15 *States Treasury the actual interest that the Ad-*
16 *ministrator collects during that fiscal year on all*
17 *financings made under this Act.*

18 “(C) *OTHER INTEREST.*—*Except on those*
19 *loan disbursements on which interest is paid*
20 *under subparagraph (B), the Administrator shall*
21 *pay into miscellaneous receipts of the Treasury,*
22 *following the close of each fiscal year, interest re-*
23 *ceived by the Administration on financing func-*
24 *tions performed under this Act and titles III and*
25 *V of the Small Business Investment Act of 1958*

1 *if the capital used to perform such functions*
2 *originated from appropriated funds. Such pay-*
3 *ments shall be treated by the Department of the*
4 *Treasury as interest income, not as retirement of*
5 *indebtedness.*

6 “(5) CONTRIBUTIONS TO EMPLOYEES COMPENSA-
7 TION FUND.—*The Administrator shall contribute to*
8 *the employee’s compensation fund, on the basis of an-*
9 *annual billings as determined by the Secretary of Labor,*
10 *for the benefit payments made from such fund on ac-*
11 *count of employees engaged in carrying out functions*
12 *financed by the accounts and funds referred to in*
13 *paragraph (1). The annual billings shall also include*
14 *a statement of the fair portion of the cost of the ad-*
15 *ministration of such funds, which shall be paid by the*
16 *Administrator into the Treasury as miscellaneous re-*
17 *ceipts.*

18 “(6) AUTHORIZATION OF APPROPRIATIONS.—
19 *There are authorized to be appropriated, in any fiscal*
20 *year, such sums as may be necessary for losses and*
21 *interest subsidies incurred by the accounts and funds*
22 *referred to in paragraph (1) and not previously reim-*
23 *bursed. All borrowing authority contained in this sub-*
24 *section shall be effective only to such extent or in such*

1 *amounts as are provided in advance in appropriation*
2 *Acts.*

3 “(b) *FINANCIAL MANAGEMENT POWERS.*—

4 “(1) *SALE OF FINANCINGS, ETC.*—

5 “(A) *IN GENERAL.*—*The Administrator,*
6 *under regulations prescribed by him and codified*
7 *in the Code of Federal Regulations, may assign*
8 *or sell at public or private sale, or otherwise dis-*
9 *pose of for cash or credit, in his discretion and*
10 *upon such terms and conditions and for such*
11 *consideration as he shall determine to be reason-*
12 *able, any evidence of debt, contract, claim, per-*
13 *sonal property, or security assigned to or held by*
14 *him in connection with the payment of loans*
15 *granted under this Act, and to collect or com-*
16 *promise all obligations assigned to or held by*
17 *him and all legal or equitable rights accruing to*
18 *him in connection with the payment of such*
19 *loans until such time as such obligations may be*
20 *referred to the Attorney General for suit or col-*
21 *lection.*

22 “(B) *LIMITATION.*—*Notwithstanding sub-*
23 *paragraph (A), the Administrator shall not sell*
24 *any portion of the Administration’s interest in,*
25 *or the rights of the Administration with respect*

1 to, any loan made directly or through immediate
2 participation under section 7(b), including by
3 direct sale, through the sale of loan participa-
4 tions, or by including such loan in a pool of as-
5 sets for the purpose of selling asset-backed securi-
6 ties during—

7 “(i) the 3-year period beginning on the
8 date that such loan was originated; and

9 “(ii) the 3-month period beginning at
10 the end of such 3-year period if, at any
11 time during the 3-month period ending at
12 the end of such 3-year period, the Adminis-
13 trator was engaged in negotiations with the
14 borrower for the purpose of substantially al-
15 tering the terms of such loan.

16 “(2) *USE OF FEDERAL RESERVE DEPOSI-*
17 *TORIES.*—All moneys of the Administrator not other-
18 wise employed may be deposited with the Treasury of
19 the United States subject to check by authority of the
20 Administrator. The Federal Reserve banks are author-
21 ized and directed to act as depositaries, custodians,
22 and fiscal agents for the Administrator in the general
23 performance of its powers conferred by this Act. Any
24 banks insured by the Federal Deposit Insurance Cor-
25 poration, when designated by the Secretary of the

1 *Treasury, shall act as custodians and financial agents*
2 *for the Administrator. Each Federal Reserve bank,*
3 *when designated by the Administrator as fiscal agent*
4 *for the Administrator, shall be entitled to be reim-*
5 *bursed for all expenses incurred as such fiscal agent.*

6 “(3) *REAL PROPERTY.*—

7 “(A) *CONVEYANCE.*—*The Administrator*
8 *may convey and execute in the name of the Ad-*
9 *ministration deeds of conveyance, deeds of re-*
10 *lease, assignments and satisfactions of mortgages,*
11 *and any other written instrument relating to*
12 *real property or any interest therein acquired by*
13 *the Administrator pursuant to the provisions of*
14 *this Act. Such authority may be exercised by the*
15 *Administrator or by any officer or agent ap-*
16 *pointed by him without the execution of any ex-*
17 *press delegation of power or power of attorney.*

18 “(B) *OTHER AUTHORITY.*—*The Adminis-*
19 *trator may deal with, complete, renovate, im-*
20 *prove, modernize, insure, or rent, or sell for cash*
21 *or credit upon such terms and conditions and for*
22 *such consideration as the Administrator shall de-*
23 *termine to be reasonable, any real property con-*
24 *veyed to or otherwise acquired by him in connec-*

1 *tion with the payment of loans granted under*
2 *this Act.*

3 “(4) *COLLECTIONS.*—*The Administrator may*
4 *pursue to final collection, by way of compromise or*
5 *otherwise, all claims against third parties assigned to*
6 *the Administrator in connection with loans made by*
7 *him, including by obtaining deficiency judgments or*
8 *otherwise in the case of mortgages assigned to the Ad-*
9 *ministrator.*

10 “(5) *ACQUISITION OF PROPERTY.*—*The Adminis-*
11 *trator may acquire, in any lawful manner, any prop-*
12 *erty (real, personal, or mixed, tangible or intangible),*
13 *whenever deemed necessary or appropriate to the con-*
14 *duct of the activities authorized in subsection (a) or*
15 *(b) of section 7.*

16 “(6) *POWER OF ATTORNEY.*—*Nothing in this sec-*
17 *tion shall prevent the Administrator from delegating*
18 *any authority provided under this section by power*
19 *of attorney to any officer or agent he may appoint.*

20 “(c) *SALE OF GUARANTEED LOANS BY LENDERS.*—

21 “(1) *IN GENERAL.*—*The guaranteed portion of*
22 *any loan made pursuant to this Act may be sold by*
23 *the lender, and by any subsequent holder, consistent*
24 *with regulations on such sales as the Administrator*
25 *shall establish, subject to the following limitations:*

1 “(A) *Prior to the approval of the sale, or*
2 *upon any subsequent sale, of any loan guaran-*
3 *teed by the Administrator, if the lender certifies*
4 *that such loan has been properly closed and that*
5 *the lender has substantially complied with the*
6 *provisions of the guarantee agreement and the*
7 *regulations of the Administrator, the Adminis-*
8 *trator shall review and approve only materials*
9 *not previously approved.*

10 “(B) *All fees due the Administrator on a*
11 *guaranteed loan shall have been paid in full*
12 *prior to any sale.*

13 “(C) *Each loan, except each loan made*
14 *under section 7(a)(14), shall have been fully dis-*
15 *bursed to the borrower prior to any sale.*

16 “(2) *TREATMENT IN SECONDARY MARKET.—After*
17 *a loan is sold in the secondary market, the lender*
18 *shall remain obligated under its guarantee agreement*
19 *with the Administrator, and shall continue to service*
20 *the loan in a manner consistent with the terms and*
21 *conditions of such agreement.*

22 “(3) *PROCEDURES.—The Administrator shall de-*
23 *velop such procedures as are necessary for:*

24 “(A) *The facilitation, administration, and*
25 *promotion of secondary market operations.*

1 “(B) *Assessing the increase of small busi-*
2 *ness access to capital at reasonable rates and*
3 *terms as a result of secondary market operations.*

4 “(4) *CERTAIN REGULATIONS REQUIRED.—The*
5 *unguaranteed portion of any loan made under section*
6 *7(a) shall not be sold unless a final regulation pro-*
7 *mulgated by the Administrator is in effect that ap-*
8 *plies uniformly to both depository institutions and*
9 *other lenders and sets forth the terms and conditions*
10 *under which such sales can be permitted, including*
11 *maintenance of appropriate reserve requirements and*
12 *other safeguards to protect the safety and soundness*
13 *of the program.*

14 “(5) *PREPAYMENTS.—Nothing in this subsection*
15 *or subsection (d) shall be interpreted to impede or ex-*
16 *tinguish the right of the borrower or the successor in*
17 *interest to such borrower to prepay (in whole or in*
18 *part) any loan made pursuant to section 7(a), the*
19 *guaranteed portion of which may be included in such*
20 *trust or pool, or to impede or extinguish the rights of*
21 *any party pursuant to subsection (f)(3).*

22 “(d) *ISSUANCE OF TRUST CERTIFICATES.—*

23 “(1) *IN GENERAL.—The Administrator may*
24 *issue trust certificates representing ownership of all or*
25 *a fractional part of the guaranteed portion of one or*

1 *more loans which have been guaranteed by the Ad-*
2 *ministration under this Act, or under section 502 of*
3 *the Small Business Investment Act of 1958. Such*
4 *trust certificates shall be based on and backed by a*
5 *trust or pool approved by the Administrator and com-*
6 *posed solely of the entire guaranteed portion of such*
7 *loans.*

8 *“(2) GUARANTEE.—*

9 *“(A) AUTHORIZATION.—The Administrator*
10 *is authorized, upon such terms and conditions as*
11 *are deemed appropriate, to guarantee the timely*
12 *payment of the principal of and interest on trust*
13 *certificates issued by the Administrator or its*
14 *agent for purposes of this subsection. Such guar-*
15 *antee shall be limited to the extent of principal*
16 *and interest on the guaranteed portions of loans*
17 *which compose the trust or pool. The full faith*
18 *and credit of the United States is pledged to the*
19 *payment of all amounts which may be required*
20 *to be paid under any guarantee of such trust cer-*
21 *tificates issued by the Administrator or its agent*
22 *pursuant to this subsection.*

23 *“(B) PREPAYMENT.—In the event that a*
24 *loan in such trust or pool is prepaid, either vol-*
25 *untarily or in the event of default, the guarantee*

1 *of timely payment of principal and interest on*
2 *the trust certificates shall be reduced in propor-*
3 *tion to the amount of principal and interest such*
4 *prepaid loan represents in the trust or pool.*

5 “(C) *INTEREST; REDEMPTION.*—*Interest on*
6 *prepaid or defaulted loans shall accrue and be*
7 *guaranteed by the Administrator only through*
8 *the date of payment on the guarantee. During*
9 *the term of the trust certificate, it may be called*
10 *for redemption due to prepayment or default of*
11 *all loans constituting the pool.*

12 “(3) *FEEES.*—

13 “(A) *IN GENERAL.*—*The Administrator*
14 *may collect a fee for any loan guarantee sold*
15 *into the secondary market under subsection (c)*
16 *in an amount equal to not more than 50 percent*
17 *of the portion of the sale price that exceeds 110*
18 *percent of the outstanding principal amount of*
19 *the portion of the loan guaranteed by the Admin-*
20 *istrator.*

21 “(B) *COLLECTION.*—*Any such fee imposed*
22 *by the Administrator shall be collected by the*
23 *Administrator or by the agent which carries out*
24 *on behalf of the Administrator the central reg-*
25 *istration functions required by subsection (e)*

1 *and shall be paid to the Administrator and used*
2 *solely to reduce the subsidy on loans guaranteed*
3 *under section 7(a). Any such fee shall not be*
4 *charged to the borrower whose loan is guaran-*
5 *teed. Nothing in this paragraph shall preclude*
6 *any agent of the Administrator from collecting a*
7 *fee approved by the Administrator for the func-*
8 *tions described in subsection (e).*

9 “(C) *LATE FEES.—The Administrator is*
10 *authorized to impose and collect, either directly*
11 *or through a fiscal and transfer agent, a reason-*
12 *able penalty on late payments of the fee author-*
13 *ized under subparagraph (A) in an amount not*
14 *to exceed 5 percent of such fee per month plus in-*
15 *terest.*

16 “(4) *SUBROGATION.—In the event the Adminis-*
17 *trator pays a claim under a guarantee issued under*
18 *this subsection, it shall be subrogated fully to the*
19 *rights satisfied by such payment.*

20 “(5) *LAWS SUPERSEDED.—No federal, state, or*
21 *local law, shall preclude or limit the exercise by the*
22 *Administrator of its ownership rights in the portions*
23 *of loans constituting the trust or pool against which*
24 *the trust certificates are issued.*

1 “(e) *CENTRAL REGISTRY OF LOANS AND TRUST CER-*
2 *TIFICATES.*—

3 “(1) *ESTABLISHMENT.*—*Upon the adoption of*
4 *final rules and regulations, the Administrator shall—*

5 “(A) *provide for a central registration of all*
6 *loans and trust certificates sold pursuant to sub-*
7 *sections (c) and (d);*

8 “(B) *contract with an agent to carry out on*
9 *behalf of the Administrator the central registra-*
10 *tion functions of this subsection and the issuance*
11 *of trust certificates to facilitate pooling;*

12 “(C) *prior to any sale, require the seller to*
13 *disclose to a purchaser of the guaranteed portion*
14 *of a loan guaranteed under this Act, and to the*
15 *purchaser of a trust certificate issued pursuant*
16 *to subsection (d), information on the terms, con-*
17 *ditions, and yield of such instrument; and*

18 “(D) *have the authority to regulate brokers*
19 *and dealers in guaranteed loans and trust cer-*
20 *tificates sold pursuant to subsections (c) and (d).*

21 “(2) *BONDING REQUIREMENT.*—*The agent re-*
22 *ferred to in paragraph (1)(B) shall provide a fidelity*
23 *bond or insurance in such amounts as the Adminis-*
24 *trator determines to be necessary to fully protect the*
25 *interest of the Government.*

1 “(3) *SELLER*.—For purposes of this subsection,
2 the term ‘seller’, with respect to the sale of any loan,
3 does not include the entity which made the loan or
4 any individual or entity which sells three or fewer
5 guaranteed loans per year.

6 “(4) *BOOK-ENTRY SYSTEM*.—Nothing in this sub-
7 section shall prohibit the utilization of a book-entry
8 or other electronic form of registration for trust cer-
9 tificates. The Administrator may, with the consent of
10 the Secretary of the Treasury, use the book-entry sys-
11 tem of the Federal Reserve System.

12 “(5) *AGENT FEES*.—The Administrator may
13 compensate an agent described in paragraph (1)(B)
14 through transaction and servicing fees charged to pro-
15 gram users and through interest earnings on pay-
16 ments under the agent’s control.

17 “(f) *OTHER SPECIAL RULES AND AUTHORITIES RE-*
18 *LATED TO LOAN PROGRAMS*.—

19 “(1) *IN GENERAL*.—The Administrator may take
20 any and all actions (including the procurement of the
21 services of attorneys by contract in any office where
22 an attorney or attorneys are not or cannot be eco-
23 nomically employed full time to render such services)
24 when he determines such actions are necessary or de-
25 sirable in making, servicing, compromising, modi-

1 *fyling, liquidating, or otherwise dealing with or real-*
2 *izing on loans made under the provisions of this Act.*
3 *With respect to deferred participation loans, the Ad-*
4 *ministrator may, in the discretion of and pursuant to*
5 *regulations promulgated by the Administrator, au-*
6 *thorize participating lending institutions to take ac-*
7 *tions relating to loan servicing on behalf of the Ad-*
8 *ministrator, including determining eligibility and*
9 *creditworthiness and loan monitoring, collection, and*
10 *liquidation.*

11 *“(2) FEES.—The Administrator may impose, re-*
12 *tain, and use only those fees which are specifically*
13 *authorized by law or which are in effect on September*
14 *30, 1994, and in the amounts and at the rates in ef-*
15 *fect on such date, except that the Administrator may,*
16 *subject to approval in appropriations Acts, impose,*
17 *retain, and utilize, additional fees—*

18 *“(A) not to exceed \$100 for each loan serv-*
19 *icing action (other than a loan assumption) re-*
20 *quested after disbursement of the loan, including*
21 *any substitution of collateral, release or substi-*
22 *tution of a guarantor, reamortization, or similar*
23 *action;*

24 *“(B) not to exceed \$300 for loan assump-*
25 *tions;*

1 “(C) not to exceed 1 percent of the amount
2 of requested financings under title III of the
3 Small Business Investment Act of 1958 for which
4 the applicant requests a commitment from the
5 Administrator for funding during the following
6 year;

7 “(D) to recover the direct, incremental cost
8 involved in the production and dissemination of
9 compilations of information produced by the Ad-
10 ministrator under the authority of this Act and
11 the Small Business Investment Act of 1958; and

12 “(E) collect, retain and utilize, subject to
13 approval in appropriations Acts, any amounts
14 collected by fiscal transfer agents and not used
15 by such agent as payment of the cost of loan
16 pooling or debenture servicing operations, except
17 that amounts collected under this subsection shall
18 be utilized solely to facilitate the administration
19 of the program that generated the excess
20 amounts.

21 “(3) POWER TO UNDERTAKE AND SUSPEND
22 LOANS.—

23 “(A) IN GENERAL.—Subject to the require-
24 ments and conditions contained in this para-
25 graph, upon application by a small business

1 *concern which is the recipient of a loan made*
2 *under this Act, the Administrator may under-*
3 *take the small business concern's obligation to*
4 *make the required payments under such loan or*
5 *may suspend such obligation if the loan was a*
6 *direct loan made by the Administrator. While*
7 *such payments are being made by the Adminis-*
8 *trator pursuant to the undertaking of such obli-*
9 *gation or while such obligation is suspended, no*
10 *such payment with respect to the loan may be re-*
11 *quired from the small business concern.*

12 “(B) *REQUIREMENTS.—The Administrator*
13 *may undertake or suspend for a period of not to*
14 *exceed 5 years any small business concern's obli-*
15 *gation under this paragraph only if—*

16 “(i) *without such undertaking or sus-*
17 *pension of the obligation, the small business*
18 *concern would, in the sole discretion of the*
19 *Administrator, become insolvent or remain*
20 *insolvent;*

21 “(ii) *with the undertaking or suspen-*
22 *sion of the obligation, the small business*
23 *concern would, in the sole discretion of the*
24 *Administrator, become or remain a viable*
25 *small business concern; and*

1 “(iii) the small business concern exe-
2 cutes an agreement in writing satisfactory
3 to the Administrator as provided by sub-
4 paragraph (D) and takes such actions as
5 are required under subparagraph (E).

6 “(C) *EXTENSION OF MATURITY.*—Notwith-
7 standing the provisions of sections 7(a)(10) and
8 7(i)(1), the Administrator may extend the matu-
9 rity of any loan on which the Administrator un-
10 dertakes or suspends the obligation pursuant to
11 this paragraph for a corresponding period of
12 time.

13 “(D) *AGREEMENT.*—Prior to the under-
14 taking or suspension by the Administrator of
15 any small business concern’s obligation under
16 this subsection, the Administrator, consistent
17 with the purposes sought to be achieved under
18 this paragraph, shall require the small business
19 concern to agree in writing to repay to it the ag-
20 gregate amount of the payments which were re-
21 quired under the loan during the period for
22 which such obligation was undertaken or sus-
23 pended, either—

24 “(i) by periodic payments not less in
25 amount or less frequently falling due than

1 *those which were due under the loan during*
2 *such period;*

3 “(ii) pursuant to a repayment schedule
4 *agreed upon by the Administrator and the*
5 *small business concern; or*

6 “(iii) by a combination of the pay-
7 *ments described in clauses (i) and (ii).*

8 “(E) SECURITY; OTHER ACTIONS.—*The Ad-*
9 *ministrator shall, prior to the undertaking or*
10 *suspension of the obligation, take such action,*
11 *and require the small business concern to take*
12 *such action as the Administrator deems appro-*
13 *priate in the circumstances, including the provi-*
14 *sion of such security as the Administrator deems*
15 *necessary or appropriate to insure that the*
16 *rights and interests of the lender (Administra-*
17 *tion or participant) will be safeguarded ade-*
18 *quately during and after the period in which*
19 *such obligation is so undertaken or suspended.*

20 “(F) REQUIRED PAYMENTS.—*For purposes*
21 *of this paragraph, the term ‘required payments’*
22 *means, with respect to any loan, payments of*
23 *principal and interest under the loan.*

24 “(4) INTEREST RATE ON DEFERRED PARTICIPA-
25 *TION SHARE.—Upon purchase by the Administrator*

1 of any deferred participation entered into under sec-
2 tion 7, the Administrator may continue to charge a
3 rate of interest not to exceed that initially charged by
4 the participating institution on the amount so pur-
5 chased for the remaining term of the indebtedness.

6 “(5) *SUBORDINATION TO CERTAIN STATE TAX*
7 *LIENS.*—Any interest held by the Administrator in
8 property, as security for a loan, shall be subordinate
9 to any lien on such property for taxes due on the
10 property to a State, or political subdivision thereof,
11 in any case where such lien would, under applicable
12 State law, be superior to such interest if such interest
13 were held by any party other than the United States.

14 “(g) *RISK MANAGEMENT DATABASE.*—

15 “(1) *ESTABLISHMENT.*—The Administrator shall
16 maintain, within the management system for the loan
17 programs authorized by subsections (a) and (b) of sec-
18 tion 7 and title V of the Small Business Investment
19 Act of 1958, a management information system that
20 will generate a database capable of providing timely
21 and accurate information in order to identify loan
22 underwriting, collections, recovery, and liquidation
23 problems.

24 “(2) *CONTENTS.*—In addition to such other in-
25 formation as the Administrator considers appro-

1 *priate, the database established under this subsection*
2 *shall, with respect to each loan program described in*
3 *paragraph (1), include information relating to—*

4 *“(A) the identity of the institution making*
5 *the guaranteed loan or issuing the debenture;*

6 *“(B) the identity of the borrower;*

7 *“(C) the total dollar amount of the loan or*
8 *debenture;*

9 *“(D) the total dollar amount of government*
10 *exposure in each loan;*

11 *“(E) the district of the Administration in*
12 *which the borrower has its principal office;*

13 *“(F) the principal line of business of the*
14 *borrower, as identified by North American In-*
15 *dustrial Classification System Code;*

16 *“(G) the delinquency rate for each program*
17 *(including number of instances and days over-*
18 *due);*

19 *“(H) the number and amount of repur-*
20 *chases, losses, and recoveries in each program;*

21 *“(I) the number of deferrals or forbearances*
22 *in each program (including days and number of*
23 *instances);*

1 “(J) comparisons on the basis of loan pro-
2 gram, lender, Administration district and re-
3 gion, for all the data elements maintained; and

4 “(K) underwriting characteristics of each
5 loan that has entered into default, including
6 term, amount and type of collateral, loan-to-
7 value and other actual and projected ratios, line
8 of business, credit history, and type of loan.”.

9 (b) *RELATED REPEAL.*—Section 17 of the Small Busi-
10 ness Act (15 U.S.C. 646) is amended to read as follows:

11 “**SEC. 17. [RESERVED].**”.

12 **SEC. 206. ORGANIZATION AND STAFF.**

13 (a) *IN GENERAL.*—Section 6 of the Small Business Act
14 (15 U.S.C. 635) is amended to read as follows:

15 “**SEC. 6. ORGANIZATION AND STAFF.**

16 “(a) *GENERAL ORGANIZATIONAL AUTHORITY.*—

17 “(1) *OFFICES.*—Except as otherwise provided in
18 this Act, the Administrator may create subsidiary of-
19 fices in the Administration to carry out this Act and
20 the Small Business Investment Act of 1958.

21 “(2) *EMPLOYEES.*—The Administrator may, in
22 accordance with applicable provisions of title 5,
23 United States Code, select, employ, appoint, and fix
24 the compensation of such officers, employees, attor-
25 neys, and agents as shall be necessary to carry out

1 *this Act and the Small Business Investment Act of*
2 *1958.*

3 “(b) *ASSOCIATE ADMINISTRATORS.—The Adminis-*
4 *trator shall only appoint the following Associate Adminis-*
5 *trators:*

6 “(1) *The Associate Administrator for Capital Ac-*
7 *cess, who shall be appointed from civilian life and*
8 *have a minimum of five years experience in pro-*
9 *viding investment or banking services to businesses.*

10 “(2) *The Associate Administrator for Govern-*
11 *ment Contracting and Minority Small Business Op-*
12 *portunities, who shall have a minimum of five years*
13 *of experience in Federal procurement.*

14 “(3) *The Associate Administrator for Enterprise*
15 *Outreach and Training, who shall have a minimum*
16 *of five years experience in community-based outreach*
17 *programs.*

18 “(4) *The Associate Administrator for Adminis-*
19 *tration and Management, who shall act as the Chief*
20 *Operating Officer for the Administration and who*
21 *shall oversee the activities of the regional administra-*
22 *tors.*

23 “(c) *ESTABLISHMENT OF CERTAIN OFFICES.—There*
24 *are in the Administration the following offices:*

1 “(1) *The Office of Minority Small Business and*
2 *Capital Ownership Development, which shall be ad-*
3 *ministered by the assistant administrator appointed*
4 *under subsection (d)(1).*

5 “(2) *The Office of Veterans Business, which shall*
6 *be administered by the assistant administrator ap-*
7 *pointed under subsection (d)(2).*

8 “(3) *The Office of Small Business Development*
9 *Centers, which shall be administered by the assistant*
10 *administrator appointed under subsection (d)(3).*

11 “(4) *The Office of Investment, which shall be ad-*
12 *ministered by the assistant administrator appointed*
13 *under subsection (d)(4).*

14 “(5) *The Office of Lender Oversight, which shall*
15 *be administered by the assistant administrator ap-*
16 *pointed under subsection (d)(5).*

17 “(6) *The Office of Congressional and Legislative*
18 *Affairs, which shall be administered by the assistant*
19 *administrator appointed under subsection (d)(6).*

20 “(7) *The Office of International Trade, which*
21 *shall be administered by the assistant administrator*
22 *appointed under subsection (d)(7).*

23 “(8) *The Office of Women’s Business Ownership,*
24 *which shall be administered by the assistant adminis-*
25 *trator appointed under subsection (d)(8).*

1 “(d) *ASSISTANT ADMINISTRATORS.—The Adminis-*
2 *trator shall appoint the following Assistant Administrators:*

3 “(1) *The Assistant Administrator for Minority*
4 *Small Business and Capital Ownership Development,*
5 *who—*

6 “(A) *shall have a minimum of 5 years expe-*
7 *rience within the Administration in assisting*
8 *minority small businesses before being appointed*
9 *under this paragraph;*

10 “(B) *shall be responsible for carrying out*
11 *subsections (a), (b), and (c) of section 8;*

12 “(C) *shall be a career employee in the Sen-*
13 *ior Executive Service; and*

14 “(D) *shall report to the Associate Adminis-*
15 *trator for Government Contracting and Minority*
16 *Small Business Opportunities.*

17 “(2) *The Assistant Administrator for Veterans*
18 *Business, who—*

19 “(A) *shall have a minimum of 5 years expe-*
20 *rience within the Administration or the Depart-*
21 *ment of Veterans Affairs (or in combination) in*
22 *providing entrepreneurial outreach to veterans*
23 *before being appointed under this paragraph;*

24 “(B) *shall be responsible for the formula-*
25 *tion, execution, and promotion of the policies*

1 *and programs of the Administration that provide*
2 *assistance to small business concerns owned and*
3 *controlled by veterans and small business con-*
4 *cerns owned and controlled by service-disabled*
5 *veterans;*

6 *“(C) shall act as an ombudsman for full*
7 *consideration of veterans in all programs of the*
8 *Administration;*

9 *“(D) shall be a career employee and may be*
10 *an appointee in the Senior Executive Service;*
11 *and*

12 *“(E) shall report to the Associate Adminis-*
13 *trator for Enterprise Outreach and Training.*

14 *“(3) The Assistant Administrator for Small*
15 *Business Development Centers who—*

16 *“(A) shall have a minimum of 5 years expe-*
17 *rience in entrepreneurial outreach to small busi-*
18 *nesses or as an educator in a business program*
19 *in an institution of higher learning (or in com-*
20 *bination), before being appointed under this*
21 *paragraph;*

22 *“(B) shall carry out section 21;*

23 *“(C) shall be a career employee and may be*
24 *an appointee in the Senior Executive Service;*
25 *and*

1 “(D) shall report to the Associate Adminis-
2 trator for Enterprise Outreach and Training.

3 “(4) The Assistant Administrator for Investment
4 who—

5 “(A) shall carry out title III of the Small
6 Business Investment Act of 1958;

7 “(B) shall be a career employee and may be
8 an appointee in the Senior Executive Service;
9 and

10 “(C) shall report to the Associate Adminis-
11 trator for Capital Access.

12 “(5) The Assistant Administrator for Lender
13 Oversight who—

14 “(A) shall have a minimum of 5 years expe-
15 rience in oversight of lending institutions before
16 being appointed under this paragraph;

17 “(B) shall carry out section 7(a) and assist
18 the Administrator in carrying out section 23;

19 “(C) shall be a career employee and may be
20 an appointee in the Senior Executive Service;
21 and

22 “(D) shall report to the Associate Adminis-
23 trator for Capital Access.

24 “(6) The Assistant Administrator for Congres-
25 sional and Legislative Affairs who—

1 “(A) shall have a minimum of 5 years expe-
2 rience as an employee reimbursed pursuant to
3 the Senators’ Clerk Hire Allowance Account es-
4 tablished under section 1 of Public Law 100–137
5 (2 U.S.C. 58c) or the Members’ Representational
6 Allowance established under section 101 of the
7 House of Representatives Administrative Reform
8 Technical Corrections Act (2 U.S.C. 57b) or as
9 an employee of a committee of the House or Sen-
10 ate (or in combination) before being appointed
11 under this paragraph; and

12 “(B) shall report directly to the Adminis-
13 trator.

14 “(7) The Assistant Administrator for Inter-
15 national Trade who—

16 “(A) shall have a minimum of 5 years expe-
17 rience in international trade matters;

18 “(B) shall carry out section 22;

19 “(C) shall be a career employee and may be
20 an appointee in the Senior Executive Service;
21 and

22 “(D) shall report to the Associate Adminis-
23 trator for Enterprise Training and Outreach.

24 “(8) The Assistant Administrator for Women’s
25 Business Ownership who—

1 “(A) shall carry out section 29;

2 “(B) may be an appointee in the Senior
3 Executive Service;

4 “(C) shall report to the Associate Adminis-
5 trator for Enterprise Outreach and Training;

6 “(D) shall advise the Administrator on ap-
7 pointments to the Women’s Business Council;

8 “(E) serve as the vice chairperson of the
9 Interagency Committee on Women’s Business
10 Enterprise;

11 “(F) serve as liaison for the National Wom-
12 en’s Business Council; and

13 “(G) oversee the implementation of the pro-
14 gram established by section 8(m).

15 “(e) GENERAL COUNSEL.—The Administrator shall
16 appoint a General Counsel.

17 “(f) REGIONAL OFFICES.—There are 10 regional of-
18 fices each of which shall be administered by a regional ad-
19 ministrator. Such offices shall have the same jurisdictions
20 as the 10 Federal regions or such regions as are created
21 by statute or by regulation of the Administrator of the Gen-
22 eral Services Administration.

23 “(g) DISTRICT OFFICES.—

24 “(1) ESTABLISHMENT.—The Administrator may
25 establish district offices throughout the United States

1 to provide services under this Act and the Small
2 Business Investment Act of 1958.

3 “(2) CLOSURE.—Except as provided in para-
4 graph (3), the Administrator may close or combine
5 district offices as the Administrator determines ap-
6 propriate. The Administrator shall report any such
7 closures to Congress.

8 “(3) MINIMUM NUMBER.—Each State shall have
9 at least one district office, except that one district of-
10 fice may serve Guam, American Samoa, and the
11 Commonwealth of the Northern Mariana Islands.

12 “(4) DISTRICT DIRECTORS.—

13 “(A) IN GENERAL.—Each district office
14 shall have a director appointed by the Adminis-
15 trator whose salary shall not exceed the rate in
16 effect for step 10 of GS–15 of the General Sched-
17 ule. Each district director shall assist the Ad-
18 ministratoꝛ in carrying out the programs estab-
19 lished by this Act and the Small Business Invest-
20 ment Act of 1958.

21 “(B) APPEAL OF DECISIONS.—The Admin-
22 istratoꝛ shall issue regulations providing proce-
23 dures for the appeal of any decision made by
24 any district director. Such regulations shall be
25 codified in the Code of Federal Regulations.

1 “(C) *REVIEW AND REMOVAL.*—*The Admin-*
2 *istrator shall remove and replace any district di-*
3 *rector if such district director has failed, with re-*
4 *spect to any year, to meet goals developed by the*
5 *Administrator for increasing—*

6 “(i) *the number of loans made pursu-*
7 *ant to section 7 (other than section 7(b));*

8 “(ii) *the number of participants in the*
9 *programs established pursuant to section 8;*

10 “(iii) *the amount Federal Government*
11 *procurements from small business concerns*
12 *or from any subcategory of small business*
13 *concern referred to in section 15(g); or*

14 “(iv) *the amount of dollar financings*
15 *for small businesses under the Small Busi-*
16 *ness Investment Act of 1958.*

17 “(D) *REASSIGNMENT.*—*Any district direc-*
18 *tor who is removed under subparagraph (C)*
19 *shall be reassigned by the Administrator as a*
20 *procurement center representative or a commer-*
21 *cial marketing representative, as determined by*
22 *the Administrator in consultation with the re-*
23 *gional administrator. Any such reassignment*
24 *shall, for the first year after reassignment, be at*
25 *the same grade and salary.*

1 “(5) *DISTRICT COUNSEL.*—*Each district office*
2 *shall have a district counsel. Each district counsel*
3 *shall—*

4 “(A) *be assigned by, and report to, the Gen-*
5 *eral Counsel;*

6 “(B) *provide legal assistance to the district*
7 *director and employees in the district office; and*

8 “(C) *carry out the required review of*
9 *HUBZone firms specified in section 3.*

10 “(6) *BUSINESS OPPORTUNITY SPECIALISTS.*—
11 *Each district office shall have a minimum number of*
12 *business opportunity specialists to ensure that effec-*
13 *tive guidance and oversight are provided to partici-*
14 *pants in the program established by section 8(a). The*
15 *specialists shall assist the district director and Assist-*
16 *ant Administrator for Minority Small Business and*
17 *Capital Ownership Development. The majority of the*
18 *hours worked by the business opportunity specialist*
19 *shall be devoted to the programs established by section*
20 *8(a), unless the district director demonstrates to the*
21 *Assistant Administrator for Minority Small Business*
22 *and Capital Ownership Development that there are*
23 *an insufficient number of firms certified pursuant to*
24 *section 8(a) to require the employee to devote such*
25 *hours to such programs.*

1 “(7) *PROCUREMENT CENTER REPRESENTA-*
2 *TIVES.—The Associate Administrator for Government*
3 *Contracting and Minority Small Business, after con-*
4 *sultation with the regional administrators and dis-*
5 *trict directors, shall assign such procurement center*
6 *representatives to district offices as the Associate Ad-*
7 *ministrator determines to be appropriate. Any pro-*
8 *curement center representative assigned to a district*
9 *office or procuring agency activity shall report to the*
10 *district director. The Associate Administrator shall*
11 *assign at least one procurement center representative*
12 *in each State.*

13 “(8) *COMMERCIAL MARKETING REPRESENTA-*
14 *TIVE.—The Associate Administrator for Government*
15 *Contracting and Minority Small Business, after con-*
16 *sultation with the regional administrators and dis-*
17 *trict directors, shall assign commercial marketing*
18 *representatives to district offices as the Associate Ad-*
19 *ministrator determines to be appropriate. Any com-*
20 *mercial marketing representative assigned to a dis-*
21 *trict office shall report to the district director.*

22 “(h) *GENERAL PERSONNEL AUTHORITY.—*

23 “(1) *EXPERTS AND CONSULTANTS.—The Admin-*
24 *istrator may procure, for purposes of carrying out*
25 *this Act and the Small Business Investment Act of*

1 1958, temporary and intermittent services under sec-
2 tion 3109(b) of title 5, United States Code.

3 “(2) *TRAVEL EXPENSES.*—Each employee may,
4 at the discretion of the Administrator, receive travel
5 expenses, including per diem in lieu of subsistence, in
6 accordance with applicable provisions under sub-
7 chapter I of chapter 57 of title 5, United States Code.
8 Notwithstanding such subchapter, the Administrator
9 may pay the transportation expenses and per diem in
10 lieu of subsistence expenses, for travel of any person
11 employed by the Administration to render temporary
12 services not in excess of 6 months in connection with
13 any disaster referred to in section 7(b) from place of
14 appointment to, and while at, the disaster area and
15 any other temporary posts of duty and return upon
16 completion of the assignment. The Administrator may
17 extend the 6-month limitation for an additional 6
18 months if the Administrator determines the extension
19 is necessary to continue efficient disaster loan making
20 activities.

21 “(3) *NOTARY PUBLIC EXPENSES.*—The Adminis-
22 trator may pay the costs of any employee to qualify
23 as a notary public.

24 “(4) *DELEGATIONS.*—Except as otherwise pro-
25 vided in this Act or the Small Business Investment

1 *Act of 1958, the Administrator may delegate a func-*
2 *tion or responsibility to any employee of the Adminis-*
3 *tration. The Administrator shall provide by regula-*
4 *tion codified in the Code of Federal Regulations the*
5 *procedures for determining which delegations are to*
6 *be codified in the Code of Federal Regulations. With*
7 *respect to any delegations not promulgated by regula-*
8 *tion, the Administrator shall collect and collate such*
9 *delegations and place them in a prominent location*
10 *on the website maintained for the Administration.*

11 “(5) *ADMINISTRATION WEB SITE.*—*Not later*
12 *than 30 days after the enactment of this subsection,*
13 *the Administrator shall redesign the web site of the*
14 *Administration so that the delegations under para-*
15 *graph (4) and the organizational chart of the Admin-*
16 *istration (including the names of the officials serving*
17 *in those capacities), links to the homepage of each of-*
18 *fice, and standard operating procedures, have a*
19 *prominent link on the homepage of the Administra-*
20 *tion. Any subsequent redesign after compliance with*
21 *this paragraph shall ensure that the information re-*
22 *quired by this paragraph maintains a prominent*
23 *place on the homepage of the Administration.”.*

24 *(b) CONFORMING AMENDMENTS.*—

1 (1) *So much of section 22 of the Small Business*
2 *Act (15 U.S.C. 649) as precedes subsection (b) is*
3 *amended to read as follows:*

4 **“SEC. 22. OFFICE OF INTERNATIONAL TRADE.**

5 “(a) *Except as otherwise provided in this section, the*
6 *powers, duties, and responsibilities described in this section*
7 *shall be carried out by the Assistant Administrator for*
8 *International Trade.”.*

9 (2) *Subsection (b) of section 22 of the Small*
10 *Business Act (15 U.S.C. 649) is amended by striking*
11 *“The Office” the first place it appears and inserting*
12 *“The Office of International Trade”.*

13 (c) *RELATED REPEAL.—Section 32 of the Small Busi-*
14 *ness Act (15 U.S.C. 657b) is amended to read as follows:*

15 **“SEC. 32. [RESERVED].”.**

16 (d) *TRANSITION RULES.—*

17 (1) *EXCEPTION TO SALARY LIMITATION OF DIS-*
18 *TRICT DIRECTORS.—The salary limitation specified*
19 *in section 6(g)(4)(A) of the Small Business Act (as*
20 *amended by this section) shall not apply with respect*
21 *to any district director whose salary exceeds such lim-*
22 *itation on July 1, 2003.*

23 (2) *REMOVAL AND REASSIGNMENT OF DEPUTY*
24 *DISTRICT DIRECTORS.—*

1 (A) *REMOVAL.*—*The Administrator may*
2 *not appoint any individual to serve as a deputy*
3 *district director. Any individual serving as a*
4 *deputy district director on the date of the enact-*
5 *ment of this Act shall be removed from such posi-*
6 *tion and reassigned as provided in this para-*
7 *graph.*

8 (B) *REASSIGNMENT.*—*Any individual re-*
9 *moved from office under subparagraph (A) shall*
10 *be reassigned by the Administrator as a procure-*
11 *ment center representative or a commercial mar-*
12 *keting representative, as determined by the Ad-*
13 *ministrator in consultation with the regional ad-*
14 *ministrator. Any such reassignment shall be at*
15 *not less than the grade and salary which applied*
16 *to such individual prior to reassignment.*

17 **SEC. 207. LOAN PROGRAMS.**

18 (a) *SMALL BUSINESS LOAN PROGRAM.*—*So much of*
19 *section 7 of the Small Business Act (15 U.S.C. 636) as pre-*
20 *cedes subsection (b) is amended to read as follows:*

21 **“SEC. 7. LOAN PROGRAMS.**

22 “(a) *SMALL BUSINESS LOAN PROGRAM.*—

23 “(1) *LOAN AUTHORITY.*—*The Administrator*
24 *may, to the extent and in such amounts as provided*
25 *in advance in appropriation Acts, make loans for*

1 *plant acquisition, construction, conversion, or expansion,*
2 *including the acquisition of land, material, supplies,*
3 *equipment, and working capital to any small*
4 *business concern, including those owned by qualified*
5 *Indian tribes for purposes of this Act.*

6 “(2) *METHODS OF PARTICIPATION.*—*The Administrator may make such loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis, except that no immediate participation may be purchased unless it is shown that a deferred participation is not available and no direct financing may be made unless it is shown that a participation is not available.*

15 “(3) *NO CREDIT ELSEWHERE.*—*The Administrator may not make a loan under this subsection if the applicant can obtain credit elsewhere.*

18 “(4) *CRIMINAL BACKGROUND CHECK.*—*Before making any loan under this subsection or section 502 or 503 of the Small Business Investment Act of 1958, the Administrator may verify the applicant’s criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.*

1 “(5) *SOUND AND SECURE REQUIREMENT.*—

2 “(A) *IN GENERAL.*—*Except as otherwise*
3 *provided in this paragraph, any loan made*
4 *under this subsection shall be of such sound value*
5 *or so secured as reasonably to assure repayment.*

6 “(B) *SPECIAL RULES.*—*For purposes of*
7 *subparagraph (A), any reasonable doubt regard-*
8 *ing the likelihood of repayment shall be resolved*
9 *in favor of the applicant if the applicant is—*

10 “(i) *a disabled person (as defined in*
11 *paragraph (8)); or*

12 “(ii) *a small manufacturer.*

13 “(C) *COLLATERAL.*—*The Administrator*
14 *shall not refuse to make a loan under this sub-*
15 *section solely due to inadequate collateral, but a*
16 *loan shall be secured as fully as possible with*
17 *available assets. If the assets of the business are*
18 *not sufficient to fully secure the loan, other assets*
19 *of the owners of the small business concern may*
20 *be taken as collateral to the extent the aggregate*
21 *amount of collateral does not exceed the amount*
22 *necessary to fully secure the loan.*

23 “(6) *LEVEL OF PARTICIPATION IN GUARANTEED*
24 *LOANS.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), in an agreement to partici-*
3 *pate in a loan on a deferred basis under this*
4 *subsection (including a loan made under the*
5 *Preferred Lenders Program), such participation*
6 *by the Administrator shall be equal to—*

7 “(i) *75 percent of the balance of the fi-*
8 *nancing outstanding at the time of dis-*
9 *bursement of the loan, if such balance ex-*
10 *ceeds \$150,000; or*

11 “(ii) *85 percent of the balance of the fi-*
12 *nancing outstanding at the time of dis-*
13 *bursement of the loan, if such balance is less*
14 *than or equal to \$150,000.*

15 “(B) *REDUCED PARTICIPATION UPON RE-*
16 *QUEST.*—

17 “(i) *IN GENERAL.*—*The guarantee per-*
18 *centage specified by subparagraph (A) for*
19 *any loan under this subsection may be re-*
20 *duced upon the request of the participating*
21 *lender.*

22 “(ii) *PROHIBITION.*—*The Adminis-*
23 *trator shall not use the guarantee percent-*
24 *age requested by a participating lender*
25 *under clause (i) as a criterion for estab-*

1 *lishing priorities in approving loan guar-*
2 *antee requests under this subsection.*

3 “(C) *PARTICIPATION UNDER EXPORT WORK-*
4 *ING CAPITAL PROGRAM.—Notwithstanding sub-*
5 *paragraph (A), in an agreement to participate*
6 *in a loan on a deferred basis under the Export*
7 *Working Capital Program established pursuant*
8 *to paragraph (14), such participation by the Ad-*
9 *ministrator shall not exceed 90 percent.*

10 “(D) *CERTAIN RURAL AREAS.—*

11 “(i) *IN GENERAL.—In the case of a*
12 *loan to a qualified rural small business con-*
13 *cern, this paragraph shall be applied by*
14 *substituting ‘90 percent’ for—*

15 “(I) *‘75 percent’ in subparagraph*
16 *(A)(i); and*

17 “(II) *‘85 percent’ in subpara-*
18 *graph (A)(ii).*

19 “(ii) *QUALIFIED RURAL SMALL BUSI-*
20 *NESS CONCERN.—For purposes of this sub-*
21 *paragraph, the term ‘qualified rural small*
22 *business concern’ means a small business*
23 *concern located in—*

24 “(I) *a rural area (as defined in*
25 *section 343(a)(13) of the Consolidated*

1 *Farm and Rural Development Act (7*
2 *U.S.C. 1991(a))*; and

3 “(II) a district with respect to
4 *which the dollar value and number of*
5 *loans made under this subsection are*
6 *both less than the average for districts*
7 *in the State.*

8 “(7) *MAXIMUM LOAN AMOUNTS.—No loan shall*
9 *be made under this subsection—*

10 “(A) *if the total amount outstanding and*
11 *committed (by participation or otherwise) solely*
12 *for purposes of this subsection to the borrower*
13 *would exceed \$1,000,000 (or if the gross loan*
14 *amount would exceed \$2,000,000), except as pro-*
15 *vided in subparagraph (B);*

16 “(B) *if the total amount outstanding and*
17 *committed (on a deferred basis) solely for the*
18 *purposes provided in paragraph (16) to the bor-*
19 *rower would exceed \$2,000,000 of which not more*
20 *than \$1,200,000 may be used for working cap-*
21 *ital, supplies, or financings under paragraph*
22 *(14) for export purposes; and*

23 “(C) *if made either directly or in coopera-*
24 *tion with banks or other lending institutions*

1 through agreements to participate on an imme-
2 diate basis if the amount would exceed \$350,000.

3 “(8) *INTEREST RATES.*—

4 “(A) *MAXIMUM RATE SET BY ADMINIS-*
5 *TRATOR.*—Notwithstanding any State limitation
6 on the rate or amount of interest which may be
7 charged, taken, received, or reserved, the max-
8 imum legal rate of interest on any financing
9 made on a deferred basis pursuant to this sub-
10 section shall not exceed a rate prescribed by the
11 Administrator.

12 “(B) *IMMEDIATE AND DIRECT LOANS.*—The
13 rate of interest for the Administrator’s share of
14 any direct or immediate participation loan shall
15 not exceed the current average market yield on
16 outstanding marketable obligations of the United
17 States with remaining periods to maturity com-
18 parable to the average maturities of such loans
19 and adjusted to the nearest $\frac{1}{8}$ of 1 percent, and
20 an additional amount as determined by the Ad-
21 ministrator, but not to exceed 1 percent per year.

22 “(C) *PREFERRED LENDERS PROGRAM.*—The
23 maximum interest rate for a loan guaranteed
24 under the Preferred Lenders Program conducted
25 pursuant to paragraph (31) shall not exceed the

1 *maximum interest rate, as determined by the*
2 *Administrator, applicable to other loans guaran-*
3 *teed under this subsection.*

4 “(D) *DISABLED PERSONS.*—

5 “(i) *IN GENERAL.*—*The maximum in-*
6 *terest rate for a loan made under this sub-*
7 *section to a disabled person for the estab-*
8 *lishment, acquisition or operation of a*
9 *small business concern shall be 3 percent*
10 *per year.*

11 “(ii) *DISABLED PERSON.*—*For the*
12 *purposes of this subparagraph, the term*
13 *‘disabled person’ means any individual*
14 *who—*

15 “(I) *is a service-disabled veteran;*

16 *or*

17 “(II) *has a disability (as defined*
18 *in section 3 of the Americans with Dis-*
19 *abilities Act of 1990) which limits such*
20 *individual’s selection of any type of*
21 *employment for which such individual*
22 *would otherwise be qualified or*
23 *qualifiable.*

24 “(9) *PREPAYMENT CHARGES.*—

1 “(A) *IN GENERAL.*—A borrower who pre-
2 pays any loan guaranteed under this subsection
3 shall remit to the Administrator a subsidy
4 recoupment fee calculated in accordance with
5 subparagraph (B) if—

6 “(i) the loan is for a term of not less
7 than 15 years;

8 “(ii) the prepayment is voluntary;

9 “(iii) the amount of prepayment in
10 any calendar year is more than 25 percent
11 of the outstanding balance of the loan; and

12 “(iv) the prepayment is made within
13 the first 3 years after disbursement of the
14 loan proceeds.

15 “(B) *SUBSIDY RECOUPMENT FEE.*—The
16 subsidy recoupment fee charged under subpara-
17 graph (A) shall be—

18 “(i) 5 percent of the amount of prepay-
19 ment, if the borrower prepays during the
20 first year after disbursement;

21 “(ii) 3 percent of the amount of pre-
22 payment, if the borrower prepays during
23 the second year after disbursement; and

1 “(iii) 1 percent of the amount of pre-
2 payment, if the borrower prepays during
3 the third year after disbursement.

4 “(10) *MAXIMUM TERM.*—No loans made under
5 this subsection, including renewals and extensions
6 thereof, may be made for a period or periods exceed-
7 ing 25 years, except that such portion of a loan made
8 for the purpose of acquiring real property or con-
9 structing, converting, or expanding facilities may
10 have a maturity of 25 years plus such additional pe-
11 riod as is estimated may be required to complete such
12 construction, conversion, or expansion.

13 “(11) *CONSTRUCTION AND REHABILITATION OF*
14 *REAL PROPERTY.*—The Administrator may make a
15 loan under this subsection to finance residential or
16 commercial construction or rehabilitation for sale if
17 such loan is not used primarily for the acquisition of
18 land.

19 “(12) *UNEMPLOYED AND LOW-INCOME INDIVID-*
20 *UALS.*—The Administrator may make loans under
21 this subsection to any small business concern, or to
22 any qualified person seeking to establish such a con-
23 cern, if the Administrator determines that such loan
24 will further the policies established in section 2, with
25 particular emphasis on the preservation or establish-

1 *ment of small business concerns located in urban or*
2 *rural areas with high proportions of unemployed or*
3 *low-income individuals or owned by low-income indi-*
4 *viduals.*

5 “(13) *STATE AND LOCAL DEVELOPMENT COMPA-*
6 *NIES.—The Administrator may make loans under*
7 *this subsection to State and local development compa-*
8 *nies for the purposes of, and subject to the restrictions*
9 *in, title V of the Small Business Investment Act of*
10 *1958.*

11 “(14) *EXPORT WORKING CAPITAL PROGRAM.—*

12 “(A) *IN GENERAL.—The Administrator*
13 *may provide extensions of credit, standby letters*
14 *of credit, revolving lines of credit for export pur-*
15 *poses, and other financing to enable small busi-*
16 *ness concerns, including small business export*
17 *trading companies and small business export*
18 *management companies, to develop foreign mar-*
19 *kets.*

20 “(B) *INTEREST RATES.—A bank or partici-*
21 *pating lending institution may establish the rate*
22 *of interest on such financings as may be legal*
23 *and reasonable.*

24 “(C) *CRITERIA FOR LOANS.—When consid-*
25 *ering loan or guarantee applications, the Admin-*

1 *istrator shall give weight to export-related bene-*
2 *fits, including opening new markets for United*
3 *States goods and services abroad and encour-*
4 *aging the involvement of small businesses, in-*
5 *cluding small manufacturers and agricultural*
6 *concerns, in the export market.*

7 *“(D) MARKETING.—The Administrator*
8 *shall aggressively market its export financing*
9 *program to small businesses.*

10 *“(15) QUALIFIED EMPLOYEE TRUSTS.—*

11 *“(A) LOAN GUARANTEES.—The Adminis-*
12 *trator may guarantee loans under this subsection*
13 *to qualified employee trusts with respect to a*
14 *small business concern for the purpose of pur-*
15 *chasing stock of the concern under a plan ap-*
16 *proved by the Administrator which, when car-*
17 *ried out, results in the qualified employee trust*
18 *owning at least 51 percent of the stock of the*
19 *concern. A qualified employee trust shall be eligi-*
20 *ble for any loan guarantee under this subsection*
21 *with respect to a small business concern on the*
22 *same basis as if such trust were the same legal*
23 *entity as such concern.*

24 *“(B) APPROVAL OF PLAN.—The plan re-*
25 *quiring the Administrator’s approval under sub-*

1 paragraph (A) shall be submitted to the Admin-
2 istrator by the trustee of such trust with its ap-
3 plication for the guarantee. Such plan shall in-
4 clude an agreement with the Administrator
5 which is binding on such trust and on the small
6 business concern and which provides that—

7 “(i) not later than the date the loan
8 guaranteed under subparagraph (A) is re-
9 paid (or as soon thereafter as is consistent
10 with the requirements of section 401(a) of
11 the Internal Revenue Code of 1986, at least
12 51 percent of the total stock of such concern
13 shall be allocated to the accounts of at least
14 51 percent of the employees of such concern
15 who are entitled to share in such allocation;

16 “(ii) there will be periodic reviews of
17 the role in the management of such concern
18 of employees to whose accounts stock is allo-
19 cated; and

20 “(iii) there will be adequate manage-
21 ment to assure management expertise and
22 continuity.

23 “(C) CERTAIN CHARACTERISTICS OF EM-
24 PLOYEE-OWNERS DISREGARDED.—In deter-
25 mining whether to guarantee any loan under

1 *this paragraph, the individual business experi-*
2 *ence or personal assets of employee-owners shall*
3 *not be used as criteria, except that the business*
4 *experience of employee-owners who assume man-*
5 *agerial responsibilities may be considered.*

6 “(D) *CERTAIN CORPORATIONS TREATED AS*
7 *SMALL BUSINESS CONCERNS.—For purposes of*
8 *this paragraph, a corporation which is controlled*
9 *by any other person shall be treated as a small*
10 *business concern if such corporation would, after*
11 *the plan described in subparagraph (B) is car-*
12 *ried out, be treated as a small business concern.*

13 “(16) *INTERNATIONAL TRADE.—*

14 “(A) *IN GENERAL.—If the Administrator*
15 *determines that a loan guaranteed under this*
16 *subsection will allow an eligible small business*
17 *concern in an industry engaged in or adversely*
18 *affected by international trade to improve its*
19 *competitive position, the Administrator may*
20 *make such loan to assist such concern in—*

21 “(i) *the financing of the acquisition,*
22 *construction, renovation, modernization,*
23 *improvement or expansion of productive fa-*
24 *cilities or equipment to be used in the*
25 *United States in the production of goods*

1 *and services involved in international trade;*
2 *or*

3 “(ii) *the refinancing of existing indebt-*
4 *edness which is not structured with reason-*
5 *able terms and conditions.*

6 “(B) *SECURITY.—Each loan made under*
7 *this paragraph shall be secured by a first lien*
8 *position or first mortgage on the property or*
9 *equipment financed by the loan or on other as-*
10 *sets of the concern.*

11 “(C) *ENGAGED IN OR ADVERSELY AF-*
12 *FFECTED BY INTERNATIONAL TRADE.—For pur-*
13 *poses of this paragraph, a small business concern*
14 *shall be considered to be engaged in or adversely*
15 *affected by international trade if such concern is*
16 *determined by the Administrator (under regula-*
17 *tions prescribed by the Administrator to be—*

18 “(i) *in a position to significantly ex-*
19 *pend existing export markets or develop*
20 *new export markets; or*

21 “(ii) *adversely affected by import com-*
22 *petition in that it—*

23 “(I) *is confronting increased di-*
24 *rect competition with foreign firms in*
25 *the relevant market; and*

1 “(II) can demonstrate injury at-
2 tributable to such competition.

3 “(D) FINDINGS BY INTERNATIONAL TRADE
4 COMMISSION.—For purposes of subparagraph
5 (C)(ii)(II), the Administrator shall accept any
6 finding of injury by the International Trade
7 Commission.

8 “(17) AUTHORIZED LENDING INSTITUTIONS.—
9 The Administrator shall authorize lending institu-
10 tions and other entities in addition to banks to make
11 loans authorized under this subsection.

12 “(18) GUARANTEE FEES.—

13 “(A) IN GENERAL.—With respect to each
14 loan guaranteed under this subsection (other
15 than a loan that is repayable in 1 year or less),
16 the Administration shall collect a guarantee fee,
17 which shall be payable by the participating lend-
18 er, but which may be collected in advance by the
19 lender from the borrower, as follows:

20 “(i) A guarantee fee equal to 1 percent
21 of the deferred participation share of a total
22 loan amount that is not more than
23 \$150,000.

24 “(ii) A guarantee fee equal to 2.5 per-
25 cent of the deferred participation share of a

1 total loan amount that is more than
2 \$150,000, but not more than \$700,000.

3 “(iii) A guarantee fee equal to 3.5 per-
4 cent of the deferred participation share of a
5 total loan amount that is more than
6 \$700,000.

7 “(B) *RETENTION OF CERTAIN FEES.*—Lend-
8 ers participating in the programs established
9 under this subsection may retain not more than
10 25 percent of a fee collected under subparagraph
11 (A)(i).

12 “(19) *CERTIFIED LENDERS PROGRAM.*—

13 “(A) *IN GENERAL.*— There is a Certified
14 Lenders Program for lenders who establish their
15 knowledge of laws and regulations concerning the
16 guaranteed loan program and their proficiency
17 in program requirements as set forth in regula-
18 tions codified in the Code of Federal Regulations.

19 “(B) *SUSPENSION AND REVOCATION OF*
20 *DESIGNATION.*—The designation of a lender as a
21 certified lender shall be suspended or revoked at
22 any time that the Administrator determines that
23 the lender is not adhering to established rules
24 and regulations or that the loss experience of the
25 lender is excessive as compared to other lenders,

1 *but such suspension or revocation shall not affect*
2 *any outstanding guarantee.*

3 “(C) *AUTHORITY TO LIQUIDATE LOANS.—*

4 “(i) *IN GENERAL.—The Administrator*
5 *may permit lenders participating in the*
6 *Certified Lenders Program to liquidate*
7 *loans made with a guarantee from the Ad-*
8 *ministrator pursuant to a liquidation plan*
9 *approved by the Administrator.*

10 “(ii) *AUTOMATIC APPROVAL.—If the*
11 *Administrator does not approve or deny a*
12 *request for approval of a liquidation plan*
13 *within 10 business days of the date on*
14 *which the request is made (or with respect*
15 *to any routine liquidation activity under*
16 *such a plan, within 5 business days) such*
17 *request shall be deemed to be approved.*

18 “(20) *MINORITY BUSINESS DEVELOPMENT PRO-*
19 *GRAM PARTICIPANTS.—*

20 “(A) *IN GENERAL.—The Administrator*
21 *may make loans either directly or in cooperation*
22 *with banks or other financial institutions*
23 *through agreements to participate on an imme-*
24 *diate or deferred (guaranteed) basis to small*
25 *business concerns eligible for assistance under*

1 *section 8(a). Such assistance may be provided*
2 *only if the Administrator determines that—*

3 *“(i) the type and amount of such as-*
4 *istance requested by such concern is not*
5 *otherwise available on reasonable terms*
6 *from other sources;*

7 *“(ii) with such assistance such concern*
8 *has a reasonable prospect for operating*
9 *soundly and profitably within a reasonable*
10 *period of time;*

11 *“(iii) the proceeds of such assistance*
12 *will be used within a reasonable time for*
13 *plant construction, conversion, or expan-*
14 *sion, including the acquisition of equip-*
15 *ment, facilities, machinery, supplies, or ma-*
16 *terial or to supply such concern with work-*
17 *ing capital to be used in the manufacture of*
18 *articles, equipment, supplies, or material*
19 *for defense or civilian production or as may*
20 *be necessary to insure a well-balanced na-*
21 *tional economy; and*

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

1 “(B) *MAXIMUM AMOUNT OF LOANS.*—No
2 loan shall be made under this paragraph if the
3 total amount outstanding and committed (by
4 participation or otherwise) to the borrower
5 would exceed \$750,000.

6 “(C) *MINIMUM PARTICIPATION.*—Subject to
7 the limitation of subparagraph (B), in agree-
8 ments to participate in loans on a deferred
9 (guaranteed) basis, participation by the Admin-
10 istrator shall be not less than 85 percent of the
11 balance of the financing outstanding at the time
12 of disbursement.

13 “(D) *INTEREST RATE.*—The rate of interest
14 on financings made on a deferred (guaranteed)
15 basis shall be legal and reasonable.

16 “(E) *METHODS OF PARTICIPATION.*—No
17 immediate participation may be purchased
18 under this paragraph unless it is shown that a
19 deferred participation is not available. No direct
20 financing may be made under this paragraph
21 unless it is shown that a participation is un-
22 available. A direct loan or the Administrator’s
23 share of an immediate participation loan made
24 pursuant to this paragraph shall be any secured
25 debt instrument—

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

3 “(ii) the rate of interest on which shall
4 not exceed the current average market yield
5 on outstanding marketable obligations of the
6 United States with remaining periods to
7 maturity comparable to the average matu-
8 rities of such loan and adjusted to the near-
9 est $\frac{1}{8}$ of 1 percent;

10 “(iii) the term of which is not more
11 than 25 years;

12 “(iv) the principal on which is amor-
13 tized at such rate as may be deemed appro-
14 priate by the Administrator; and

15 “(v) the interest on which is payable
16 not less often than annually.

17 “(21) CLOSURE OF DOD INSTALLATIONS.—

18 “(A) IN GENERAL.—The Administrator
19 may make loans on a guaranteed basis under the
20 authority of this subsection—

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

1 “(I) the closure (or substantial re-
2 duction) of a Department of Defense
3 installation; or

4 “(II) the termination (or substan-
5 tial reduction) of a Department of De-
6 fense program on which such small
7 business was a prime contractor or
8 subcontractor (or supplier) at any tier;
9 or

10 “(ii) to a qualified individual or a vet-
11 eran seeking to establish (or acquire) and
12 operate a small business concern.

13 “(B) REASONABLE DOUBT GIVEN TO APPLI-
14 CANT.—Recognizing that greater risk may be as-
15 sociated with a loan to a small business concern
16 described in subparagraph (A)(i), any reasonable
17 doubts concerning the firm’s proposed business
18 plan for transition to nondefense-related markets
19 shall be resolved in favor of the loan applicant
20 when making any determination regarding the
21 sound value of the proposed loan in accordance
22 with paragraph (5).

23 “(C) AUTHORIZATION.—Loans pursuant to
24 this paragraph shall be authorized in such
25 amounts as provided in advance in appropria-

1 *tion Acts for the purposes of loans under this*
2 *paragraph.*

3 “(D) *QUALIFIED INDIVIDUAL.*—*For pur-*
4 *poses of this paragraph a qualified individual*
5 *is—*

6 “(i) *a member of the Armed Forces of*
7 *the United States, honorably discharged*
8 *from active duty involuntarily or pursuant*
9 *to a program providing bonuses or other in-*
10 *ducements to encourage voluntary separa-*
11 *tion or early retirement;*

12 “(ii) *a civilian employee of the Depart-*
13 *ment of Defense involuntarily separated*
14 *from Federal service or retired pursuant to*
15 *a program offering inducements to encour-*
16 *age early retirement; or*

17 “(iii) *an employee of a prime con-*
18 *tractor, subcontractor, or supplier at any*
19 *tier of a Department of Defense program*
20 *whose employment is involuntarily termi-*
21 *nated (or voluntarily terminated pursuant*
22 *to a program offering inducements to en-*
23 *courage voluntary separation or early re-*
24 *irement) due to the termination (or sub-*

1 *stantial reduction) of a Department of De-*
2 *fense program.*

3 “(E) *JOB CREATION AND COMMUNITY BEN-*
4 *EFIT.—In providing assistance under this para-*
5 *graph, the Administrator shall develop proce-*
6 *dures to ensure, to the maximum extent prac-*
7 *ticable, that such assistance is used for projects*
8 *that—*

9 “(i) *have the greatest potential for—*
10 “(I) *creating new jobs for individ-*
11 *uals whose employment is involun-*
12 *tarily terminated due to reductions in*
13 *Federal defense expenditures; or*

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

17 “(ii) *have substantial potential for*
18 *stimulating new economic activity in com-*
19 *munities most affected by reductions in*
20 *Federal defense expenditures.*

21 “(22) *LATE FEES.—The Administrator may per-*
22 *mit participating lenders to impose and collect a rea-*
23 *sonable penalty fee on late payments of loans guaran-*
24 *teed under this subsection in an amount not to exceed*

1 5 percent of the monthly loan payment per month
2 plus interest.

3 “(23) ANNUAL FEE.—

4 “(A) IN GENERAL.—With respect to each
5 loan guaranteed under this subsection, the Ad-
6 ministrator shall, in accordance with such terms
7 and procedures as the Administrator shall estab-
8 lish by regulation, assess and collect an annual
9 fee in an amount equal to 0.5 percent of the out-
10 standing balance of the deferred participation
11 share of the loan. With respect to loans approved
12 during the 2-year period beginning on October 1,
13 2002, the annual fee assessed and collected under
14 the preceding sentence shall be in an amount
15 equal to 0.25 percent of the outstanding balance
16 of the deferred participation share of the loan.

17 “(B) PAYER.—The annual fee assessed
18 under subparagraph (A) shall be payable by the
19 participating lender and shall not be charged to
20 the borrower.

21 “(C) AGENTS.—The Administrator may
22 contract with any agent to carry out, on behalf
23 of the Administrator, the assessment and collec-
24 tion of annual fees referred to in subparagraph
25 (A). Such agent may receive as compensation for

1 *services any interest earned on the fees while in*
2 *such agent's control and prior to the time when*
3 *the agent, pursuant to contract, is required to*
4 *remit the fees to the Administrator.*

5 “(24) *NOTIFICATION REQUIREMENT.*—*The Ad-*
6 *ministrator shall notify the Committee on Small*
7 *Business of the House of Representatives and the*
8 *Committee on Small Business and Entrepreneurship*
9 *of the Senate not later than 15 days before making*
10 *any significant policy or administrative change af-*
11 *fecting the operation of the loan program under this*
12 *subsection, including the establishment of any pilot*
13 *project pursuant to paragraph (25).*

14 “(25) *LIMITATION ON CONDUCTING PILOT*
15 *PROJECTS.*—

16 “(A) *LIMITATION ON NUMBER.*—*Not more*
17 *than 10 percent of the total number of loans*
18 *guaranteed in any fiscal year under this sub-*
19 *section may be awarded as part of a pilot pro-*
20 *gram which is commenced by the Administrator*
21 *on or after January 1, 1994.*

22 “(B) *DOLLAR LIMITATIONS.*—

23 “(i) *IN GENERAL.*—*In the case of any*
24 *pilot program established on or after the*
25 *date of the enactment of this subparagraph,*

1 no loan shall be made under such program
2 if such loan would result in the total
3 amount of loans made during the fiscal
4 year under all such programs to be in excess
5 of 5 percent of the total amount of loans
6 guaranteed in such fiscal year under this
7 subsection.

8 “(ii) *CERTAIN PRE-EXISTING PRO-*
9 *GRAMS.—In the case of any pilot program*
10 *established before the date of the enactment*
11 *of this subparagraph, no loan shall be made*
12 *under such program if such loan would re-*
13 *sult in the total amount of loans made dur-*
14 *ing the fiscal year under all such programs*
15 *to be in excess of 15 percent of the total*
16 *amount of loans guaranteed in such fiscal*
17 *year under this subsection.*

18 “(C) *MAXIMUM TERM.—The duration of*
19 *any pilot program authorized by this paragraph*
20 *shall not exceed 3 years. For purposes of this*
21 *subparagraph, a pilot program shall not be*
22 *treated as a new pilot program solely on the*
23 *basis of a modification or change in a pilot pro-*
24 *gram, including the change of its name. With re-*
25 *spect to any pilot program in existence on the*

1 *date of the enactment of this subparagraph, this*
2 *subparagraph shall apply without regard to any*
3 *period ending before such date.*

4 “(D) *REGULATIONS.*—*With respect to each*
5 *pilot program under this subsection, the Admin-*
6 *istrator shall—*

7 “(i) *promulgate regulations for such*
8 *program pursuant to section 553(b) of title*
9 *5, United States Code;*

10 “(ii) *provide not less than 60 days for*
11 *notice and comment on such regulations;*
12 *and*

13 “(iii) *ensure that such regulations are*
14 *codified in the Code of Federal Regulations.*

15 *In the case of any pilot program established after*
16 *the date of the enactment of this subparagraph,*
17 *such program shall not go into effect until after*
18 *the requirements of this subparagraph are satis-*
19 *fied.*

20 “(E) *PILOT PROGRAM.*—*For purposes of*
21 *this paragraph, the term ‘pilot program’ means*
22 *any lending program initiative, project, innova-*
23 *tion, or other activity not specifically authorized*
24 *by law.*

1 “(26) *CALCULATION OF SUBSIDY RATE.*—*All fees,*
2 *interest, and profits received and retained by the Ad-*
3 *ministrator under this subsection shall be included in*
4 *the calculations made by the Director of the Office of*
5 *Management and Budget to offset the cost (as that*
6 *term is defined in section 502 of the Federal Credit*
7 *Reform Act of 1990) to the Administrator of pur-*
8 *chasing and guaranteeing loans under this Act.*

9 “(27) *LOW DOCUMENTATION LOAN PROGRAM.*—

10 “(A) *IN GENERAL.*—*The Administrator*
11 *may issue guarantees under this subsection for*
12 *loans of \$150,000 or less with less documentation*
13 *than would otherwise be required by the Admin-*
14 *istrator under this subsection.*

15 “(B) *REGULATIONS.*—*Not later than 120*
16 *days after the date of the enactment of this para-*
17 *graph, the Administrator shall promulgate regu-*
18 *lations to carry out the provisions of this para-*
19 *graph after the opportunity for notice and com-*
20 *ment pursuant to section 553(b) of title 5,*
21 *United States Code. Such regulations shall be*
22 *codified in the Code of Federal Regulations.*

23 “(28) *LEASING.*—*In addition to such other lease*
24 *arrangements as may be authorized by the Adminis-*
25 *trator, a borrower may permanently lease to one or*

1 *more tenants not more than 20 percent of any prop-*
2 *erty constructed with the proceeds of a loan guaran-*
3 *teed under this subsection, if the borrower perma-*
4 *nently occupies and uses not less than 60 percent of*
5 *the total business space in the property.*

6 “(29) *REAL ESTATE APPRAISALS.*—*With respect*
7 *to a loan under this subsection that is secured by*
8 *commercial real property, an appraisal of such prop-*
9 *erty by a State licensed or certified appraiser—*

10 “(A) *shall be required by the Administrator*
11 *in connection with any such loan for more than*
12 *\$250,000; or*

13 “(B) *may be required by the Administrator*
14 *or the lender in connection with any such loan*
15 *for \$250,000 or less, if such appraisal is nec-*
16 *essary for appropriate evaluation of credit-*
17 *worthiness.*

18 “(30) *OWNERSHIP REQUIREMENTS.*—*Ownership*
19 *requirements to determine the eligibility of a small*
20 *business concern that applies for assistance under any*
21 *credit program under this Act shall be determined*
22 *without regard to any ownership interest of a spouse*
23 *arising solely from the application of the community*
24 *property laws of a State for purposes of determining*
25 *marital interests.*

1 “(31) *PREFERRED LENDERS PROGRAM.*—

2 “(A) *IN GENERAL.*—*There is a Preferred*
3 *Lenders Program.*

4 “(B) *PARTICIPATION.*—*The Administrator*
5 *may designate a preferred lender under this*
6 *paragraph only if the lender demonstrates*
7 *knowledge of the Small Business Act and the reg-*
8 *ulations promulgated thereunder and establishes*
9 *to the satisfaction of the Administrator that it—*

10 “(i) *has the ability to process, close,*
11 *service, and liquidate loans;*

12 “(ii) *has the ability to develop and*
13 *analyze complete loan packages; and*

14 “(iii) *has a satisfactory performance*
15 *history of participation in the lending pro-*
16 *gram established under this subsection as*
17 *demonstrated by a default rate that does not*
18 *exceed—*

19 “(I) *the national average; or*

20 “(II) *in the case any lender which*
21 *made at least 20 percent of its loans in*
22 *Alaska, Hawaii, State-designated en-*
23 *terprise zones, enterprise zones, em-*
24 *powerment zones, enterprise commu-*
25 *nities, or labor surplus areas as deter-*

1 *mined by the Department of Labor, or*
2 *to small manufacturers, the national*
3 *average plus 2 percentage points.*

4 “(C) *DELEGATED AUTHORITY.*—*With re-*
5 *spect to loans made under this subsection, pre-*
6 *ferred lenders shall, without prior approval of*
7 *the Administrator:*

8 “(i) *Determine creditworthiness and*
9 *eligibility.*

10 “(ii) *Make and close loans with a*
11 *guarantee from the Administrator.*

12 “(iii) *Monitor loan performance.*

13 “(iv) *Service and collect the loans.*

14 “(v) *Foreclose and liquidate loans.*

15 “(D) *PROHIBITED ACTIVITIES.*—*A preferred*
16 *lender shall not take any action that creates an*
17 *actual or apparent conflict of interest or places*
18 *the Federal Government’s guarantee at signifi-*
19 *cant risk beyond the risk associated with loan*
20 *nonperformance.*

21 “(E) *AREA OF OPERATIONS.*—*The designa-*
22 *tion by the Administrator of a lender to partici-*
23 *pate in the program established pursuant to this*
24 *paragraph shall authorize the activities described*
25 *in subparagraph (C) only with respect to small*

1 *business concerns located in areas served by such*
2 *office or offices as the Administrator designates*
3 *with respect to such lender.*

4 “(F) *DESIGNATION AS NATIONAL PRE-*
5 *FERRED LENDERS.—The Administrator, upon*
6 *application, may designate a preferred lender as*
7 *a national preferred lender. A national preferred*
8 *lender may conduct the activities described in*
9 *subparagraph (C) with respect to each area*
10 *served by an office of the Administrator. The Ad-*
11 *ministrator shall not grant such designation un-*
12 *less the applicant demonstrates—*

13 “(i) *operation as a preferred lender in*
14 *at least 5 States or within the territory*
15 *served by at least 10 offices of the Adminis-*
16 *trator for a period of not less than 3 years;*

17 “(ii) *issuance of a minimum of 50*
18 *loans per year as a preferred lender;*

19 “(iii) *centralization of approval, loan*
20 *servicing and liquidation functions that*
21 *meet such standards as the Administrator*
22 *may establish by regulations, which are*
23 *promulgated after notice and the oppor-*
24 *tunity for public comment not later than*

1 180 days after the date of the enactment of
2 this clause;

3 “(iv) maintenance of uniform written
4 policies and procedures on the issuance of
5 loans guaranteed under this subsection;

6 “(v) maintenance of a portfolio of
7 loans guaranteed under this subsection that
8 do not exceed the national average default,
9 currency, and recovery rates for preferred
10 lenders; and

11 “(vi) receipt of a substantially satisfac-
12 tory compliance review rating from the Ad-
13 ministrator in its most recent audit and ex-
14 amination as a preferred lender and a
15 small business lending company, if applica-
16 ble, or has received a substantially satisfac-
17 tory rating as a result of a follow-up re-
18 view.

19 “(G) *CORRECTIVE ACTION*.—If a national
20 preferred lender is deficient with respect to any
21 requirement described in subparagraph (F), the
22 Administrator shall notify such lender in writ-
23 ing and shall provide the lender a reasonable pe-
24 riod of time to conform to such requirements be-
25 fore taking any corrective action.

1 “(H) *SUSPENSION OR REVOCATION.*—*The*
2 *Administrator may, depending upon the severity*
3 *of the failure to comply with the standards set*
4 *forth in this paragraph, suspend or revoke a*
5 *lender’s status as a preferred lender or a na-*
6 *tional preferred lender. Any such suspension or*
7 *revocation shall not affect any outstanding guar-*
8 *antee.*

9 “(I) *LIMITATION ON DELEGATION.*—*No au-*
10 *thority under this paragraph may be delegated*
11 *to any employee of the Administration who is*
12 *based in a regional or district office.*

13 “(32) *SIMPLIFIED FORM FOR SMALL GUARAN-*
14 *TEES.*—*The Administrator shall develop and allow*
15 *participating lenders to solely utilize a uniform and*
16 *simplified loan form for loans of \$50,000 or less in*
17 *guarantees to eligible applicants.*

18 “(33) *SPECIAL RULE ON AFFILIATION.*—*A busi-*
19 *ness concern applying for assistance under this sub-*
20 *section shall be considered small for purposes of this*
21 *subsection without regard to affiliation with another*
22 *business concern if the applicant has no legal recourse*
23 *to have its affiliate repay any of its debt obliga-*
24 *tions.”.*

1 **(b) DISASTER LOAN PROGRAM.**—*Subsection (b) of sec-*
2 *tion 7 of the Small Business Act (15 U.S.C. 636) is amend-*
3 *ed to read as follows:*

4 **“(b) DISASTER LOAN PROGRAM.**—

5 **“(1) PHYSICAL LOSS DISASTER LOANS.**—

6 **“(A) LOAN AUTHORITY.**—*Except as to agri-*
7 *cultural enterprises, the Administrator may, to*
8 *the extent and in such amounts as provided in*
9 *advance in appropriation Acts, make such loans*
10 *(either directly or in cooperation with banks or*
11 *other lending institutions through agreements to*
12 *participate on an immediate or deferred (guar-*
13 *anteed) basis) as the Administrator may deter-*
14 *mine to be necessary or appropriate to repair,*
15 *rehabilitate or replace property, real or personal,*
16 *damaged or destroyed by or as a result of nat-*
17 *ural or other disasters.*

18 **“(B) LOAN AMOUNT.**—*The amount of any*
19 *loan made under this paragraph shall be equal*
20 *to 100 percent of the loss except that the amount*
21 *of the loan shall be reduced by—*

22 **“(i) any amount covered by insurance**
23 *or otherwise; or*

1 “(ii) *in the case of a loan used to refi-*
2 *nance a mortgage or other lien, any amount*
3 *covered by insurance or otherwise.*

4 “(C) *SPECIAL RULES.—The Administrator*
5 *shall not—*

6 “(i) *reduce the loan amount on real es-*
7 *tate to below \$100,000 unless the amount of*
8 *loss calculated under subparagraph (B) is*
9 *less than \$100,000;*

10 “(ii) *reduce the loan amount on per-*
11 *sonal property, whether held by a home-*
12 *owner or lessee, to below \$20,000, unless the*
13 *amount of the loss calculated under sub-*
14 *paragraph (B) is less than \$20,000;*

15 “(iii) *take into account for purposes of*
16 *subparagraph (B) any sums made available*
17 *for refinancing pursuant to subparagraph*
18 *(D); or*

19 “(iv) *require collateral for loans of*
20 *\$10,000 or less.*

21 “(D) *REFINANCINGS.—Such loans may be*
22 *used to refinance any mortgage or other lien*
23 *against a totally destroyed or substantially dam-*
24 *aged home or business concern except that the*
25 *Administrator shall not make any loan or guar-*

1 *antee under this paragraph unless the Adminis-*
2 *trator finds—*

3 *“(i) the applicant is not able to obtain*
4 *credit elsewhere;*

5 *“(ii) such property is to be repaired,*
6 *rehabilitated, or replaced; and*

7 *“(iii) the amount refinanced shall not*
8 *exceed the amount of physical loss sus-*
9 *tained.*

10 *“(E) INCREASE FOR MITIGATING MEAS-*
11 *URES.—The Administrator may increase the*
12 *amount of any loan under this subsection by up*
13 *to an additional 20 percent if he determines such*
14 *increase to be necessary or appropriate in order*
15 *to protect the damaged or destroyed property*
16 *from possible future disasters by taking miti-*
17 *gating measures, including construction of re-*
18 *taining walls and sea walls, grading and*
19 *contouring land, relocating utilities and modi-*
20 *fying structures.*

21 *“(2) ECONOMIC INJURY DISASTER LOANS.—*

22 *“(A) LOAN AUTHORITY.—Except as to agri-*
23 *cultural enterprises (other than small agricul-*
24 *tural cooperatives), the Administrator may, to*
25 *the extent and in such amounts as provided in*

1 *advance in appropriation Acts, make such loans*
2 *(either directly or in cooperation with banks or*
3 *other lending institutions through agreements to*
4 *participate on an immediate or deferred (guar-*
5 *anteed) basis as the Administrator may deter-*
6 *mine to be necessary or appropriate to any small*
7 *business concern or small agricultural coopera-*
8 *tive located in an area affected by a disaster*
9 *(which shall include all of the county in which*
10 *the disaster occurred and counties contiguous to*
11 *the county of the disaster as determined by the*
12 *President or Administrator), if the Adminis-*
13 *trator determines that the concern or the coopera-*
14 *tive has suffered a substantial economic injury*
15 *as a result of such disaster and if such disaster*
16 *constitutes—*

17 *“(i) a major disaster, as determined by*
18 *the President under the Disaster Relief and*
19 *Emergency Assistance Act; or*

20 *“(ii) a natural disaster, as determined*
21 *by the Secretary of Agriculture pursuant to*
22 *the Consolidated Farmers Home Adminis-*
23 *tration Act of 1961 (7 U.S.C. 1961); or*

24 *“(iii) a disaster, as determined by the*
25 *Administrator.*

1 “(B) *STATE CERTIFICATION.*—*If no disaster*
2 *declaration has been issued under subparagraph*
3 *(A), the Governor of a State in which a disaster*
4 *has occurred may certify to the Administrator*
5 *that small business concerns or small agricul-*
6 *tural cooperatives have suffered economic injury*
7 *as a result of such disaster and are in need of*
8 *financial assistance which is not available on*
9 *reasonable terms in the disaster stricken area.*
10 *Upon receipt of such certification, the Adminis-*
11 *trator may then make such loans as would have*
12 *been available under this paragraph if a disaster*
13 *declaration had been issued.*

14 “(C) *UNABLE TO OBTAIN CREDIT ELSE-*
15 *WHERE.*—*No loan or guarantee shall be extended*
16 *pursuant to this paragraph unless the Adminis-*
17 *trator finds that the applicant is not able to ob-*
18 *tain credit elsewhere.*

19 “(3) *ESSENTIAL EMPLOYEES CALLED TO ACTIVE*
20 *DUTY.*—

21 “(A) *DEFINITIONS.*—*For purposes of this*
22 *paragraph:*

23 “(i) *ESSENTIAL EMPLOYEE.*—*The term*
24 *‘essential employee’ means an individual*
25 *who is employed by a small business con-*

1 *cern and whose managerial or technical ex-*
2 *pertise is critical to the successful day-to-*
3 *day operations of that small business con-*
4 *cern.*

5 “(ii) *PERIOD OF MILITARY CON-*
6 *FLICT.—The term ‘period of military con-*
7 *flict’ has the meaning given the term in*
8 *subsection (n)(1).*

9 “(iii) *SUBSTANTIAL ECONOMIC IN-*
10 *JURY.—The term ‘substantial economic in-*
11 *jury’ means an economic harm to a busi-*
12 *ness concern that results in the inability of*
13 *the business concern—*

14 *“(I) to meet its obligations as they*
15 *mature;*

16 *“(II) to pay its ordinary and nec-*
17 *essary operating expenses; or*

18 *“(III) to market, produce, or pro-*
19 *vide a product or service ordinarily*
20 *marketed, produced, or provided by the*
21 *business concern.*

22 “(B) *LOAN AUTHORITY.—The Adminis-*
23 *trator may make such disaster loans (either di-*
24 *rectly or in cooperation with banks or other*
25 *lending institutions through agreements to par-*

1 *ticipate on an immediate or deferred basis) to*
2 *assist a small business concern that has suffered*
3 *or that is likely to suffer substantial economic*
4 *injury as the result of an essential employee of*
5 *such small business concern being ordered to ac-*
6 *tive military duty during a period of military*
7 *conflict.*

8 “(C) *PERIOD OF ELIGIBILITY.*—*A small*
9 *business concern described in subparagraph (B)*
10 *shall be eligible to apply for assistance under*
11 *this paragraph during the period beginning on*
12 *the date on which the essential employee is or-*
13 *dered to active duty and ending on the date that*
14 *is 90 days after the date on which such essential*
15 *employee is discharged or released from active*
16 *duty.*

17 “(D) *INTEREST RATE.*—*Any loan or guar-*
18 *antee extended pursuant to this paragraph shall*
19 *be made at the same interest rate as economic*
20 *injury disaster loans under paragraph (2).*

21 “(E) *MAXIMUM LOAN AMOUNT.*—*No loan*
22 *may be made under this paragraph, either di-*
23 *rectly or in cooperation with banks or other*
24 *lending institutions through agreements to par-*
25 *ticipate on an immediate or deferred basis, if the*

1 *total amount outstanding and committed to the*
2 *borrower under this subsection would exceed*
3 *\$1,500,000, unless the applicant can establish*
4 *pursuant to regulations promulgated by the Ad-*
5 *ministrator pursuant to paragraph (9) that this*
6 *maximum should be waived.*

7 “(F) *NO DISASTER DECLARATION RE-*
8 *QUIRED.—For purposes of assistance under this*
9 *paragraph, no declaration of a disaster area*
10 *shall be required.*

11 “(4) *SPECIAL RULE TO DETERMINE SMALL CON-*
12 *CERNS.—For purposes of this subsection, a business*
13 *concern and an agricultural cooperative are consid-*
14 *ered small if the business concern or agricultural co-*
15 *operative has 500 or fewer employees.*

16 “(5) *MAXIMUM TERM.—Except as provided in*
17 *paragraph (6), no loan under this subsection, includ-*
18 *ing renewals and extensions thereof, may be made for*
19 *a period or periods exceeding 30 years. No loan de-*
20 *scribed in paragraph (11)(D)(iii) shall be made for a*
21 *period or periods exceeding 3 years.*

22 “(6) *SUSPENSION OF PAYMENTS.—*

23 “(A) *IN GENERAL.—The Administrator*
24 *may consent to a suspension in the payment of*
25 *principal and interest charges on, and to an ex-*

1 *tension in the maturity of, the Federal share of*
2 *any loan under this subsection for a period of*
3 *not to exceed 5 years, if—*

4 *“(i) the borrower under such loan is a*
5 *homeowner or a small business concern;*

6 *“(ii) the loan was made to enable—*

7 *“(I) such homeowner to repair or*
8 *replace his home; or*

9 *“(II) such concern to repair or re-*
10 *place plant or equipment which was*
11 *damaged or destroyed as the result of a*
12 *disaster described in clause (i) or (ii)*
13 *of paragraph (2)(A); and*

14 *“(iii) the Administrator determines*
15 *such action is necessary to avoid severe fi-*
16 *nancial hardship.*

17 *“(B) PURCHASE OF NON-FEDERAL*
18 *SHARE.—During any period in which principal*
19 *and interest charges are suspended on the Fed-*
20 *eral share of any loan under this paragraph, the*
21 *Administrator shall, upon the request of any per-*
22 *son, firm, or corporation having a participation*
23 *in such loan, purchase such participation, or as-*
24 *sume the obligation of the borrower, for the bal-*
25 *ance of such period, to make principal and in-*

1 *terest payments on the non-Federal share of such*
2 *loan. No such payments shall be made by the Ad-*
3 *ministrator in behalf of any borrower unless—*

4 *“(i) the Administrator determines that*
5 *such action is necessary in order to avoid a*
6 *default; and*

7 *“(ii) the borrower agrees to make pay-*
8 *ments to the Administration in an aggre-*
9 *gate amount equal to the amount paid in*
10 *its behalf by the Administrator, in such*
11 *manner and at such times (during or after*
12 *the term of the loan) as the Administrator*
13 *shall determine having due regard to the*
14 *purposes sought to be achieved by this*
15 *clause.*

16 *“(7) ADDITIONAL DISASTER AREAS.—The Ad-*
17 *ministrator shall promulgate regulations for deter-*
18 *mining under what circumstances loans can be made*
19 *under paragraph (2)(A) in counties beyond the coun-*
20 *ties designated pursuant to clause (i), (ii), or (iii) of*
21 *paragraph (2)(A).*

22 *“(8) CIVIL PENALTY FOR MISUSE OF LOAN.—*
23 *Whoever wrongfully misapplies the proceeds of a loan*
24 *obtained under this subsection shall be civilly liable*

1 to the Administrator in an amount equal to 150 per-
2 cent of the original principal amount of the loan.

3 “(9) *MAXIMUM LOAN AMOUNT.*—*The Adminis-*
4 *trator shall establish by regulation the maximum*
5 *amount of indebtedness which may be committed to*
6 *any borrower under this subsection. Such regulation*
7 *shall be codified in the Code of Federal Regulations*
8 *and shall specify the conditions under which the Ad-*
9 *ministrator shall waive any such maximum based on*
10 *the need to speed economic recovery of the region.*

11 “(10) *MAXIMUM GUARANTEED PARTICIPATION.*—
12 *In agreements to participate in loans on a deferred*
13 *basis under this subsection, such participation by the*
14 *Administrator shall not be in excess of 90 percent of*
15 *the balance of the loan outstanding at the time of dis-*
16 *bursement.*

17 “(11) *INTEREST RATE.*—*The interest rate on the*
18 *Federal share of any loan made under paragraph (1)*
19 *or (2) shall not exceed the rate of interest which is in*
20 *effect at the time of the occurrence of the disaster but*
21 *shall otherwise be—*

22 “(A) *in the case of a homeowner unable to*
23 *secure credit elsewhere, the rate prescribed by the*
24 *Administration but not more than 1/2 the rate*
25 *determined by the Secretary of the Treasury tak-*

1 *ing into consideration the current average mar-*
2 *ket yield on outstanding marketable obligations*
3 *of the United States with remaining periods to*
4 *maturity comparable to the average maturities of*
5 *such loan plus an additional charge of not to ex-*
6 *ceed 1 percent per year as determined by the Ad-*
7 *ministrator, and adjusted to the nearest $\frac{1}{8}$ of 1*
8 *percent, but not to exceed 4 percent per year;*

9 *“(B) in the case of a homeowner able to se-*
10 *cure credit elsewhere, the rate prescribed by the*
11 *Administration but not more than the rate deter-*
12 *mined by the Secretary of the Treasury taking*
13 *into consideration the current average market*
14 *yield on outstanding marketable obligations of*
15 *the United States with remaining periods to ma-*
16 *turity comparable to the average maturities of*
17 *such loans plus an additional charge of not to*
18 *exceed 1 percent per year as determined by the*
19 *Administrator, and adjusted to the nearest $\frac{1}{8}$ of*
20 *1 percent, but not to exceed 8 percent per year;*

21 *“(C) in the case of a business or other con-*
22 *cern, including agricultural cooperatives, unable*
23 *to obtain credit elsewhere, not to exceed 4 percent*
24 *per year; or*

1 “(D) *in the case of a business concern able*
2 *to obtain credit elsewhere, the rate prescribed by*
3 *the Administration but not to excess of the lowest*
4 *of—*

5 “(i) *the rate prevailing in the private*
6 *market for similar loans,*

7 “(ii) *the rate prescribed by the Admin-*
8 *istration as the maximum interest rate for*
9 *deferred participation (guaranteed) loans*
10 *under subsection (a), or*

11 “(iii) *8 percent per year.*

12 “(12) *NOTICE TO BORROWERS.—*

13 “(A) *IN GENERAL.—The Administrator*
14 *shall ensure that each borrower under this sub-*
15 *section receives a notice described in subpara-*
16 *graph (B) upon applying for any loan under*
17 *this subsection and upon the disbursement of any*
18 *loan under this subsection.*

19 “(B) *CONTENTS OF NOTICE.—A notice is*
20 *described in this subparagraph if such notice in-*
21 *cludes the following information with respect to*
22 *loans made under this subsection:*

23 “(i) *A description of the collection*
24 *practices of the Administration for such*
25 *loans, including a description of any ac-*

1 *tions the Administrator may take to collect*
2 *a delinquent or non-current loan.*

3 *“(ii) A description of the practices of*
4 *the Administration with respect to selling*
5 *the rights and interests of the Administra-*
6 *tion in such loans, including a description*
7 *of the effects of such a sale on the borrower.*

8 *“(iii) A description of the rights of the*
9 *borrower with respect to such loan under*
10 *applicable Federal laws.*

11 *“(iv) A telephone number for con-*
12 *tacting the Administrator regarding such*
13 *loan.”.*

14 *(c) EXTENSION OR RENEWAL.—Subsection (c) of sec-*
15 *tion 7 of the Small Business Act (15 U.S.C. 636) is amend-*
16 *ed to read as follows:*

17 *“(c) EXTENSION OR RENEWAL.—*

18 *“(1) IN GENERAL.—The Administrator may fur-*
19 *ther extend the maturity of or renew any loan made*
20 *pursuant to this section for additional periods not to*
21 *exceed 10 years beyond the period stated therein, if*
22 *such extension or renewal will aid in the orderly liq-*
23 *uidation of such loan.*

1 “(2) *LIMITATION.*—No loan made under sub-
2 *section (b) shall be extended under this subsection if*
3 *the loan has a maturity in excess of 20 years.*”.

4 “(d) *MICROLOAN PROGRAM.*—Subsection (m) of section
5 *7 of the Small Business Act (15 U.S.C. 636) is amended*
6 *to read as follows:*

7 “(m) *MICROLOAN PROGRAM.*—

8 “(1) *PURPOSES.*—The purposes of the Microloan
9 *Program are—*

10 “(A) *to assist women, low-income, veteran,*
11 *and minority entrepreneurs and business owners,*
12 *small manufacturers, and other individuals pos-*
13 *sessing the capability to operate successful busi-*
14 *ness concerns;*

15 “(B) *to assist small business concerns in*
16 *those areas suffering from a lack of credit due to*
17 *economic downturns;*

18 “(C) *to establish a microloan program to be*
19 *administered by the Administrator—*

20 “(i) *to make loans to eligible inter-*
21 *mediaries to enable such intermediaries to*
22 *provide small-scale loans, particularly loans*
23 *in amounts averaging not more than*
24 *\$10,000, to startup, newly established, or*
25 *growing small business concerns for working*

1 *capital or the acquisition of materials, sup-*
2 *plies, or equipment;*

3 “(ii) to make grants to eligible inter-
4 mediaries that, together with non-Federal
5 matching funds, will enable such inter-
6 mediaries to provide intensive marketing,
7 management, and technical assistance to
8 microloan borrowers;

9 “(iii) to make grants to eligible non-
10 profit entities that, together with non-Fed-
11 eral matching funds, will enable such enti-
12 ties to provide intensive marketing, man-
13 agement, and technical assistance to assist
14 low-income entrepreneurs and other low-in-
15 come individuals obtain private sector fi-
16 nancing for their businesses, with or with-
17 out loan guarantees;

18 “(iv) to report to the Committee on
19 Small Business and Entrepreneurship of
20 the Senate and the Committee on Small
21 Business of the House of Representatives on
22 the effectiveness of the microloan program
23 and the advisability and feasibility of im-
24 plementing such a program nationwide;
25 and

1 “(v) to establish a welfare-to-entrepre-
2 neurship microloan initiative, which shall
3 be administered by the Administrator, in
4 order to test the feasibility of supplementing
5 the technical assistance grants provided
6 under this subsection to individuals who are
7 receiving assistance under the State pro-
8 gram funded under part A of title IV of the
9 Social Security Act (42 U.S.C. 601 et seq.),
10 or under any comparable State funded
11 means tested program of assistance for low-
12 income individuals, in order to adequately
13 assist those individuals in establishing
14 small businesses and eliminating their de-
15 pendence on that assistance.

16 “(2) *ESTABLISHMENT.*—There is a Microloan
17 Program, under which the Administrator may, con-
18 sistent with the requirements of this subsection—

19 “(A) make direct loans to eligible inter-
20 mediaries for the purpose of making short-term,
21 fixed interest rate microloans to startup, newly
22 established, and growing small business concerns;

23 “(B) in conjunction with such loans make
24 grants to such intermediaries for the purpose of
25 providing intensive marketing, management, and

1 *technical assistance to small business concerns*
2 *that are borrowers under this subsection; and*

3 “(C) *make grants to nonprofit entities for*
4 *the purpose of providing marketing, manage-*
5 *ment, and technical assistance to low-income in-*
6 *dividuals seeking to start or enlarge their own*
7 *businesses, if such assistance includes working*
8 *with the grant recipient to secure loans in*
9 *amounts not to exceed \$50,000 from private sec-*
10 *tor lending institutions, with or without a loan*
11 *guarantee from the nonprofit entity.*

12 “(3) *ELIGIBILITY FOR PARTICIPATION.—An*
13 *intermediary shall be eligible to receive loans and*
14 *grants under subparagraphs (B) and (C) of para-*
15 *graph (2) if it has at least 1 year of experience mak-*
16 *ing microloans to startup, newly established, or grow-*
17 *ing small business concerns and providing, as an in-*
18 *tegral part of its microloan program, intensive mar-*
19 *keting, management, and technical assistance to its*
20 *borrowers or equivalent experience, as determined by*
21 *the Administrator provided that the equivalent expe-*
22 *rience evidences the capability of the intermediary to*
23 *assist microloan borrowers.*

1 “(4) *INTERMEDIARY APPLICATIONS.*—As part of
2 its application for a loan, each intermediary shall
3 submit a description to the Administrator of—

4 “(A) *the type of businesses to be assisted;*

5 “(B) *the size and range of loans to be made;*

6 “(C) *the geographic area to be served and*
7 *its economic, poverty, and unemployment char-*
8 *acteristics;*

9 “(D) *the status of small business concerns*
10 *in the area to be served and an analysis of their*
11 *credit and technical assistance needs;*

12 “(E) *any marketing, management, and*
13 *technical assistance to be provided in connection*
14 *with a loan made under this subsection;*

15 “(F) *the local economic credit markets, in-*
16 *cluding the costs associated with obtaining credit*
17 *locally;*

18 “(G) *the qualifications of the applicant to*
19 *carry out the purpose of this subsection; and*

20 “(H) *any plan to involve other technical as-*
21 *sistance providers (such as volunteers recruited*
22 *under section 12(b) or counselors from small*
23 *business development centers) or private sector*
24 *lenders in assisting selected business concerns.*

1 “(5) *SELECTION OF INTERMEDIARIES.*—*In select-*
2 *ing intermediaries to participate in the program es-*
3 *tablished under this subsection, the Administrator*
4 *shall give priority to those applicants that provide*
5 *loans in amounts averaging not more than \$10,000*
6 *and to those applicants that primarily serve small*
7 *manufacturers.*

8 “(6) *INTERMEDIARY CONTRIBUTION.*—*As a con-*
9 *dition of any loan made to an intermediary under*
10 *this subsection, the Administrator shall require the*
11 *intermediary to contribute not less than 15 percent of*
12 *the loan amount in cash from non-Federal sources.*

13 “(7) *LOANS TO INTERMEDIARIES.*—

14 “(A) *LOAN LIMITS.*—*No loan shall be made*
15 *under this subsection if the total amount out-*
16 *standing and committed to one intermediary*
17 *(excluding outstanding grants) from the business*
18 *loan and investment fund established by this Act*
19 *would, as a result of such loan, exceed \$750,000*
20 *in the first year of such intermediary’s partici-*
21 *pation in the program, and \$3,500,000 in the re-*
22 *maining years of the intermediary’s participa-*
23 *tion in the program.*

1 “(B) *LOAN DURATION.*—*Loans made by the*
2 *Administrator under this subsection shall be for*
3 *a term of 10 years.*

4 “(C) *DELAYED PAYMENTS.*—*The Adminis-*
5 *trator shall not require repayment of interest or*
6 *principal of a loan made to an intermediary*
7 *under this subsection during the first year of the*
8 *loan.*

9 “(D) *FEEES; COLLATERAL.*—*Except as other-*
10 *wise provided in this subsection, the Adminis-*
11 *trator shall not charge any fees or require collat-*
12 *eral other than an assignment of the notes receiv-*
13 *able of the microloans with respect to any loan*
14 *made to an intermediary under this subsection.*

15 “(E) *INTEREST RATES.*—

16 “(i) *IN GENERAL.*—*Loans made by the*
17 *Administrator under this subsection to an*
18 *intermediary shall bear an interest rate*
19 *equal to 1.25 percentage points below the*
20 *rate determined by the Secretary of the*
21 *Treasury for obligations of the United*
22 *States with a period of maturity of 5 years,*
23 *adjusted to the nearest $\frac{1}{8}$ of 1 percent.*

24 “(ii) *CERTAIN SMALL LOANS.*—*Not-*
25 *withstanding clause (i), loans made by the*

1 *Administrator to an intermediary that*
2 *makes loans to small business concerns and*
3 *entrepreneurs averaging not more than*
4 *\$10,000, shall bear an interest rate that is*
5 *2 percentage points below the rate deter-*
6 *mined by the Secretary of the Treasury for*
7 *obligations of the United States with a pe-*
8 *riod of maturity of 5 years, adjusted to the*
9 *nearest $\frac{1}{8}$ of 1 percent.*

10 *“(iii) MULTIPLE SITES OR OFFICES.—*
11 *Clause (ii) shall apply to each separate*
12 *loan-making site or office of an inter-*
13 *mediary only if such site or office meets the*
14 *requirements of that clause.*

15 *“(iv) RATE BASIS.—The applicable*
16 *rate of interest under this subparagraph*
17 *shall—*

18 *“(I) be applied retroactively for*
19 *the first year of an intermediary’s par-*
20 *ticipation in the program, based upon*
21 *the actual lending practices of the*
22 *intermediary as determined by the Ad-*
23 *ministrator prior to the end of such*
24 *year; and*

1 “(II) be based in the second and
2 subsequent years of an intermediary’s
3 participation in the program, upon the
4 actual lending practices of the inter-
5 mediary during the term of the
6 intermediary’s participation in the
7 program.

8 “(8) LOSS RESERVE OF INTERMEDIARIES.—

9 “(A) IN GENERAL.—The Administrator
10 shall, by regulation to be codified in the Code of
11 Federal Regulations, require each intermediary
12 to establish a loan loss reserve fund, and to
13 maintain such reserve fund until all obligations
14 owed to the Administrator under this subsection
15 are repaid.

16 “(B) AMOUNT OF RESERVE FUND.—The Ad-
17 ministrator shall require the loan loss reserve
18 fund of an intermediary to be maintained at a
19 level equal to 15 percent of the outstanding bal-
20 ance of the notes receivable owed to the inter-
21 mediary.

22 “(C) REDUCTION OF REQUIRED AMOUNT.—
23 Notwithstanding subparagraph (B), the Admin-
24 istrator may reduce the annual loan loss reserve
25 requirement of an intermediary to reflect the ac-

1 *tual average loan loss rate for the intermediary*
2 *during the preceding 5-year period, except that*
3 *in no case shall the loan loss reserve be reduced*
4 *to less than 10 percent of the outstanding bal-*
5 *ance of the notes receivable owed to the inter-*
6 *mediary. The Administrator may reduce the an-*
7 *nuual loan loss reserve requirement of an inter-*
8 *mediary under this subparagraph only if the*
9 *intermediary demonstrates to the satisfaction of*
10 *the Administrator that—*

11 “(i) *the average annual loss rate for*
12 *the intermediary during the preceding 5-*
13 *year period is less than 15 percent; and*

14 “(ii) *no other factors exist that may*
15 *impair the ability of the intermediary to*
16 *repay all obligations owed to the Adminis-*
17 *trator under this subsection.*

18 “(D) *REVIEW BY ADMINISTRATOR.—After*
19 *the initial 5 years of an intermediary’s partici-*
20 *pation in the program authorized by this sub-*
21 *section, the Administrator shall, at the request of*
22 *the intermediary, conduct a review of the annual*
23 *loss rate of the intermediary. Any intermediary*
24 *that requests a reduction in its loan loss reserve*

1 *shall be reviewed based on the most recent 5-year*
2 *period preceding the request.*

3 “(9) *LOANS TO SMALL BUSINESS CONCERNS*
4 *FROM ELIGIBLE INTERMEDIARIES.—*

5 “(A) *IN GENERAL.—An eligible inter-*
6 *mediary shall make fixed rate loans to startup,*
7 *newly established, and growing small business*
8 *concerns from the funds made available to it*
9 *under paragraph (7) for working capital and the*
10 *acquisition of materials, supplies, furniture, fix-*
11 *tures, and equipment.*

12 “(B) *LOAN AMOUNT.—To the extent prac-*
13 *ticable, each intermediary that operates a*
14 *microloan program under this subsection shall*
15 *maintain a microloan portfolio with an average*
16 *loan size of not more than \$15,000. An inter-*
17 *mediary may make a loan under this subsection*
18 *of more than \$20,000 to a small business concern*
19 *only if such small business concern demonstrates*
20 *that it is unable to obtain credit elsewhere at*
21 *comparable interest rates and that it has good*
22 *prospects for success. In no case shall an inter-*
23 *mediary make a loan under this subsection of*
24 *more than \$50,000, or have outstanding or com-*
25 *mitted to any 1 borrower more than \$50,000.*

1 “(C) *INTEREST LIMIT.*—Notwithstanding
2 any State limitation on the rate or amount of
3 interest that may be charged, taken, received, or
4 reserved on a loan, the maximum rate of interest
5 to be charged on a microloan funded under this
6 subsection shall not exceed the rate of interest ap-
7 plicable to a loan made to an intermediary by
8 the Administrator—

9 “(i) in the case of a loan of more than
10 \$10,000 made by the intermediary to a
11 small business concern or entrepreneur by
12 more than 7.75 percentage points; and

13 “(ii) in the case of a loan of not more
14 than \$10,000 made by the intermediary to
15 a small business concern or entrepreneur by
16 more than 8.5 percentage points.

17 “(D) *REVIEW RESTRICTION.*—The Adminis-
18 trator shall not review individual microloans
19 made by intermediaries prior to approval.

20 “(E) *ESTABLISHMENT OF CHILD CARE OR*
21 *TRANSPORTATION BUSINESSES.*—In addition to
22 other eligible small businesses concerns, bor-
23 rowers under any program under this subsection
24 may include individuals who will use the loan
25 proceeds to establish for-profit or nonprofit child

1 *care establishments or businesses providing for-*
2 *profit transportation services.*

3 “(10) *PROGRAM FUNDING FOR MICROLOANS.*—

4 “(A) *NUMBER OF PARTICIPANTS.*—*Under*
5 *the program authorized by this subsection, the*
6 *Administrator may fund, on a competitive basis,*
7 *not more than 300 intermediaries.*

8 “(B) *MINIMUM ALLOCATION.*—*Subject to the*
9 *availability of appropriations, of the total*
10 *amount of new loan funds made available for*
11 *award under this subsection in each fiscal year,*
12 *the Administrator shall make available for*
13 *award in each State an amount equal to the sum*
14 *of—*

15 “(i) *the lesser of—*

16 “(I) *\$800,000; or*

17 “(II) *$\frac{1}{55}$ of the total amount of*
18 *new loan funds made available for*
19 *award under this subsection for that*
20 *fiscal year; and*

21 “(ii) *any additional amount, as deter-*
22 *mined by the Administrator.*

23 “(C) *REDISTRIBUTION.*—*If, at the begin-*
24 *ning of the third quarter of a fiscal year, the Ad-*
25 *ministrator determines that any portion of the*

1 *amount made available to carry out this sub-*
2 *section is unlikely to be made available under*
3 *subparagraph (B) during that fiscal year, the*
4 *Administrator may make that portion available*
5 *for award in any one or more States without re-*
6 *gard to subparagraph (B).*

7 “(11) *EQUITABLE DISTRIBUTION OF INTER-*
8 *MEDIARIES.—In approving microloan program appli-*
9 *cants and providing funding to intermediaries under*
10 *this subsection, the Administrator shall select and*
11 *provide funding to such intermediaries as will ensure*
12 *appropriate availability of loans for small businesses*
13 *in all industries located throughout each State, par-*
14 *ticularly those located in urban and in rural areas.*

15 “(12) *MARKETING, MANAGEMENT AND TECH-*
16 *NICAL ASSISTANCE GRANTS TO INTERMEDIARIES.—*
17 *The Administrator may make grants described in*
18 *paragraph (2)(B) in accordance with the following re-*
19 *quirements:*

20 “(A) *GRANT AMOUNTS.—Except as other-*
21 *wise provided in subparagraph (C) and subject*
22 *to subparagraph (B), each intermediary that re-*
23 *ceives a loan under this subsection shall be eligi-*
24 *ble to receive a grant to provide marketing, man-*
25 *agement, and technical assistance to small busi-*

1 *ness concerns that are borrowers under this sub-*
2 *section. Except as provided in subparagraph (C),*
3 *each intermediary meeting the requirements of*
4 *subparagraph (B) may receive a grant of not*
5 *more than 25 percent of the total outstanding*
6 *balance of loans made to it under this subsection.*

7 “(B) *CONTRIBUTION.*—*As a condition of*
8 *any grant made under subparagraph (A), the*
9 *Administrator shall require the intermediary to*
10 *contribute an amount equal to 25 percent of the*
11 *amount of the grant, obtained solely from non-*
12 *Federal sources. In addition to cash or other di-*
13 *rect funding, the contribution may include indi-*
14 *rect costs or in-kind contributions paid for under*
15 *non-Federal programs.*

16 “(C) *ADDITIONAL TECHNICAL ASSISTANCE*
17 *GRANTS FOR MAKING CERTAIN LOANS.*—

18 “(i) *IN GENERAL.*—*Each intermediary*
19 *that has a portfolio of loans made under*
20 *this subsection that averages not more than*
21 *\$10,000 during the period of the*
22 *intermediary’s participation in the pro-*
23 *gram shall be eligible to receive a grant*
24 *equal to 5 percent of the total outstanding*
25 *balance of loans made to the intermediary*

1 *under this subsection, in addition to grants*
2 *made under subparagraph (A).*

3 “(ii) *PURPOSES.*—*A grant awarded*
4 *under clause (i) may be used to provide*
5 *marketing, management, and technical as-*
6 *sistance to small business concerns that are*
7 *borrowers under this subsection.*

8 “(iii) *CONTRIBUTION EXCEPTION.*—
9 *The contribution requirements in subpara-*
10 *graph (B) do not apply to grants made*
11 *under this subparagraph.*

12 “(D) *ELIGIBILITY FOR MULTIPLE SITES OR*
13 *OFFICES.*—*The eligibility for a grant described*
14 *in subparagraph (A) or (C) shall be determined*
15 *separately for each loan-making site or office of*
16 *an intermediary.*

17 “(E) *ASSISTANCE TO CERTAIN SMALL BUSI-*
18 *NESS CONCERNS.*—*Each intermediary may ex-*
19 *pend grant funds received under this subsection*
20 *to provide information and technical assistance*
21 *to small business concerns that are prospective*
22 *borrowers under this subsection and may enter*
23 *into contracts with third parties to provide such*
24 *information and assistance.*

1 “(13) *PRIVATE SECTOR BORROWING TECHNICAL*
2 *ASSISTANCE GRANTS.*—*Grants described in paragraph*
3 *(2)(C) shall be subject to the following requirements:*

4 “(A) *GRANT AMOUNTS.*—*Subject to the re-*
5 *quirements of subparagraph (B), the Adminis-*
6 *trator may make not more than 55 grants annu-*
7 *ally, each in amounts not to exceed \$200,000 for*
8 *the purposes specified in paragraph (2)(C).*

9 “(B) *CONTRIBUTION.*—*As a condition of*
10 *any grant made under subparagraph (A), the*
11 *Administrator shall require the grant recipient*
12 *to contribute an amount equal to 20 percent of*
13 *the amount of the grant, obtained solely from*
14 *non-Federal sources. In addition to cash or other*
15 *direct funding, the contribution may include in-*
16 *direct costs or in-kind contributions paid for*
17 *under non-Federal programs.*

18 “(14) *GRANTS FOR MANAGEMENT, MARKETING,*
19 *TECHNICAL ASSISTANCE, AND RELATED SERVICES.*—

20 “(A) *IN GENERAL.*—*The Administrator*
21 *may procure technical assistance for inter-*
22 *mediaries participating in the Microloan Pro-*
23 *gram to ensure that such intermediaries have the*
24 *knowledge, skills, and understanding of micro-*

1 *lending practices necessary to operate successful*
2 *microloan programs.*

3 “(B) *ASSISTANCE AMOUNT.*—*The Adminis-*
4 *trator shall transfer 7 percent of its annual ap-*
5 *propriation for loans and loan guarantees under*
6 *this subsection to the Administration’s Salaries*
7 *and Expense Account for the specific purpose of*
8 *providing 1 or more technical assistance grants*
9 *to experienced microlending organizations and*
10 *national and regional nonprofit organizations*
11 *that have demonstrated experience in providing*
12 *training support for microenterprise development*
13 *and financing to achieve the purpose set forth in*
14 *subparagraph (A).*

15 “(C) *WELFARE-TO-ENTREPRENEURSHIP*
16 *MICROLOAN INITIATIVE.*—*Of amounts made*
17 *available to carry out the welfare-to-entrepre-*
18 *neurship microloan initiative in any fiscal year,*
19 *the Administrator may use not more than 5 per-*
20 *cent to provide technical assistance, either di-*
21 *rectly or through contractors, to welfare-to-entre-*
22 *preneurship microloan initiative grantees, to en-*
23 *sure that, as grantees, they have the knowledge,*
24 *skills, and understanding of microlending and*
25 *welfare-to-entrepreneurship transition, and other*

1 *related issues, to operate a successful welfare-to-*
2 *entrepreneurship microloan initiative.*

3 “(15) *EVALUATION OF WELFARE-TO-ENTREPRE-*
4 *NEURSHIP MICROLOAN INITIATIVE.*—*On January 31,*
5 *1999, and annually thereafter, the Administrator*
6 *shall submit to the Committee on Small Business of*
7 *the House of Representatives and the Committee on*
8 *Small Business and Entrepreneurship of the Senate a*
9 *report on the welfare-to-entrepreneurship microloan*
10 *initiative, including a description of the amounts*
11 *made available to carry out such initiative.*

12 “(16) *DEFINITIONS.*—*For purposes of this sub-*
13 *section—*

14 “(A) *INTERMEDIARY.*—*The term ‘inter-*
15 *mediary’ means—*

16 “(i) *a private, nonprofit entity;*

17 “(ii) *a private, nonprofit community*
18 *development corporation;*

19 “(iii) *a consortium of private, non-*
20 *profit organizations or nonprofit commu-*
21 *nity development corporations;*

22 “(iv) *a quasi-governmental economic*
23 *development entity (such as a planning and*
24 *development district), other than a State,*

1 *county, municipal government, or any*
2 *agency thereof, if—*

3 “(I) *no application is received*
4 *from an eligible nonprofit organiza-*
5 *tion; or*

6 “(II) *the Administrator deter-*
7 *mines that the needs of a region or geo-*
8 *graphic area are not adequately served*
9 *by an existing, eligible nonprofit orga-*
10 *nization that has submitted an appli-*
11 *cation; or*

12 “(v) *an agency of or nonprofit entity*
13 *established by a Native American Tribal*
14 *Government, that seeks to borrow or has*
15 *borrowed funds from the Administrator to*
16 *make microloans to small business concerns*
17 *under this subsection.*

18 “(B) *MICROLOAN.—The term ‘microloan’*
19 *means a fixed rate loan of not more than*
20 *\$50,000, made by an intermediary to a startup,*
21 *newly established, or growing small business con-*
22 *cern.*

23 “(C) *RURAL AREA.—The term ‘rural area’*
24 *means any political subdivision or unincor-*
25 *porated area—*

1 “(i) in a nonmetropolitan county (as
2 defined by the Secretary of Agriculture) or
3 its equivalent thereof; or

4 “(ii) in a metropolitan county or its
5 equivalent that has a resident population of
6 less than 20,000 if the Administrator has
7 determined such political subdivision or
8 area to be rural.”.

9 (e) *REPEAL OF CERTAIN PROVISIONS OF SECTION 7*
10 *OF THE SMALL BUSINESS ACT.*—Section 7 of the Small
11 *Business Act (15 U.S.C. 636) is amended—*

12 (1) *by striking subsection (d) and inserting the*
13 *following:*

14 “(d) [RESERVED].”;

15 (2) *by striking subsection (h) and inserting the*
16 *following:*

17 “(h) [RESERVED].”;

18 (3) *by striking subsection (j) and inserting the*
19 *following:*

20 “(j) [RESERVED].”; and

21 (4) *by striking subsection (k) and inserting the*
22 *following:*

23 “(k) [RESERVED].”.

24 (f) *CONTINUATION OF TEMPORARY PREDISASTER MITI-*
25 *GATION PROGRAM.*—

1 (1) *IN GENERAL.*—*There is a predisaster mitiga-*
2 *tion program under which the Administrator may*
3 *make, under section 7(b)(1) of the Small Business Act*
4 *(15 U.S.C. 636(b)(1)) such loans (either directly or in*
5 *cooperation with banks or other lending institutions*
6 *through agreements to participate on an immediate*
7 *or deferred (guaranteed) basis), as the Administrator*
8 *may determine to be necessary or appropriate, to en-*
9 *able small businesses to use mitigation techniques in*
10 *support of a formal mitigation program established*
11 *by the Federal Emergency Management Agency, ex-*
12 *cept that no loan or guarantee may be extended to a*
13 *small business under this paragraph unless the Ad-*
14 *ministrator finds that the small business is otherwise*
15 *unable to obtain credit for the purposes described in*
16 *this paragraph.*

17 (2) *TERMINATION.*—*No loan shall be made under*
18 *this subsection after September 30, 2004.*

19 (g) *EFFECTIVE DATE.*—*The amendments made under*
20 *this section shall apply to loans and grants made, and other*
21 *assistance provided, after the date of the enactment of this*
22 *Act.*

1 **SEC. 208. GOVERNMENT CONTRACT AND BUSINESS DEVEL-**
2 **OPMENT ASSISTANCE FOR SMALL BUSINESS**
3 **CONCERNS, ETC.**

4 (a) *IN GENERAL.*—Section 8 of the Small Business Act
5 (15 U.S.C. 637) is amended by striking subsections (a), (b),
6 and (c) and inserting the following new subsections:

7 “(a) *GOVERNMENT CONTRACT AND BUSINESS DEVEL-*
8 *OPMENT ASSISTANCE FOR SMALL BUSINESS CONCERNS.*—

9 “(1) *ESTABLISHMENT.*—There is within the Ad-
10 ministration a program to be carried out by the Ad-
11 ministrator to enhance the competitive viability of
12 program participants by providing Government con-
13 tract and business development assistance to program
14 participants consistent with the requirements of this
15 section.

16 “(2)(A) *CONTRACT AUTHORITY.*—The Adminis-
17 trator shall, to the extent that Administrator deter-
18 mines it to be necessary or appropriate, enter into
19 any contract with any contracting officer obligating
20 the Administrator to furnish goods or service to the
21 Government.

22 “(B) *NEGOTIATION WITH CONTRACTING OFFI-*
23 *CER.*—In any case in which the Administrator cer-
24 tifies to a contracting officer that the Administrator
25 is competent and responsible to perform any procure-
26 ment contract to be let by such officer, such officer

1 *may let such procurement contract to the Adminis-*
2 *trator upon such terms and conditions as may be*
3 *agreed upon between the Administrator and such offi-*
4 *cer.*

5 *“(C) FAIR MARKET PRICE RESTRICTION.—A con-*
6 *tracting officer shall not let a contract for goods or*
7 *services under this paragraph if the amount of such*
8 *contract exceeds the fair market price of such goods*
9 *or services.*

10 *“(D) APPEAL OF CONTRACTING OFFICER DECI-*
11 *SION.—(i) Whenever the Administrator and a con-*
12 *tracting officer fail to agree, the matter shall be sub-*
13 *mitted for determination by the Administrator to the*
14 *head of the agency of the contracting officer.*

15 *“(ii) Not later than 5 days from the date the Ad-*
16 *ministrator is notified of a contracting officer’s ad-*
17 *verse decision, the Administrator may notify the con-*
18 *tracting officer of the intent to appeal such adverse*
19 *decision, and within 15 days of such date the Admin-*
20 *istrator shall file a written request for a reconsider-*
21 *ation of the adverse decision with head of the agency.*

22 *“(iii) For purposes of this subparagraph, a con-*
23 *tracting officer’s adverse decision includes a decision*
24 *not to make available for award pursuant to this sub-*
25 *section a particular procurement requirement or the*

1 *failure to agree on the terms and conditions of a con-*
2 *tract to be awarded noncompetitively under the au-*
3 *thority of this subsection.*

4 *“(iv) Upon receipt of the notice of intent to ap-*
5 *peal, the head of the agency shall suspend further ac-*
6 *tion regarding the procurement until a written deci-*
7 *sion on the Administrator’s request for reconsider-*
8 *ation has been issued by such agency head, unless the*
9 *head of the agency makes a written determination*
10 *that urgent and compelling circumstances which sig-*
11 *nificantly affect interests of the United States will not*
12 *permit waiting for a reconsideration of the adverse*
13 *decision.*

14 *“(v) If the Administrator’s request for reconsid-*
15 *eration is denied, the head of the agency shall specify*
16 *the reasons why the selected firm was determined to*
17 *be incapable to perform the procurement requirement,*
18 *and the findings supporting such determination,*
19 *which shall be made a part of the contract file for the*
20 *requirement.*

21 *“(E) DETERMINATION OF UNSUITABILITY.—If a*
22 *contracting officer requests the Administrator to make*
23 *the certification described in subparagraph (B) with*
24 *respect to any contract that the Administrator deter-*
25 *mines is not suitable for award under this subsection,*

1 *the Administrator shall notify the contracting officer*
2 *of the Administrator's determination not later than 3*
3 *days after the date of such request.*

4 *“(F) SUBCONTRACTING AUTHORITY.—(i) The*
5 *Administrator shall, to the extent that the Adminis-*
6 *trator determines it to be necessary or appropriate,*
7 *arrange for the performance of such procurement con-*
8 *tracts by negotiating or otherwise letting subcontracts*
9 *to program participants for such goods or services as*
10 *may be necessary to enable the Administrator to per-*
11 *form such contracts.*

12 *“(ii)(I) Except as authorized by subclause (II) or*
13 *(III), no award shall be made pursuant to this section*
14 *to other than a small business concern.*

15 *“(II) In determining the size of a small business*
16 *concern owned by a socially and economically dis-*
17 *advantaged Indian tribe (or a wholly owned business*
18 *entity of such tribe), each firm's size shall be inde-*
19 *pendently determined without regard to its affiliation*
20 *with the tribe, any entity of the tribal organization,*
21 *or any other business enterprise owned by the tribe,*
22 *unless the Administrator determines that one or more*
23 *such tribally owned business concerns have obtained,*
24 *or are likely to obtain, a substantial unfair competi-*
25 *tive advantage within an industry category.*

1 “(III) Any joint venture established under the
2 authority of section 602(b) of the Business Oppor-
3 tunity Development Reform Act of 1988 (Public Law
4 100–656) shall be eligible for award of a contract
5 pursuant to this section.

6 “(G) DELEGATION OF CONTRACT ADMINISTRA-
7 TION.—(i) The Administrator and the head of the
8 agency making the procurement shall enter into an
9 agreement under which a subcontract awarded under
10 this subsection shall be administered by the head of
11 the agency making the procurement.

12 “(ii) Notwithstanding clause (i), the Adminis-
13 trator shall negotiate and award any such sub-
14 contract and shall assist the program participant in
15 the settlement of any dispute arising from the per-
16 formance of such subcontract.

17 “(iii) Any agreement entered into by the Admin-
18 istrator with the head of another agency before the
19 date of the enactment of this clause that allows such
20 agency head to negotiate or award a contract under
21 this subsection shall not apply with respect to any
22 subcontract offered for award after such date.

23 “(H) AWARD AFTER GRADUATION.—The Admin-
24 istrator shall, to the extent that the Administrator de-
25 termines it to be necessary or appropriate, make an

1 *award to a small business concern which has com-*
2 *pleted its period of program participation as de-*
3 *scribed in paragraph (21)(F) if—*

4 *“(i) the contract will be awarded as a result*
5 *of an offer (including price) submitted in re-*
6 *sponse to a published solicitation relating to a*
7 *competition conducted pursuant to subparagraph*
8 *(H); and*

9 *“(ii) the prospective contract awardee was a*
10 *program participant eligible for award of the*
11 *contract on the date specified for receipt of offers*
12 *contained in the contract solicitation.*

13 *“(I) AWARD THROUGH COMPETITION.—(i) A*
14 *subcontract offered for award pursuant to this sub-*
15 *section shall be awarded on the basis of competition*
16 *restricted to program participants if—*

17 *“(I) there is a reasonable expectation that*
18 *at least 2 program participants will submit of-*
19 *fers and that award can be made at a fair mar-*
20 *ket price; and*

21 *“(II) the estimated anticipated award price*
22 *of the contract (including options) may exceed*
23 *\$5,000,000 in the case of a contract opportunity*
24 *assigned a North American Industrial Classifica-*
25 *tion System code for manufacturing and*

1 \$3,000,000 (including options) in the case of all
2 other contract opportunities.

3 “(i) The Administrator may award a sub-
4 contract under this subsection on the basis of a com-
5 petition restricted to program participants if the re-
6 quirements of clause (i)(I) are met.

7 “(J) SOLE SOURCE AWARD.—(i) In the case of
8 any subcontract not awarded under subparagraph (I),
9 the Administrator shall award such contract sole
10 source to a program participant if—

11 “(I) the program participant is determined
12 to be a responsible contractor with respect to per-
13 formance of such contract opportunity;

14 “(II) the award of such contract would be
15 consistent with the program participant’s busi-
16 ness plan; and

17 “(III) the award of the contract would not
18 result in the program participant exceeding the
19 requirements established by paragraph
20 (21)(G)(iii).

21 “(ii) To the maximum extent practicable, the
22 Administrator shall promote the equitable geographic
23 distribution of sole source contracts awarded pursu-
24 ant to this subsection.

1 “(3) *SURETY BONDS.*—*Notwithstanding sub-*
2 *sections (a) and (c) of the first section of the Act enti-*
3 *tled ‘An Act requiring contracts for the construction,*
4 *alteration, and repair of any public building or pub-*
5 *lic work of the United States to be accompanied by*
6 *a performance bond protecting the United States and*
7 *by additional bond for the protection of persons fur-*
8 *nishing material and labor for the construction, alter-*
9 *ation, or repair of said public buildings or public*
10 *work,’ approved August 24, 1935 (49 Stat. 793; 40*
11 *U.S.C. 270a), no program participant shall be re-*
12 *quired to provide any amount of any bond as a con-*
13 *dition of receiving any subcontract under this sub-*
14 *section if—*

15 “(A) *the Administrator determines that*
16 *such amount is inappropriate for such program*
17 *participant in performing such contract;*

18 “(B) *the Administrator takes such measures*
19 *as the Administrator considers appropriate for*
20 *the protection of persons furnishing materials*
21 *and labor to a program participant receiving*
22 *any benefit pursuant to this paragraph;*

23 “(C) *the Administrator assists, insofar as*
24 *practicable, a program participant receiving the*
25 *benefits of this paragraph to develop, within a*

1 *reasonable period of time, such financial and*
2 *other capability as may be needed to obtain such*
3 *bonds as the Administrator may subsequently re-*
4 *quire for the successful completion of any pro-*
5 *gram conducted under the authority of this sub-*
6 *section;*

7 *“(D) the Administrator finds that such pro-*
8 *gram participant is unable to obtain the req-*
9 *uisite bond or bonds from a surety and that no*
10 *surety is willing to issue such bond or bonds sub-*
11 *ject to the guarantee provisions of title IV of the*
12 *Small Business Investment Act of 1958; and*

13 *“(E) the program participant is determined*
14 *to be a startup concern and such concern has not*
15 *been participating in any program conducted*
16 *under the authority of this subsection for a pe-*
17 *riod exceeding one year.*

18 *“(4) SOLE SOURCE CONTRACT NEGOTIATION.—*

19 *(A) Any program participant selected by the Admin-*
20 *istrator to perform a contract to be let noncompeti-*
21 *tively pursuant to this subsection shall, when prac-*
22 *ticable, participate in any negotiation of the terms*
23 *and conditions of such contract.*

24 *“(B) CALCULATION OF FAIR MARKET PRICE.—(i)*

25 *For purposes of paragraph (2)(C), a fair market price*

1 *shall be determined by the agency according to clauses*
2 *(ii) and (iii) and submitted along with the procure-*
3 *ment requirement to the Administrator. The submis-*
4 *sion also shall include any data used by the agency*
5 *in calculating the fair market price.*

6 *“(ii) The estimate of a current fair market price*
7 *for a new procurement requirement, or a requirement*
8 *that does not have a satisfactory procurement history,*
9 *shall be derived from a price or cost analysis taking*
10 *into account prevailing market conditions, commer-*
11 *cial prices for similar goods or services, and data*
12 *from other Federal agencies. Such analysis shall con-*
13 *sider such cost or pricing data as may be timely sub-*
14 *mitted by the Administrator.*

15 *“(iii) The estimate of a current fair market price*
16 *for a procurement requirement that has a satisfactory*
17 *procurement history shall be based on recent award*
18 *prices adjusted to insure comparability. Such adjust-*
19 *ments shall take into account differences in quan-*
20 *tities, performance times, plans, specifications, trans-*
21 *portation costs, packaging and packing costs, labor*
22 *and materials costs, overhead costs, and any other ad-*
23 *ditional costs which may be deemed appropriate.*

24 *“(iv) The agency’s estimate of the current fair*
25 *market price (and any supporting data furnished to*

1 *the Administrator) shall not be disclosed to any po-*
2 *tential offeror (other than the Administrator).*

3 *“(C) A program participant selected by the Ad-*
4 *ministrator to perform or negotiate a contract to be*
5 *let pursuant to this subsection may request the Ad-*
6 *ministrator to protect the agency’s estimate of the fair*
7 *market price for such contract pursuant to paragraph*
8 *(2)(A).*

9 *“(5) SOCIAL DISADVANTAGE.—(A) Socially dis-*
10 *advantaged individuals are those who have been sub-*
11 *jected to racial or ethnic prejudice or cultural bias be-*
12 *cause of their identity as a member of a group with-*
13 *out regard to their individual qualities.*

14 *“(B) Any determination made pursuant to this*
15 *paragraph shall be made by the Administrator and*
16 *shall not be delegated.*

17 *“(6) ECONOMIC DISADVANTAGE.—(A)(i) Eco-*
18 *nomically disadvantaged individuals are those so-*
19 *cially disadvantaged individuals whose ability to*
20 *compete in the free enterprise system has been im-*
21 *paired due to diminished capital and credit opportu-*
22 *nities as compared to others in the same business area*
23 *who are not socially disadvantaged.*

24 *“(ii) In determining the degree of diminished*
25 *credit and capital opportunities the Administrator*

1 *shall consider the assets and net worth of such socially*
2 *disadvantaged individual as it relates to—*

3 “(I) *the assets and net worth of a business*
4 *owner who is not socially disadvantaged; and*

5 “(II) *the capital needs of the primary in-*
6 *dustry in which the owner of the business is en-*
7 *gaged.*

8 “(iii) *In determining the economic disadvantage*
9 *of an Indian tribe, the Administrator shall consider,*
10 *where available, information such as the following—*

11 “(I) *the per capita income of members of*
12 *the tribe excluding judgment awards;*

13 “(II) *the percentage of the local Indian pop-*
14 *ulation below the poverty level; and*

15 “(III) *the tribe’s access to capital markets.*

16 “(B) *For the purpose of this section, an indi-*
17 *vidual who has been determined by the Administrator*
18 *to be economically disadvantaged at the time of pro-*
19 *gram entry shall be deemed to be economically dis-*
20 *advantaged for the term of the program, as computed*
21 *under paragraph (21).*

22 “(C) *Whenever the Administrator computes per-*
23 *sonal net worth for the purpose of program entry, it*
24 *shall exclude from such computation—*

1 “(i) the value of investments that disadvan-
2 taged owners have in their concerns, except that
3 such value shall be taken into account under this
4 paragraph when comparing such concerns to
5 other concerns in the same business area that are
6 owned by other than socially disadvantaged per-
7 sons; and

8 “(i) the equity that disadvantaged owners
9 have in their primary personal residences.

10 “(D) The Administrator shall not establish a
11 maximum net worth that prohibits program entry
12 that is less than \$750,000.

13 “(7) PROGRAM PARTICIPANT.—

14 “(A) DEFINITION.—For purposes of this sec-
15 tion, the term ‘program participant’ means a
16 small business concern which is certified by the
17 Administrator that it meets the requirements of
18 subparagraph (B) and—

19 “(i) which is at least 51 percent un-
20 conditionally owned by—

21 “(I) one or more socially and, at
22 the time of program entry, economi-
23 cally disadvantaged individuals,

1 “(II) an economically disadvan-
2 taged Indian tribe, (or a wholly owned
3 business entity of such tribe), or

4 “(III) an economically disadvan-
5 taged Native Hawaiian organization,
6 or

7 “(ii) in the case of any publicly owned
8 business, at least 51 percent of the stock of
9 which is unconditionally owned by—

10 “(I) one or more socially and, at
11 the time of program entry, economi-
12 cally disadvantaged individuals,

13 “(II) an economically disadvan-
14 taged Indian tribe (or a wholly owned
15 business entity of such tribe), or

16 “(III) an economically disadvan-
17 taged Native Hawaiian organization.

18 “(B) PROGRAM PARTICIPATION ELIGI-
19 BILITY.—A program participant meets the re-
20 quirements of this subparagraph if the manage-
21 ment and daily business operations of such small
22 concern are controlled by one or more—

23 “(i) socially and, at the time of pro-
24 gram entry, economically disadvantaged in-

1 *dividuals described in subparagraph*
2 *(A)(i)(I) or subparagraph (A)(ii)(I),*

3 *“(ii) members of an economically dis-*
4 *advantaged Indian tribe described in sub-*
5 *paragraph (A)(i)(II) or subparagraph*
6 *(A)(ii)(II), or*

7 *“(iii) Native Hawaiian organizations*
8 *described in subparagraph (A)(i)(III) or*
9 *subparagraph (A)(ii)(III).*

10 *“(C) NATIVE HAWAIIAN ORGANIZATION.—*
11 *For purposes of this subsection, the term ‘Native*
12 *Hawaiian Organization’ means any community*
13 *service organization serving Native Hawaiians*
14 *in the State of Hawaii which—*

15 *“(i) is a nonprofit corporation that has*
16 *filed articles of incorporation with the di-*
17 *rector (or the designee thereof) of the Ha-*
18 *waii Department of Commerce and Con-*
19 *sumer Affairs, or any successor agency,*

20 *“(ii) is controlled by Native Hawai-*
21 *ians, and*

22 *“(iii) whose business activities will*
23 *principally benefit such Native Hawaiians.*

24 *“(D) ANNUAL CERTIFICATION.—Each pro-*
25 *gram participant shall certify to the District Di-*

1 *rector for the district in which its principal*
2 *place of business is located, on an annual basis,*
3 *that it meets the requirements of this paragraph*
4 *regarding ownership and control by socially dis-*
5 *advantaged individuals.*

6 *“(E) CAPABILITY DETERMINATION.—The*
7 *term ‘program participant’ shall not include any*
8 *concern unless the Administrator determines that*
9 *with contract, financial, technical, and manage-*
10 *ment support the small business concern will be*
11 *able to perform contracts which may be awarded*
12 *to such concern under paragraph (2)(F) and has*
13 *reasonable prospects for success in competing in*
14 *the private sector.*

15 *“(F) SPECIAL RULES ON ELIGIBILITY.—(i)*
16 *Except as provided in clause (iii), no individual*
17 *who was determined pursuant to this section to*
18 *be socially and economically disadvantaged be-*
19 *fore the date of the enactment of this subpara-*
20 *graph shall be permitted to assert such disadvan-*
21 *tage with respect to any other concern making*
22 *application for certification after such date.*

23 *“(ii) Except as provided in clause (iii), any*
24 *individual upon whom eligibility is based pursu-*
25 *ant to paragraph (5) shall be permitted to assert*

1 *such eligibility for only one small business con-*
2 *cern.*

3 “(iii) *A socially and economically dis-*
4 *advantaged Indian tribe may own more than*
5 *one small business concern eligible for assistance*
6 *pursuant to this subsection if—*

7 “(I) *the Indian tribe does not own an-*
8 *other firm in the same industry which has*
9 *been determined to be eligible to receive con-*
10 *tracts under this program, and*

11 “(II) *the individuals responsible for the*
12 *management and daily operations of the*
13 *concern do not manage more than two pro-*
14 *gram participants.*

15 “(iv) *No program participant, previously*
16 *eligible for the award of contracts pursuant to*
17 *this subsection, shall be subsequently recertified*
18 *for program participation if its prior participa-*
19 *tion in the program was concluded for any of the*
20 *reasons described in paragraph (10).*

21 “(v)(I) *A program participant eligible for*
22 *the award of contracts pursuant to this sub-*
23 *section shall remain eligible for such contracts if*
24 *there is a transfer of ownership or control of the*
25 *program participant that does not alter the eligi-*

1 *bility of the program participant as determined*
2 *by paragraphs (5), (6), and (7).*

3 “(II) *The program participant shall notify*
4 *the Assistant Administrator for Minority Small*
5 *Business and Capital Ownership of any such*
6 *change in control or ownership and provide the*
7 *Assistant Administrator with sufficient informa-*
8 *tion to enable the Assistant Administrator to de-*
9 *termine that the transfer of ownership and con-*
10 *trol does not alter eligibility for participation in*
11 *the program.*

12 “(III) *In the event of such a alteration of*
13 *ownership or control, the concern, if not termi-*
14 *nated or graduated, shall be eligible for a period*
15 *of continued participation in the program not to*
16 *exceed the time limitations prescribed in para-*
17 *graph (27).*

18 “(8) *MANAGEMENT RESTRICTIONS.—(A) The Ad-*
19 *ministrator shall not restrict the amount of money*
20 *that may be removed from the program participants*
21 *by its owners.*

22 “(B) *The Administrator shall not impose any re-*
23 *strictions on the management of the company except*
24 *insofar as such management would violate other eligi-*
25 *bility provisions or Federal procurement law.*

1 “(C) Notwithstanding this provision, the Admin-
2 istrator may determine that a program participant is
3 not capable of performing a specific contract and
4 may choose not to award a contract to a program
5 participant.

6 “(9) *EXPANSION INTO OTHER INDUSTRIES.*—
7 *Limitations established by the Administrator in its*
8 *regulations and procedures restricting the award of*
9 *contracts pursuant to this subsection to a limited*
10 *number of North American Industry Classification*
11 *System codes in an approved business plan shall not*
12 *be applied in a manner that inhibits the logical busi-*
13 *ness progression by a program participant into areas*
14 *of industrial endeavor where such concern has the po-*
15 *tential for success.*

16 “(10) *OPPORTUNITY FOR HEARING.*—(A) *Subject*
17 *to the provisions of subparagraph (E), the Adminis-*
18 *trator, prior to taking any action described in sub-*
19 *paragraph (B), shall provide the program participant*
20 *that is the subject of such action, an opportunity for*
21 *a hearing on the record after providing written notifi-*
22 *cation of an action set forth in paragraph (B), in ac-*
23 *cordance with chapter 5 of title 5, United States*
24 *Code.*

1 “(B) *The actions referred to in subparagraph (A)*
2 *are—*

3 “(i) *denial of program admission based*
4 *upon a negative determination pursuant to*
5 *paragraph (5), (6), or (7);*

6 “(ii) *a termination pursuant to paragraph*
7 *(21)(D);*

8 “(iii) *a graduation pursuant to paragraph*
9 *(21)(F); and*

10 “(iv) *the denial of a request to issue a waiv-*
11 *er pursuant to paragraph (20)(B).*

12 “(C) *The Administrator’s proposed action, in*
13 *any proceeding conducted under the authority of this*
14 *paragraph, shall be sustained unless the decision is*
15 *not supported by substantial evidence in the record.*

16 “(D) *A decision rendered pursuant to this para-*
17 *graph shall be considered final agency action for pur-*
18 *poses of chapter 7 of title 5, United States Code.*

19 “(E) *The hearing officer selected to preside over*
20 *a proceeding conducted under the authority of this*
21 *paragraph shall decline to accept jurisdiction over*
22 *any matter that—*

23 “(i) *does not, on its face, allege facts that,*
24 *if proven to be true, would warrant reversal or*
25 *modification of the Administrator’s position;*

1 “(ii) is untimely filed;

2 “(iii) is not filed in accordance with the
3 rules of procedure governing such proceedings; or

4 “(iv) has been decided by or is the subject
5 of an adjudication before a court of competent
6 jurisdiction over such matters.

7 “(F) Proceedings conducted pursuant to the au-
8 thority of this paragraph shall be completed and a de-
9 cision rendered, insofar as practicable, within 90
10 days after a written notification of the Administrator
11 taking an action pursuant to subparagraph (B).

12 “(11) OUTREACH EFFORT.—(A) The Adminis-
13 trator shall develop and implement an outreach pro-
14 gram to inform and recruit small business concerns
15 to apply for eligibility for assistance under this sub-
16 section.

17 “(B) Such program shall make a sustained and
18 substantial effort to solicit applications for certifi-
19 cation from small business concerns located in areas
20 of concentrated unemployment or underemployment
21 or within labor surplus areas and within States hav-
22 ing relatively few program participants and from po-
23 tentially eligible program participants in industry
24 categories that have not substantially participated in

1 *the award of contracts let under the authority of this*
2 *subsection.*

3 “(12) *CONSTRUCTION CONTRACTS.*—*To the max-*
4 *imum extent practicable, construction subcontracts*
5 *awarded by the Administrator pursuant to this sub-*
6 *section shall be awarded within the county or State*
7 *where the work is to be performed.*

8 “(13) *CAPABILITY STATEMENT.*—

9 “(A) *IN GENERAL.*—*The Administrator*
10 *shall require each concern eligible to receive sub-*
11 *contracts pursuant to this subsection to annually*
12 *prepare and submit to the Administrator a ca-*
13 *pability statement.*

14 “(B) *CONTENTS.*—*Such statement shall*
15 *briefly describe such concern’s various contract*
16 *performance capabilities and shall contain the*
17 *name and telephone number of the business op-*
18 *portunity specialist in the district to which the*
19 *program participant is assigned.*

20 “(C) *CLASSIFICATION.*—*The Administrator*
21 *shall separate such statements by those program*
22 *participants primarily dependent upon local*
23 *contract support and those primarily requiring*
24 *a national marketing effort.*

1 “(D) *DISSEMINATION.*—*Statements primarily*
2 *dependent upon local contract support*
3 *shall be disseminated to appropriate buying ac-*
4 *tivities in the marketing area of the concern. The*
5 *remaining statements shall be disseminated to*
6 *the Directors of Small and Disadvantaged Busi-*
7 *ness Utilization for the appropriate agencies who*
8 *shall further distribute such statements to buying*
9 *activities within such agencies that may pur-*
10 *chase the types of items or services described on*
11 *the capability statements.*

12 “(E) *CONTRACTING ACTIVITY COMMUNICA-*
13 *TION WITH ADMINISTRATION.*—*Contracting ac-*
14 *tivities receiving capability statements shall,*
15 *within 60 days after receipt, contact the relevant*
16 *business opportunity specialist to indicate the*
17 *number, type and approximate dollar value of*
18 *contract opportunities that such activities may*
19 *be awarding over the succeeding 12-month period*
20 *and which may be appropriate to consider for*
21 *contracting with the Administrator and subse-*
22 *quent subcontracting to those concerns for which*
23 *it has received capability statements.*

24 “(14) *CONTRACT FORECAST.*—(A) *Each executive*
25 *agency reporting to the Federal Procurement Data*

1 *System contract actions with an aggregate value in*
2 *excess of \$50,000,000 shall prepare a forecast of ex-*
3 *pected contract opportunities or classes of contract op-*
4 *portunities for the next and succeeding fiscal years*
5 *that small business concerns, including those owned*
6 *and controlled by socially and economically disadvan-*
7 *taged individuals, are capable of performing. Such*
8 *forecast shall be periodically revised during such year.*
9 *To the extent such information is available, the agen-*
10 *cy forecasts shall specify the following:*

11 *“(i) The approximate number of individual*
12 *contract opportunities (and the number of oppor-*
13 *tunities within a class).*

14 *“(ii) The approximate dollar value, or*
15 *range of dollar values, for each contract oppor-*
16 *tunity or class of contract opportunities.*

17 *“(iii) The anticipated time (by fiscal year*
18 *quarter) for the issuance of a procurement re-*
19 *quest.*

20 *“(iv) The activity responsible for the award*
21 *and administration of the contract.*

22 *“(B) FORECAST DISSEMINATION.—The head of*
23 *each executive agency subject to the provisions of sub-*
24 *paragraph (A) shall within 10 days of completion*
25 *furnish such forecasts to the Administrator and the*

1 *Director of the Office of Small and Disadvantaged*
2 *Business Utilization established pursuant to section*
3 *15(k) of this Act for such agency.*

4 “(C) *LIMITS ON DISSEMINATION.*—*The informa-*
5 *tion reported pursuant to subparagraph (B) may be*
6 *limited to classes of items and services for which there*
7 *are substantial annual purchases.*

8 “(D) *FORECAST AVAILABILITY.*—*Such forecasts*
9 *shall be available to program participants and all*
10 *other small business concerns.*

11 “(15) *PERCENTAGES OF CONTRACT PERFORM-*
12 *ANCE BY PROGRAM PARTICIPANTS.*—

13 “(A) *SERVICES AND PROCUREMENT.*—*A*
14 *program participant may not be awarded a con-*
15 *tract under this subsection unless the program*
16 *participant agrees that—*

17 “(i) *in the case of a contract for serv-*
18 *ices (except construction), at least 50 per-*
19 *cent of the cost of contract performance in-*
20 *curring for personnel shall be expended for*
21 *employees of the concern; and*

22 “(ii) *in the case of a contract for pro-*
23 *curement of supplies (other than procure-*
24 *ment from a regular dealer in such sup-*
25 *plies), the concern will perform work for at*

1 least 50 percent of the cost of manufac-
2 turing the supplies (not including the cost
3 of materials).

4 “(B) ALTERATION OF PERCENTAGES.—The
5 Administrator may change the percentage under
6 clause (i) or (ii) of subparagraph (A) if the Ad-
7 ministrator determines that such change is nec-
8 essary to reflect conventional industry practices
9 among business concerns that are below the nu-
10 merical size standard established by the Admin-
11 istrator pursuant to section 3(a) of this Act for
12 businesses in that industry category. A percent-
13 age established under the preceding sentence may
14 not differ from a percentage established under
15 section 15(n) of this Act.

16 “(C) CONSTRUCTION CONTRACT REGULA-
17 TIONS.—(i) The Administrator shall establish, by
18 regulation and after the opportunity for notice
19 and comment, requirements similar to those
20 specified in subparagraph (A) to be applicable to
21 contracts for general and specialty construction
22 and to contracts for any other industry category
23 not otherwise subject to the requirements of such
24 subparagraph.

1 “(i) The percentage applicable to any such
2 requirement shall be determined in accordance
3 with subparagraph (B), except that such a per-
4 centage may not differ from a percentage estab-
5 lished under section 15(n) of this Act for the
6 same industry category.

7 “(16) *PERFORMANCE EXCEPTION FOR WHOLE-*
8 *SALERS AND RETAILERS.*—(A) An otherwise respon-
9 sible program participant that is in compliance with
10 the requirements of subparagraph (B) shall not be de-
11 nied the opportunity to submit and have considered
12 its offer for any procurement contract for the supply
13 of a product to be let pursuant to this subsection or
14 section 15(a) solely because such concern is other than
15 the actual manufacturer or processor of the product to
16 be supplied under the contract.

17 “(B) To be in compliance with the requirements
18 referred to in subparagraph (A), the program partici-
19 pant shall—

20 “(i) be primarily engaged in the wholesale
21 or retail trade;

22 “(ii) be a small business concern under the
23 size standard for the North American Industrial
24 Classification System Code assigned to the con-

1 tract solicitation on which the offer is being
2 made;

3 “(iii) be a regular dealer, as defined pursu-
4 ant to section 1(a) of the Act entitled ‘An Act to
5 provide conditions for the purchase of supplies
6 and the making of contracts by the United
7 States, and for other purposes’, approved June
8 30, 1936 (popularly known as the ‘Walsh-Healey
9 Act’; 41 U.S.C. 35(a)), in the product to be of-
10 fered the Government or be specifically exempted
11 from such section by paragraph (24)(C) of this
12 subsection; and

13 “(iv) represent that it will supply the prod-
14 uct of a small manufacturer as defined in section
15 3 of this Act, unless a waiver of such require-
16 ment is granted—

17 “(I) by the Administrator, after re-
18 viewing a determination by the contracting
19 officer that no small manufacturer can rea-
20 sonably be expected to offer a product meet-
21 ing the specifications (including period for
22 performance) required of an offeror by the
23 solicitation; or

24 “(II) by the Administrator for a prod-
25 uct (or class of products), after determining

1 that no small manufacturer is available to
2 participate in the Federal procurement
3 market.

4 “(17) *RESTRICTION ON ADMINISTRATION EM-*
5 *PLOYEES.*—

6 “(A) *IN GENERAL.*—No person within the
7 employ of the Administration shall, during the
8 term of such employment and for a period of two
9 years after such employment has been termi-
10 nated, engage in any activity or transaction
11 specified in subparagraph (B) with respect to
12 any program participant if such person partici-
13 pated personally (either directly or indirectly) in
14 decision-making responsibilities relating to such
15 program participant or with respect to the ad-
16 ministration of any assistance provided to pro-
17 gram participants generally under this sub-
18 section, section 8(b), or section 7(a)(20).

19 “(B) *PROHIBITED TRANSACTIONS.*—The ac-
20 tivities and transactions prohibited by subpara-
21 graph (A) include—

22 “(i) the buying, selling, or receiving
23 (except by inheritance) of any legal or bene-
24 ficial ownership of stock or any other own-

1 *ership interest or the right to acquire any*
2 *such interest;*

3 *“(ii) the entering into or execution of*
4 *any written or oral agreement (whether or*
5 *not legally enforceable) to purchase or other-*
6 *wise obtain any right or interest described*
7 *in clause (i); or*

8 *“(iii) the receipt of any other benefit or*
9 *right that may be an incident of ownership.*

10 *“(C) EMPLOYEE CERTIFICATION AND PEN-*
11 *ALTIES.—(i) The employees designated in clause*
12 *(ii) shall annually submit a written certification*
13 *to the Administrator regarding compliance with*
14 *the requirements of this paragraph.*

15 *“(ii) The employees referred to in clause (i)*
16 *are—*

17 *“(I) regional administrators;*

18 *“(II) district directors;*

19 *“(III) the Assistant Administrator for*
20 *Minority Small Business and Capital Own-*
21 *ership Development;*

22 *“(IV) employees whose principal duties*
23 *relate to the award of contracts or the pro-*
24 *vision of other assistance pursuant to this*
25 *subsection or section 8(b); and*

1 “(V) *such other employees as the Ad-*
2 *ministrator may designate.*

3 “(iii) *Any present or former employee of the*
4 *Administration who violates this paragraph*
5 *shall be subject to a civil penalty, assessed by the*
6 *Attorney General, that shall not exceed 300 per-*
7 *cent of the maximum amount of gain such em-*
8 *ployee realized or could have realized as a result*
9 *of engaging in those activities and transactions*
10 *prescribed by subparagraph (B).*

11 “(iv) *In addition to any other remedy or*
12 *sanction provided for under law or regulation,*
13 *any person who falsely certifies pursuant to*
14 *clause (i) shall be subject to a civil penalty*
15 *under the Program Fraud Civil Remedies Act of*
16 *1986 (31 U.S.C. 3801–3812).*

17 “(18) *PROHIBITION ON POLITICAL ACTIVITY.—*

18 “(A) *IN GENERAL.—Any employee of the*
19 *Administration who has authority to take, direct*
20 *others to take, recommend, or approve any ac-*
21 *tion with respect to any program or activity*
22 *conducted pursuant to this subsection or section*
23 *8(b), shall not, with respect to any such action,*
24 *exercise or threaten to exercise such authority on*
25 *the basis of the political activity or affiliation of*

1 *any party. Employees of the Administration*
2 *shall expeditiously report to the Inspector Gen-*
3 *eral of the Administration any such action for*
4 *which such employee's participation has been so-*
5 *licitated or directed.*

6 “(B) *PENALTIES.*—*Any employee who will-*
7 *fully and knowingly violates subparagraph (A)*
8 *shall be subject to disciplinary action which may*
9 *consist of separation from service, reduction in*
10 *grade, suspension, or reprimand.*

11 “(C) *EXCEPTION.*—*Subparagraph (A) shall*
12 *not apply to any action taken as a penalty or*
13 *other enforcement of a violation of any law, rule,*
14 *or regulation prohibiting or restricting political*
15 *activity.*

16 “(D) *OTHER LAWS NOT AFFECTED.*—*The*
17 *prohibitions of subparagraph (A), and remedial*
18 *measures provided for under subparagraphs (B)*
19 *and (C) with regard to such prohibitions, shall*
20 *be in addition to, and not in lieu of, any other*
21 *prohibitions, measures or liabilities that may*
22 *arise under any other provision of law.*

23 “(19) *ANNUAL REPORT TO BUSINESS OPPOR-*
24 *TUNITY SPECIALIST.*—

1 “(A) *IN GENERAL.*—*Program participants*
2 *shall semiannually report to their assigned busi-*
3 *ness opportunity specialist the following:*

4 “(i) *A listing of any agents, represent-*
5 *atives, attorneys, accountants, consultants,*
6 *and other parties (other than employees) re-*
7 *ceiving compensation to assist in obtaining*
8 *a Federal contract for such program partic-*
9 *ipant.*

10 “(ii) *The amount of compensation re-*
11 *ceived by any person listed under clause (i)*
12 *during the relevant reporting period and a*
13 *description of the activities performed in re-*
14 *turn for such compensation.*

15 “(B) *SUBMISSIONS TO PRINCIPAL OFFICE.*—
16 *The business opportunity specialist shall*
17 *promptly review and forward such report to the*
18 *Assistant Administrator for Minority Small*
19 *Business and Capital Ownership Development.*
20 *Any report that raises a suspicion of improper*
21 *activity shall be reported immediately to the In-*
22 *pector General of the Administration.*

23 “(C) *CAUSE FOR TERMINATION.*—*The fail-*
24 *ure to submit a report pursuant to the require-*
25 *ments of this subsection and applicable regula-*

1 *tions shall be considered good cause for the initi-*
2 *ation of a termination proceeding pursuant to*
3 *paragraph (21)(D) of this section.*

4 “(20) *EFFECT OF CHANGE OF OWNERSHIP AND*
5 *CONTROL.—*

6 “(A) *IN GENERAL.—*

7 “(i) *Subject to the provisions of sub-*
8 *paragraph (B), a contract (including op-*
9 *tions) awarded pursuant to this subsection*
10 *shall be performed (as performance is de-*
11 *finied in paragraphs (15) and (16)) by the*
12 *program participant that initially received*
13 *such contract.*

14 “(ii) *Notwithstanding the provisions of*
15 *clause (i), if the owner or owners upon*
16 *whom eligibility was based relinquish own-*
17 *ership or control of such concern, or enter*
18 *into any agreement to relinquish such own-*
19 *ership or control, such contract or option*
20 *shall be terminated for the convenience of*
21 *the Government, except that no repurchase*
22 *costs or other damages may be assessed*
23 *against such concerns due solely to the pro-*
24 *visions of this subparagraph.*

1 “(B) *WAIVER.*—*The Administrator may, on*
2 *a nondelegable basis, waive the requirements of*
3 *subparagraph (A) only if one of the following*
4 *conditions exist:*

5 “(i) *When it is necessary for the own-*
6 *ers of the concern to surrender partial con-*
7 *trol of such concern on a temporary basis in*
8 *order to obtain equity financing.*

9 “(ii) *The head of the contracting agen-*
10 *cy for which the contract is being performed*
11 *certifies that termination of the contract*
12 *would severely impair attainment of the*
13 *agency’s program objectives or missions.*

14 “(iii) *Ownership and control of the*
15 *concern that is performing the contract will*
16 *pass to another small business concern that*
17 *is a program participant, but only if the*
18 *acquiring firm would otherwise be eligible*
19 *to receive the award pursuant to this sub-*
20 *section.*

21 “(iv) *The individuals upon whom eli-*
22 *gibility was based are no longer able to ex-*
23 *ercise control of the concern due to inca-*
24 *capacity or death.*

1 “(v) *When, in order to raise equity*
2 *capital, it is necessary for the disadvan-*
3 *tagged owners of the concern to relinquish*
4 *ownership of a majority of the voting stock*
5 *of such concern, but only if—*

6 “(I) *such concern has exited the*
7 *program established under this sub-*
8 *section;*

9 “(II) *the disadvantaged owners*
10 *will maintain ownership of the largest*
11 *single outstanding block of voting stock*
12 *(including stock held by affiliated par-*
13 *ties); and*

14 “(III) *the disadvantaged owners*
15 *will maintain control of daily business*
16 *operations.*

17 “(C) *TIMING OF WAIVER REQUEST.—The*
18 *Administrator may waive the requirements of*
19 *subparagraph (A) if—*

20 “(i) *in the case of subparagraphs*
21 *(B)(i), (ii), and (iii), he is requested to do*
22 *so prior to the actual relinquishment of*
23 *ownership or control; and*

24 “(ii) *in the case of subparagraph*
25 *(B)(iv), he is requested to do so as soon as*

1 *possible after the incapacity or death oc-*
2 *curs.*

3 “(D) *NOTIFICATION TO ADMINISTRATOR.—*
4 *Concerns performing contracts awarded pursu-*
5 *ant to this subsection shall be required to notify*
6 *the Administration immediately upon entering*
7 *an agreement (either oral or in writing) to*
8 *transfer all or part of its stock or other owner-*
9 *ship interest to any other party.*

10 “(E) *TREATMENT OF SMALL BUSINESS IN-*
11 *VESTMENT COMPANY INTEREST.—Notwith-*
12 *standing any other provision of law, for the pur-*
13 *poses of determining ownership and control of a*
14 *concern under this section, any potential owner-*
15 *ship interests held by investment companies li-*
16 *censed under the Small Business Investment Act*
17 *of 1958 shall be treated in the same manner as*
18 *interests held by the individuals upon whom eli-*
19 *gibility is based.*

20 “(21) *CONDITIONS OF PARTICIPATION.—*

21 “(A) *DURATION.—A program participant*
22 *shall be permitted to continue participation in*
23 *such program for a period of time which is 9*
24 *years. Nothing contained in this subparagraph*
25 *shall be deemed to prevent the Administrator*

1 *from instituting a termination or graduation*
2 *pursuant to subparagraph (F) or (H) for issues*
3 *unrelated to the expiration of any time period*
4 *limitation.*

5 “(B) *BUSINESS PLAN SUBMISSION.—(i)*
6 *Promptly after certification as a participant in*
7 *the program established by this section, a pro-*
8 *gram participant shall submit a business plan*
9 *(hereinafter referred to as the ‘plan’) as described*
10 *in clause (ii) of this subparagraph for review by*
11 *the Business Opportunity Specialist assigned to*
12 *assist such program participant.*

13 “(ii) *The plan may be a revision of a pre-*
14 *liminary business plan submitted by the pro-*
15 *gram participant or required by the Adminis-*
16 *trator as a part of the application for certifi-*
17 *cation under this subsection and shall be de-*
18 *signed to result in the program participant*
19 *eliminating the conditions or circumstances*
20 *upon which the Administrator determined eligi-*
21 *bility pursuant to paragraph (7) of this section.*

22 “(iii) *Such plan, and subsequent modifica-*
23 *tions submitted under clause (v), shall be ap-*
24 *proved by the Business Opportunity Specialist*
25 *prior to the program participant being eligible*

1 *for award of a contract pursuant to this sub-*
2 *section.*

3 “(iv) *The plans submitted under this sub-*
4 *paragraph shall include the following:*

5 “(I) *An analysis of market potential,*
6 *competitive environment, and other business*
7 *analyses estimating the program partici-*
8 *part’s prospects for profitable operations*
9 *during the term of program participation*
10 *and after graduation.*

11 “(II) *An analysis of the program par-*
12 *ticipant’s strengths and weaknesses with*
13 *particular attention to correcting any fi-*
14 *nancial, managerial, technical, or personnel*
15 *conditions which are likely to impede the*
16 *program participant from receiving con-*
17 *tracts other than those awarded under this*
18 *section.*

19 “(III) *Specific targets, objectives, and*
20 *goals, for the business development of the*
21 *program participant during the next and*
22 *succeeding years utilizing the results of the*
23 *analyses conducted pursuant to subclauses*
24 *(I) and (II).*

1 “(IV) *A transition management plan*
2 *outlining specific steps to assure profitable*
3 *business operations after graduation (to be*
4 *incorporated into the program participant’s*
5 *plan during the first year of the transi-*
6 *tional stage of program participation).*

7 “(V) *Estimates of contract awards pur-*
8 *suant to this subsection and from other*
9 *sources, which the program participant will*
10 *require to meet the specific targets, objec-*
11 *tives, and goals for the years covered by its*
12 *plan.*

13 “(v) *Each program participant shall annu-*
14 *ally review its currently approved plan with its*
15 *Business Opportunity Specialist and modify*
16 *such plan as may be appropriate. Any modified*
17 *plan shall be submitted to the District Director*
18 *for approval. The currently approved plan shall*
19 *be considered valid until such time as a modified*
20 *plan is reviewed by the Business Opportunity*
21 *Specialist and approved by the District Director.*

22 “(vi) *Annual reviews pertaining to years in*
23 *the transitional stage of program participation*
24 *shall require, as appropriate, a written*
25 *verification that such program participant has*

1 *complied with the requirements of paragraph*
2 *(21)(G) of this section relating to attaining busi-*
3 *ness activity from sources other than contracts*
4 *awarded pursuant to this section.*

5 *“(vi) Each program participant shall an-*
6 *nually forecast its needs for contract awards*
7 *under this section for the next program year and*
8 *the succeeding program year during the review*
9 *of its business plan, conducted pursuant to*
10 *clause (v). Such forecast shall be known as the*
11 *‘section 8(a) contract support level’ and shall be*
12 *included in the program participant’s business*
13 *plan. Such forecast shall include—*

14 *“(I) the aggregate dollar value of con-*
15 *tract support to be sought on a noncompeti-*
16 *tive basis under this section, reflecting com-*
17 *pliance with the requirements of paragraph*
18 *(21)(G) relating to attaining business activ-*
19 *ity from sources other than contracts*
20 *awarded pursuant to this section,*

21 *“(II) the types of contract opportuni-*
22 *ties being sought, identified by North Amer-*
23 *ican Industrial Classification System Code*
24 *or otherwise,*

1 “(III) *an estimate of the dollar value*
2 *of the section 8(a) contract support level to*
3 *be sought on a competitive basis, and*

4 “(IV) *such other information as may*
5 *be requested by the Business Opportunity*
6 *Specialist to provide effective business devel-*
7 *opment assistance to the program partici-*
8 *pant.*

9 “(C) *CONDITIONS FOR DENIAL OF ASSIST-*
10 *ANCE.—A program participant shall be denied*
11 *all such assistance if such concern—*

12 “(i) *voluntarily elects not to continue*
13 *participation;*

14 “(ii) *completes the period of Program*
15 *participation as prescribed by paragraph*
16 *(21)(A); and*

17 “(iii) *is terminated or graduated pur-*
18 *suant to proceedings conducted in accord-*
19 *ance with paragraph (10).*

20 “(D) *TERMINATION DEFINED.—For pur-*
21 *poses of this subsection, the term ‘terminated’*
22 *and the term ‘termination’ means the total de-*
23 *denial or suspension of assistance under this para-*
24 *graph or under this section prior to the gradua-*
25 *tion of the program participant or prior to the*

1 *expiration of the maximum program participa-*
2 *tion term. An action for termination shall be*
3 *based upon good cause, including—*

4 “(i) *the failure by such concern to*
5 *maintain its eligibility for program partici-*
6 *pation;*

7 “(ii) *the failure of the concern to en-*
8 *gage in business practices that will promote*
9 *its competitiveness within a reasonable pe-*
10 *riod of time as evidenced by, among other*
11 *indicators, a pattern of unjustified delin-*
12 *quent performance or terminations for de-*
13 *fault with respect to contracts awarded*
14 *under the authority of this subsection;*

15 “(iii) *a demonstrated pattern of failing*
16 *to make required submissions or responses*
17 *to Administration officials or employees in*
18 *a timely manner;*

19 “(iv) *the willful violation of any rule*
20 *or regulation of the Administrator per-*
21 *taining to material issues;*

22 “(v) *the debarment of the concern or its*
23 *disadvantaged owners by any agency pursu-*
24 *ant to subpart 9.4 of title 48, Code of Fed-*

1 *eral Regulations (or any successor regula-*
2 *tion); or*

3 *“(vi) the conviction of the disadvan-*
4 *taged owner or an officer of the concern for*
5 *any offense indicating a lack of business in-*
6 *tegrity including any conviction for embez-*
7 *zlement, theft, forgery, bribery, falsification*
8 *or violation of section 16. For purposes of*
9 *this clause, no termination action shall be*
10 *taken with respect to a disadvantaged*
11 *owner solely because of the conviction of an*
12 *officer of the concern (who is other than a*
13 *disadvantaged owner) unless such owner*
14 *conspired with, abetted, or otherwise know-*
15 *ingly acquiesced in the activity or omission*
16 *that was the basis of such officer’s convic-*
17 *tion.*

18 *“(E) INITIATION OF TERMINATION PRO-*
19 *CEEDING.—(i) The District Director may ini-*
20 *tiate a termination proceeding by recommending*
21 *such action to the Assistant Administrator for*
22 *Minority Small Business and Capital Owner-*
23 *ship Development.*

24 *“(ii) Whenever the Assistant Administrator*
25 *determines such termination is appropriate,*

1 *within 15 days after making such a determina-*
2 *tion the program participant shall be provided*
3 *a written notice of intent to terminate, speci-*
4 *fying the reasons for such action.*

5 “(iii) No program participant shall be ter-
6 minated from the program pursuant to subpara-
7 graph (D) without first being afforded an oppor-
8 tunity for a hearing in accordance with para-
9 graph (10).

10 “(iv) If a termination proceeding is initi-
11 ated against a program participant, such partic-
12 ipant shall be ineligible from receiving assistance
13 pursuant to this section until the final disposi-
14 tion of the termination action.

15 “(v) If the program participant is rein-
16 stated upon final decision by the Administrator
17 pursuant to paragraph (10), the time during
18 which the program participant did not receive
19 assistance shall be added on to the original pro-
20 gram term end date.

21 “(F) GRADUATION DEFINED.—For the pur-
22 poses of this subsection and subsection 8(b) the
23 term ‘graduated’ or ‘graduation’ means that the
24 program participant is recognized as successfully
25 completing the program by substantially achiev-

1 *ing the targets, objectives, and goals contained in*
2 *the concern's business plan thereby dem-*
3 *onstrating its ability to compete in the market-*
4 *place without assistance under this section.*

5 *“(G) BUSINESS ACTIVITY TARGETS.—(i)*
6 *During the developmental stage of its participa-*
7 *tion in the program, a program participant*
8 *shall take all reasonable efforts within its control*
9 *to attain the targets contained in its business*
10 *plan for contracts awarded other than pursuant*
11 *to this subsection (hereinafter referred to as*
12 *‘business activity targets.’).*

13 *“(ii) Such efforts shall be made a part of*
14 *the business plan and shall be sufficient in scope*
15 *and duration to satisfy the Administrator that*
16 *the program participant will engage in a reason-*
17 *able marketing strategy that will maximize its*
18 *potential to achieve its business activity targets.*

19 *“(iii) During the transitional stage of the*
20 *program a program participant shall be subject*
21 *to regulations regarding business activity targets*
22 *that are promulgated by the Administrator. Such*
23 *regulations shall:*

24 *“(I) Establish business activity targets*
25 *applicable to program participants during*

1 *the fifth year and each succeeding year of*
2 *program participation.*

3 “(aa) *Such activity targets shall,*
4 *for such period of time, reflect a rea-*
5 *sonably consistent increase in contracts*
6 *awarded other than pursuant to this*
7 *subsection, expressed as a percentage of*
8 *total sales.*

9 “(bb) *The Administrator may es-*
10 *tablish modified business activity tar-*
11 *gets for program participants that*
12 *have participated in the program for a*
13 *period of longer than 5 years on the*
14 *date of the enactment of this Act.*

15 “(II) *Require the program participant*
16 *to certify that it has met its business activ-*
17 *ity targets or that it is in compliance with*
18 *such remedial measures as may have been*
19 *ordered pursuant to regulations issued*
20 *under subclause (III) prior to the receipt of*
21 *any contract awarded pursuant to this sub-*
22 *section.*

23 “(III) *Authorize the Administrator to*
24 *take appropriate remedial measures with*
25 *respect to a program participant that has*

1 *failed to attain a required business activity*
2 *target for the purpose of reducing such par-*
3 *ticipant's dependence on contracts awarded*
4 *pursuant to this section.*

5 “(aa) *Such remedial actions may*
6 *include assisting the program partici-*
7 *part to expand the dollar volume of its*
8 *competitive business activity or lim-*
9 *iting the dollar volume of contracts*
10 *awarded to the program participant*
11 *pursuant to this subsection.*

12 “(bb) *Unless the remedial meas-*
13 *ures taken pursuant to subclause (aa)*
14 *bar the award of contracts to program*
15 *participants, no remedial measures*
16 *shall be reviewable pursuant to para-*
17 *graph (10).*

18 “(H) *ELIGIBILITY REVIEW.—(i) The Ad-*
19 *ministrator shall conduct an evaluation of a pro-*
20 *gram participant's eligibility for continued par-*
21 *ticipation in the program whenever it receives*
22 *specific and credible information alleging that*
23 *such program participant no longer meets the re-*
24 *quirements for program eligibility.*

1 “(ii) Upon making a finding that a pro-
2 gram participant is no longer eligible, the Ad-
3 ministrators shall initiate a termination pro-
4 ceeding in accordance with subparagraphs (D)
5 and (E).

6 “(iii) A program participant’s eligibility
7 for award of any contract under the authority of
8 this section may be suspended pursuant to sub-
9 part 9.4 of title 48, Code of Federal Regulations
10 (or any successor regulation).

11 “(22) CERTIFICATION AND REVIEW BY ADMINIS-
12 TRATOR.—

13 “(A) ASSISTANT ADMINISTRATOR COORDINA-
14 TION.—The Assistant Administrator for Minor-
15 ity Small Business and Capital Ownership De-
16 velopment shall be responsible for coordinating
17 and formulating policies relating to Federal as-
18 sistance to small business concerns eligible for
19 assistance under section 7(i) of this Act and pro-
20 gram participants.

21 “(B) DIVISION OF PROGRAM CERTIFICATION
22 AND ELIGIBILITY.—(i) There is established a Di-
23 vision of Program Certification and Eligibility
24 (hereinafter referred to in this paragraph as the
25 ‘Division’) in the Office of Minority Small Busi-

1 *ness and Capital Ownership Development. The*
2 *Division shall be headed by a Director who shall*
3 *report directly to the Assistant Administrator for*
4 *Minority Small Business and Capital Owner-*
5 *ship Development. The Division shall establish*
6 *field offices within such regional offices of the*
7 *Administration as may be necessary to perform*
8 *efficiently its functions and responsibilities.*

9 “(i) Subject to the provisions of paragraph
10 (5)(B), the functions and responsibility of the
11 Division of Program Certification and Eligi-
12 bility are to—

13 “(I) receive, review and evaluate appli-
14 cations for certification pursuant to para-
15 graphs (5), (6), and (7);

16 “(II) advise each program applicant
17 within 15 days after the receipt of an appli-
18 cation as to whether such application is
19 complete and suitable for evaluation and, if
20 not, what matters must be rectified;

21 “(III) render recommendations on such
22 applications to the Assistant Administrator
23 for Minority Small Business and Capital
24 Ownership Development;

1 “(IV) review and evaluate financial
2 statements and other submissions from con-
3 cerns participating in the program estab-
4 lished by this subsection to ascertain contin-
5 ued eligibility to receive subcontracts pursu-
6 ant to this section;

7 “(V) make a request for the initiation
8 of termination or graduation proceedings,
9 as appropriate, to the Assistant Adminis-
10 trator for Minority Small Business and
11 Capital Ownership Development;

12 “(VI) make recommendations to the
13 Assistant Administrator for Minority Small
14 Business and Capital Ownership Develop-
15 ment concerning protests from applicants
16 that have been denied program admission;

17 “(VII) decide protests regarding the
18 status of a concern as a disadvantaged con-
19 cern for purposes of any program or activ-
20 ity conducted under the authority of sub-
21 section (d), or any other provision of Fed-
22 eral law that references such subsection for
23 a definition of program eligibility; and

24 “(VIII) implement such policy direc-
25 tives as may be issued by the Assistant Ad-

1 *administrator for Minority Small Business*
2 *and Capital Ownership Development pursu-*
3 *ant to subparagraph (E) regarding, among*
4 *other things, the geographic distribution of*
5 *concerns to be admitted to the program and*
6 *the industrial make-up of such concerns.*

7 *“(C) PROGRAM ADMISSION AND CONTRACT*
8 *OPPORTUNITIES.—An applicant shall not be de-*
9 *denied admission into the program established by*
10 *this subsection due solely to a determination by*
11 *the Division of Program Certification and Eligi-*
12 *bility that specific contract opportunities are un-*
13 *available to assist in the development of such*
14 *concern unless—*

15 *“(i) the Government has not previously*
16 *procured and is unlikely to procure the*
17 *types of products or services offered by the*
18 *concern on a prime contract basis; or*

19 *“(ii) the purchases of such products or*
20 *services by the Federal Government will not*
21 *be in quantities sufficient to support the de-*
22 *velopmental needs of the applicant and*
23 *other program participants providing the*
24 *same or similar items or services.*

1 “(D) *CERTIFICATION DECISION.*—*Except as*
2 *provided in paragraph 5(B), not later than 90*
3 *days after receipt of a completed application for*
4 *program certification, the Assistant Adminis-*
5 *trator for Minority Small Business and Capital*
6 *Ownership Development shall certify a small*
7 *business concern as a program participant or*
8 *shall deny such application.*

9 “(E) *DIVISION REVIEW.*—

10 “(i) *Thirty days before the conclusion*
11 *of each fiscal year, the Director of the Divi-*
12 *sion of Program Certification and Eligi-*
13 *bility shall review all concerns that have*
14 *been admitted into the program during the*
15 *preceding 12-month period.*

16 “(ii) *The review shall ascertain the*
17 *number of entrants, their geographic dis-*
18 *tribution, and their industrial classifica-*
19 *tion. The Director shall also estimate the ex-*
20 *pected growth of the program during the*
21 *next fiscal year and the number of addi-*
22 *tional Business Opportunity Specialists, if*
23 *any, that will be needed to meet the antici-*
24 *ipated demand for the program.*

1 “(iii) *The findings and conclusions of*
2 *the Director shall be reported to the Assist-*
3 *ant Administrator for Minority Small*
4 *Business and Capital Ownership Develop-*
5 *ment by September 30 of each year.*

6 “(iv) *Based on such report and such*
7 *additional data as may be relevant, the As-*
8 *stant Administrator shall, by October 31*
9 *of each year, issue rules as that term is de-*
10 *defined in section 551(4) of title 5, United*
11 *States Code, applicable to such fiscal year*
12 *that—*

13 “(I) *establish priorities for the so-*
14 *licitation of program applications*
15 *from underrepresented regions and in-*
16 *dustry categories;*

17 “(II) *assign staffing levels and al-*
18 *locate other program resources as nec-*
19 *essary to meet program needs; and*

20 “(III) *establish priorities in the*
21 *processing and admission of new pro-*
22 *gram participants as may be necessary*
23 *to achieve an equitable geographic dis-*
24 *tribution of concerns and a distribu-*
25 *tion of concerns across all industry*

1 *categories in proportions needed to in-*
2 *crease significantly contract awards to*
3 *small business concerns owned and*
4 *controlled by socially and economically*
5 *disadvantaged individuals. When con-*
6 *sidering such increase the Adminis-*
7 *trator shall give due consideration to*
8 *those industrial categories where Fed-*
9 *eral purchases have been substantial*
10 *but where the participation rate of*
11 *such concerns has been limited.*

12 *“(23) STAGES OF PROGRAM PARTICIPATION.—*

13 *“(A) IN GENERAL.—The Capital ownership*
14 *Development Program established by this sub-*
15 *section shall have a developmental stage and*
16 *transitional stage.*

17 *“(B) DEVELOPMENTAL STAGE.—The devel-*
18 *opmental stage of program participation shall be*
19 *designed to assist the concern in its effort to*
20 *overcome its economic disadvantage by providing*
21 *such assistance as may be necessary and appro-*
22 *priate to access its markets and to strengthen its*
23 *financial and managerial skills.*

24 *“(C) TRANSITIONAL STAGE.—The transi-*
25 *tional stage of program participation shall be*

1 *designed to overcome, insofar as practicable, the*
2 *remaining elements of economic disadvantage*
3 *and to prepare such concern for graduation from*
4 *the program.*

5 “(24) *TYPES OF ASSISTANCE PROVIDED BY THE*
6 *ADMINISTRATOR.—The Administrator shall make*
7 *available during the developmental and transitional*
8 *stages the following assistance:*

9 “(A) *Contract support pursuant to this sec-*
10 *tion.*

11 “(B) *Financial assistance pursuant to sec-*
12 *tion 7(a)(20).*

13 “(C) *A maximum of two exemptions from*
14 *the requirements of section 1(a) of the Act enti-*
15 *tled ‘An Act to provide conditions for the pur-*
16 *chase of supplies and the making of contracts by*
17 *the United States, and for other purposes’, ap-*
18 *proved June 30, 1936 (popularly known as the*
19 *‘Walsh-Healey Act’; 41 U.S.C. 35(a)), which ex-*
20 *emptions shall apply only to contracts awarded*
21 *pursuant to this section and shall only be used*
22 *to allow for contingent agreements by a small*
23 *business concern to acquire the machinery,*
24 *equipment, facilities, or labor needed to perform*
25 *such contracts. No exemption shall be made pur-*

1 *suant to this subparagraph if the contract to*
2 *which it pertains has an anticipated value in ex-*
3 *cess of \$10,000,000.*

4 “(D)(i) *Financial assistance whereby the*
5 *Administrator may purchase in whole or in*
6 *part, and on behalf of such concerns, skills train-*
7 *ing or upgrading for employees or potential em-*
8 *ployees of such concerns.*

9 “(ii) *For purposes of this subparagraph the*
10 *term ‘training provider’ shall mean an institu-*
11 *tion of higher education, a community or voca-*
12 *tional college, or an institution eligible to pro-*
13 *vide skills training or upgrading under the Job*
14 *Training Partnership Act or title I of the Work-*
15 *force Investment Act of 1998.*

16 “(iii) *Assistance may be made by direct*
17 *payment to the training provider or by reim-*
18 *bursing the program participant or the partici-*
19 *part’s employee, if such reimbursement is found*
20 *to be reasonable and appropriate.*

21 “(iv) *The Administrator shall, in consulta-*
22 *tion with the Secretary of Labor, promulgate*
23 *rules and regulations to implement this subpara-*
24 *graph that establish acceptable training and up-*
25 *grading performance standards and provide for*

1 *such monitoring or audit requirements as may*
2 *be necessary to ensure the integrity of the train-*
3 *ing effort.*

4 “(v) *No financial assistance shall be grant-*
5 *ed under this subparagraph unless the Adminis-*
6 *trator determines each of the following:*

7 “(I) *The program participant has doc-*
8 *umented that it has first explored the use of*
9 *existing cost-free or cost-subsidized training*
10 *programs offered by public and private sec-*
11 *tor agencies working with programs of em-*
12 *ployment and training and economic devel-*
13 *opment.*

14 “(II) *No more than 5 employees or po-*
15 *tential employees of the program partici-*
16 *pant are recipients of any benefits under*
17 *this subparagraph at any one time.*

18 “(III) *No more than \$2,500 shall be*
19 *made available for any one employee or po-*
20 *tential employee.*

21 “(IV) *The length of training or up-*
22 *grading financed by this subparagraph*
23 *shall be no less than 1 month nor more than*
24 *6 months.*

1 “(V) *The program participant has*
2 *given adequate assurance it will employ the*
3 *trainee or upgraded employee for at least 6*
4 *months after the training or upgrading fi-*
5 *nanced by this subparagraph has been com-*
6 *pleted and each trainee or upgraded em-*
7 *ployee has provided a similar assurance to*
8 *remain within the employ of such concern*
9 *for such period.*

10 “(aa) *If such concern, trainee, or*
11 *upgraded employee breaches this agree-*
12 *ment, the Administrator shall be enti-*
13 *tled to obtain from the violating party*
14 *the repayment of all funds expended on*
15 *behalf of the violating party.*

16 “(bb) *Such repayment shall be*
17 *made to the Administrator together*
18 *with such interest and costs of collec-*
19 *tion as may be reasonable.*

20 “(cc) *The violating party shall be*
21 *barred from receiving any further as-*
22 *sistance under this subparagraph.*

23 “(VI) *The training to be financed may*
24 *take place either at such concern’s facilities*
25 *or at those of the training provider.*

1 “(VII) *The program participant will*
2 *maintain such records as the Administrator*
3 *deems appropriate to ensure that the provi-*
4 *sions of this paragraph and any other ap-*
5 *plicable law have not been violated.*

6 “(E)(i) *The transfer of technology or sur-*
7 *plus property owned by the United States to*
8 *such a concern.*

9 “(ii) *Activities designed to effect such trans-*
10 *fer shall be developed in cooperation with the*
11 *heads of Federal agencies and shall include the*
12 *transfer by grant, license, or sale of such tech-*
13 *nology or property to such a concern. Such prop-*
14 *erty may be transferred to program participants*
15 *on a priority basis.*

16 “(iii) *Technology or property transferred*
17 *under this subparagraph shall be used by the*
18 *concern during the normal conduct of its busi-*
19 *ness operation and shall not be sold or trans-*
20 *ferred to any other party (other than the Govern-*
21 *ment) during such concern’s term of participa-*
22 *tion in the program and for one year thereafter.*

23 “(F) *Training assistance whereby the Ad-*
24 *ministrator shall conduct training sessions to as-*
25 *assist individuals and enterprises eligible to receive*

1 *contracts under this section in the development*
2 *of business principles and strategies to enhance*
3 *their ability to successfully compete for contracts*
4 *in the marketplace.*

5 “(G) *Joint ventures, leader-follow arrange-*
6 *ments, and teaming agreements between the pro-*
7 *gram participant and other program partici-*
8 *pants and other small business concerns with re-*
9 *spect to contracting opportunities. Such activi-*
10 *ties shall be undertaken on the basis of programs*
11 *developed by the procuring agency with the as-*
12 *sistance of the Administration.*

13 “(H) *Transitional management business*
14 *planning training and technical assistance.*

15 “(25) *TRANSITIONAL STAGE ASSISTANCE.—Pro-*
16 *gram participants in the developmental stage of pro-*
17 *gram participation shall be eligible for the assistance*
18 *provided by subparagraphs (A), (B), (C), (D), (E),*
19 *(F), and (G) of paragraph (24).*

20 “(26) *DEVELOPMENTAL STAGE ASSISTANCE.—*
21 *Program Participants in the transitional stage of*
22 *Program participation shall be eligible for the assist-*
23 *ance provided by subparagraphs (A), (B), (F), (G),*
24 *and (H) of paragraph (24).*

1 “(27) *DURATION OF STAGES.*—Subject to the
2 provisions of paragraph (21)(A), a program partici-
3 pant may receive developmental assistance under this
4 subsection and contracts under this subsection for a
5 total period of not longer than 9 years, measured
6 from the date of its certification under this subsection,
7 of which—

8 “(A) no more than 5 years may be spent in
9 the developmental stage of program participa-
10 tion; and

11 “(B) no more than 4 years may be spent in
12 the transitional stage of program participation.

13 “(28) *DATA COLLECTION.*—

14 “(A) *IN GENERAL.*—The Administrator
15 shall develop and implement a process for the
16 systematic collection of data on the operations of
17 the program established pursuant to this section.

18 “(B) *REPORT.*—Not later than April 30 of
19 each year, the Administrator shall submit a re-
20 port to the Committee on Small Business and
21 Entrepreneurship of the Senate and the Com-
22 mittee on Small Business of the House of Rep-
23 resentatives on the program that shall include
24 the following:

1 “(i) A description and estimate of the
2 benefits and costs that have accrued to the
3 economy and the Government in the imme-
4 diately preceding fiscal year due to the op-
5 erations of those business concerns that were
6 performing contracts awarded pursuant to
7 this section.

8 “(ii) A compilation and evaluation of
9 those business concerns that have exited the
10 program during the immediately preceding
11 three fiscal years. Such compilation and
12 evaluation shall detail the number of con-
13 cerns actively engaged in business oper-
14 ations, those that have ceased or substan-
15 tially curtailed such operations, including
16 the reasons for such actions, and those con-
17 cerns that have been acquired by other firms
18 or organizations owned and controlled by
19 other than socially and economically dis-
20 advantaged individuals.

21 “(iii) For those businesses that have
22 continued operations after they exited from
23 the program, the Administrator shall also
24 separately detail the benefits and costs that
25 have accrued to the economy during the im-

1 *mediately preceding fiscal year due to the*
2 *operations of such concerns.*

3 “(iv) *A listing of all participants in*
4 *the program during the preceding fiscal*
5 *year identifying, by State and by region,*
6 *for each firm: the name of the concern, the*
7 *race or ethnicity, and gender of the dis-*
8 *advantaged owners, the dollar value of all*
9 *contracts received in the preceding year, the*
10 *dollar amount of advance payments received*
11 *by each concern pursuant to contracts*
12 *awarded under this section, and a descrip-*
13 *tion including (if appropriate) an estimate*
14 *of the dollar value of all benefits received*
15 *pursuant to paragraphs (25) and (26) and*
16 *section 7(a)(20) during such year.*

17 “(v) *The total dollar value of contracts*
18 *and options awarded during the preceding*
19 *fiscal year pursuant to this section and*
20 *such amount expressed as a percentage of*
21 *total sales of—*

22 “(I) *all firms participating in the*
23 *program during such year; and*

24 “(II) *firms in each of the nine*
25 *years of program participation.*

1 “(vi) *A description of such additional*
2 *resources or program authorities as may be*
3 *required to provide the types of services*
4 *needed over the next 2-year period to service*
5 *the expected portfolio of firms certified pur-*
6 *suant to this section.*

7 “(vii) *The total dollar value of con-*
8 *tracts and options awarded pursuant to this*
9 *section, at such dollar increments as the Ad-*
10 *ministrator deems appropriate, for each 6*
11 *digit North American Industrial Classifica-*
12 *tion System code under which such con-*
13 *tracts and options were classified.*

14 “(b) *MANAGEMENT AND TECHNICAL ASSISTANCE.—*

15 “(1) *CONTRACTS FOR ASSISTANCE.—The Admin-*
16 *istrator shall be required to enter into contracts with*
17 *business concerns, not-for-profit entities, and other*
18 *persons capable of providing management and tech-*
19 *nical assistance, as may be necessary, to participants*
20 *in the program established in subsection (a), to firms*
21 *described in paragraph (5) or paragraph (6) of that*
22 *subsection but are not participants in the program es-*
23 *tablished pursuant to that subsection, and to small*
24 *business concerns which have loans guaranteed pursu-*
25 *ant to section 7(i).*

1 “(2) *SELECTION OF CONTRACTORS.*—*The Admin-*
2 *istrator shall select contractors based on the experi-*
3 *ence in advising small business concerns on financial*
4 *and business operations, including but not limited to*
5 *comprehensive business plans, and other functions*
6 *needed to preserve and expand small businesses eligi-*
7 *ble for assistance under paragraph (1). To the extent*
8 *practical, the Administrator shall select, as contrac-*
9 *tors, small business concerns but the primary evalua-*
10 *tion criteria shall be the technical ability of the con-*
11 *tractor to provide the services set forth in this sub-*
12 *section.*

13 “(3) *AUTHORIZATION OF APPROPRIATIONS.*—
14 *There are authorized to be appropriated to carry out*
15 *this subsection \$6,000,000 for each of fiscal years*
16 *2004 and 2005. Such sums shall remain available*
17 *until expended.*

18 “(c) *COORDINATION WITH OTHER AGENCIES.*—*The*
19 *Administrator shall take such steps as may be necessary*
20 *and appropriate, in coordination and cooperation with the*
21 *heads of Federal agencies to insure that contracts, sub-*
22 *contracts, and deposits made by the Federal Government*
23 *or with programs aided with Federal funds are placed in*
24 *such way as to further the purposes of subsection (a) of this*
25 *section and section 7(i).”.*

1 (b) *COMMERCIAL MARKETING.*—Section 8(d)(10) of
2 *the Small Business Act (15 U.S.C. 637(d)(10)) is amended*
3 *to read as follows:*

4 “(10) *In the case of contracts within the provi-*
5 *sions of paragraphs (4), (5), and (6), the Adminis-*
6 *trator is authorized to—*

7 “(A) *assign at least one commercial mar-*
8 *keting representative per state whose primary re-*
9 *sponsibilities shall be to—*

10 “(i) *assist Federal agencies and busi-*
11 *nesses in complying with their responsibil-*
12 *ities under the provisions of this subsection,*
13 *including the formulation of subcontracting*
14 *plans pursuant to paragraph (4);*

15 “(ii) *review any solicitation for any*
16 *contract to be let pursuant to paragraphs*
17 *(4) and (5) to determine the maximum*
18 *practicable opportunity for small business*
19 *concerns, small manufacturers, small busi-*
20 *ness concerns owned and controlled by vet-*
21 *erans, small business concerns owned and*
22 *controlled by service-disabled veterans,*
23 *qualified HUBZone small business con-*
24 *cerns, small business concerns owned and*
25 *controlled by socially and economically dis-*

1 *advantaged individuals, small business con-*
2 *cerns eligible for participation under section*
3 *8(a), and small business concerns owned*
4 *and controlled by women to participate as*
5 *subcontractors in the performance of any*
6 *contract resulting from any solicitation,*
7 *and to submit its findings, which shall be*
8 *advisory in nature, to the appropriate Fed-*
9 *eral agency;*

10 *“(iii) evaluate compliance with subcon-*
11 *tracting plans, either on a contract-by-con-*
12 *tract basis, or in the case of contractors*
13 *having multiple contracts, on an aggregate*
14 *basis including recommendations to the con-*
15 *tracting officer for an assessment of liq-*
16 *uidated damages;*

17 *“(iv) work directly with small busi-*
18 *nesses to counsel them on marketing and*
19 *subcontracting to large business prime con-*
20 *tractors that have contracts with the Fed-*
21 *eral Government;*

22 *“(v) identify large business buyers of*
23 *small business products and services;*

24 *“(vi) assist small businesses in receiv-*
25 *ing timely payment from large business*

1 *prime contractors that have contracts with*
2 *the Federal Government; and*

3 “(vii) *perform program reviews of the*
4 *small business outreach programs and sub-*
5 *contracting programs of large businesses.*

6 “(B) *Not later than September 30, 2004,*
7 *each state shall be assigned at least one commer-*
8 *cial marketing representative, authorized by*
9 *paragraph 10(A) of this section, who must be*
10 *physically located in each state.*

11 “(C) *Not later than 120 days after enact-*
12 *ment of this Act, the Administrator shall, after*
13 *the opportunity for notice and comment, promul-*
14 *gate regulations governing the Administrator’s*
15 *review of subcontracting plans including the*
16 *standards for determining good faith effort of*
17 *compliance with the subcontracting plans.”.*

18 (c) *WOMEN-OWNED SMALL BUSINESS CONCERNS; AU-*
19 *THORITIES OF ADMINISTRATOR.—Subsections (m) and (n)*
20 *of section 8 of the Small Business Act (15 U.S.C. 637 (m)*
21 *and (n)) are amended to read as follows:*

22 “(m) *PROCUREMENT PROGRAM FOR WOMEN-OWNED*
23 *SMALL BUSINESS CONCERNS.—*

24 “(1) *DEFINITIONS.—In this subsection, the fol-*
25 *lowing definitions apply:*

1 “(A) *SMALL BUSINESS CONCERN OWNED*
2 *AND CONTROLLED BY WOMEN.*—*The term ‘small*
3 *business concern owned and controlled by*
4 *women’ has the meaning given such term in sec-*
5 *tion 3(n), except that ownership shall be deter-*
6 *mined without regard to any community prop-*
7 *erty law.*

8 “(2) *AUTHORITY TO RESTRICT COMPETITION.*—
9 *In accordance with this subsection, a contracting offi-*
10 *cer may restrict competition for any contract for the*
11 *procurement of goods or services by the Federal Gov-*
12 *ernment to small business concerns owned and con-*
13 *trolled by women, if—*

14 “(A) *each of the concerns is not less than 51*
15 *percent owned by 1 or more women who are eco-*
16 *nomically disadvantaged (and such ownership is*
17 *determined without regard to any community*
18 *property law);*

19 “(B) *the contracting officer has a reasonable*
20 *expectation that 2 or more small business con-*
21 *cerns owned and controlled by women will sub-*
22 *mit offers for the contract;*

23 “(C) *the contract is for the procurement of*
24 *goods or services with respect to an industry*

1 *identified by the Administrator pursuant to*
2 *paragraph (4);*

3 “(D) *the anticipated award price of the*
4 *contract (including options) does not exceed—*

5 “(i) *\$5,000,000, in the case of a con-*
6 *tract assigned an industrial classification*
7 *code for manufacturing; or*

8 “(ii) *\$3,000,000, in the case of all*
9 *other contracts;*

10 “(E) *in the estimation of the contracting of-*
11 *ficer, the contract award can be made at a fair*
12 *and reasonable price; and*

13 “(F) *each of the concerns—*

14 “(i) *is certified by a Federal agency or*
15 *a State government as a small business con-*
16 *cern owned and controlled by women;*

17 “(ii) *is certified by a national certi-*
18 *fying entity approved by the Administrator*
19 *as a small business concern owned and con-*
20 *trolled by women; or*

21 “(iii) *certifies to the contracting officer*
22 *that it is a small business concern owned*
23 *and controlled by women and provides ade-*
24 *quate documentation in accordance with*

1 standards established by the Administration
2 to support such certification.

3 “(3) *WAIVER.*—With respect to a small business
4 concern owned and controlled by women, the Admin-
5 istrator may waive subparagraph (2)(A) if the Ad-
6 ministrator determines that the concern is in an in-
7 dustry in which small business concerns owned and
8 controlled by women are substantially underrep-
9 resented.

10 “(4) *IDENTIFICATION OF INDUSTRIES.*—

11 “(A) *IN GENERAL.*—The Administrator
12 shall conduct a study to identify industries in
13 which small business concerns owned and con-
14 trolled by women are underrepresented with re-
15 spect to Federal procurement contracting.

16 “(B) *DETERMINATION BY CONTRACTING OF-*
17 *FICER.*—Until such time as the Administrator
18 conducts such study, the determination as to
19 whether an industry is under-represented by
20 small business concerns owned and controlled by
21 women shall be made by the contracting officer.

22 “(C) *DEADLINE.*—Not later than 90 days
23 after the date of the enactment of this subpara-
24 graph the Administrator shall—

1 “(i) ensure the completion of the study
2 described in this paragraph;

3 “(ii) approve national certifying enti-
4 ties for the purposes of paragraph
5 (2)(F)(ii); and

6 “(iii) make determinations in accord-
7 ance with paragraph (3).

8 “(5) ENFORCEMENT; PENALTIES.—

9 “(A) VERIFICATION OF ELIGIBILITY.—In
10 carrying out this subsection, the Administrator
11 shall use existing procedures established by the
12 Office of Hearings and Appeals relating to—

13 “(i) the filing, investigation, and dis-
14 position by the Administrator of any chal-
15 lenge to the eligibility of a small business
16 concern to receive assistance under this sub-
17 section (including a challenge, filed by an
18 interested party, relating to the veracity of
19 a certification made or information pro-
20 vided to the Administration by a small
21 business concern under paragraph (2)(F));
22 and

23 “(ii) verification by the Administrator
24 of the accuracy of any certification made or
25 information provided to the Administration

1 by a small business concern under para-
2 graph (2)(F).

3 “(B) *EXAMINATIONS.*—The procedures es-
4 tablished under subparagraph (A) may provide
5 for program examinations (including random
6 program examinations) by the Administrator of
7 any small business concern making a certifi-
8 cation or providing information to the Adminis-
9 trator under paragraph (2)(F).

10 “(C) *PENALTIES.*—In addition to the pen-
11 alties described in section 16(d), any small busi-
12 ness concern that is determined by the Adminis-
13 trator to have misrepresented the status of that
14 concern as a small business concern owned and
15 controlled by women for purposes of this sub-
16 section, shall be subject to—

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

19 “(ii) sections 3729 through 3733 of
20 title 31, United States Code.

21 “(6) *PROVISION OF DATA.*—Upon the request of
22 the Administrator, the head of any Federal depart-
23 ment or agency shall promptly provide to the Adminis-
24 trator such information as the Administrator deter-
25 mines to be necessary to carry out this subsection.

1 “(n) *AUTHORITIES OF ADMINISTRATOR.*—*In carrying*
2 *out its functions under subsections 7(i), 8(a), and 8(b) of*
3 *this Act the Administrator may do the following:*

4 “(1) *Utilize, with their consent, the services and*
5 *facilities of Federal agencies without reimbursement,*
6 *and, with the consent of any State or political sub-*
7 *division of a State, accept and utilize the services and*
8 *facilities of such State or subdivision without reim-*
9 *bursement.*

10 “(2) *Accept voluntary and uncompensated serv-*
11 *ices, notwithstanding section 1342 of title 31, United*
12 *States Code.*

13 “(3) *Employ experts and consultants or organi-*
14 *zations pursuant to the authority in section 6(h). No*
15 *individual may be employed under the authority of*
16 *this paragraph for more than 100 days in any fiscal*
17 *year. No individual employed under this paragraph*
18 *may be compensated at rates in excess of the daily*
19 *equivalent of the highest rate payable under section*
20 *5332 of title 5, United States Code, including travel-*
21 *time. Individuals employed under this paragraph*
22 *may be allowed, while away from their homes or reg-*
23 *ular places of business, travel expenses (including per*
24 *diem in lieu of subsistence) as authorized by section*
25 *5703 of title 5, United States Code for persons in the*

1 *Government service employed intermittently. Con-*
2 *tracts for employment under this paragraph may be*
3 *renewed annually.”.*

4 *(d) CLERICAL AMENDMENT.—Section 8 of the Small*
5 *Business Act (15 U.S.C. 637) is amended by striking “SEC.*
6 *8.” inserting the following:*

7 **“SEC. 8. GOVERNMENT CONTRACT AND BUSINESS DEVEL-**
8 **OPMENT ASSISTANCE FOR SMALL BUSINESS**
9 **CONCERNS, ETC.”.**

10 **SEC. 209. TRAINING AND ASSISTANCE.**

11 *Section 12 of the Small Business Act (15 U.S.C. 641)*
12 *is amended to read as follows:*

13 **“SEC. 12. TRAINING AND ASSISTANCE.**

14 **“(a) ASSISTANCE.—***The Administrator shall (through*
15 *co-sponsorships, small business development centers, wom-*
16 *en’s business centers, the Office of Veterans Affairs, and*
17 *other programs as the Administrator determines appro-*
18 *priate) provide technical and managerial assistance, advice*
19 *and guidance on matters of government procurement (at the*
20 *Federal, State, and local levels) and information on the*
21 *policies, practices, and principles of good management,*
22 *and, when appropriate, distribute publications and other*
23 *material on Administration programs to small business*
24 *concerns, including all categories of such concerns defined*
25 *in section 3 of this Act.*

1 “(b) *VOLUNTEERS.*—

2 “(1) *The Administrator shall recruit executive*
3 *volunteers to assist the Administrator in carrying out*
4 *this section.*

5 “(2) *The Administrator shall recruit retired and*
6 *active executives to form the Service Corps of Retired*
7 *Executives and the Active Corps of Executives. Such*
8 *executives will be responsible for providing technical*
9 *and managerial assistance and advice to small busi-*
10 *ness concerns.*

11 “(3) *The Administrator shall recruit retired and*
12 *active executives from large and small manufacturers*
13 *to form the Service Corps of Retired Manufacturing*
14 *Executives and the Active Corps of Manufacturing*
15 *Executives. Such executives will advise, assist, and*
16 *train small manufacturers.*

17 “(4) *The Administrator may enter into appro-*
18 *priate contracts, grants, or cooperative agreements*
19 *with the volunteers or corps referred to in this sub-*
20 *section in order to provide the services set forth in*
21 *this section.*

22 “(5) *The Administrator may maintain the head-*
23 *quarters of the corps referred to in this subsection and*
24 *assign, at his discretion, Administration personnel to*
25 *assist the volunteers.*

1 “(6) *The volunteers may solicit cash, other per-*
2 *sonal property, and in-kind contributions from the*
3 *private sector to be used to carry out their functions*
4 *under this section. The volunteers may use payments*
5 *from the Administrator made pursuant to this sub-*
6 *section to assist in such solicitations.*

7 “(7) *The Administrator may permit any indi-*
8 *vidual or group of persons participating in the pro-*
9 *grams established pursuant to this subsection to use*
10 *any facilities of the Administration, including re-*
11 *gional and district offices, as well as clerical and*
12 *computer services.*

13 “(8) *The volunteers, while carrying out the pur-*
14 *poses of this section, shall be deemed Federal employ-*
15 *ees for the purposes of the Federal tort claims provi-*
16 *sions in title 28, United States Code; and for the pur-*
17 *poses of subchapter I of chapter 81 of title 5, United*
18 *States Code (relative to compensation to Federal em-*
19 *ployees for work injuries) shall be deemed civil em-*
20 *ployees of the United States within the meaning of the*
21 *term ‘employee’ as defined in section 8101 of title 5,*
22 *United States Code, and the provisions of that sub-*
23 *chapter shall apply except that in computing com-*
24 *penetration benefits for disability or death, the monthly*

1 *pay of a volunteer shall be deemed that received under*
2 *the entrance salary for a grade GS-11 employee.*

3 *“(9) The Administrator may reimburse the vol-*
4 *unteers for all necessary out-of-pocket expenses inci-*
5 *dent to their provision of services under this section,*
6 *or in connection with attendance at meetings spon-*
7 *sored by the Administrator, or for the cost of mal-*
8 *practice insurance, as the Administrator shall deter-*
9 *mine, in accordance with regulations which he or she*
10 *shall prescribe, and, while they are carrying out such*
11 *activities away from their homes or regular places of*
12 *business, for travel expenses (including per diem in*
13 *lieu of subsistence) as authorized by section 5703 of*
14 *title 5, United States Code, for individuals serving*
15 *without pay.*

16 *“(10) None of the services made available by vol-*
17 *unteers pursuant to this subsection shall be made*
18 *available to any person or small business concern who*
19 *is delinquent on a loan made pursuant to section 7*
20 *of this Act or Title V of the Small Business Invest-*
21 *ment Act of 1958 unless such assistance relates solely*
22 *to addressing the matter of the delinquency and a spe-*
23 *cific request is made in writing to the volunteer (and*
24 *a record of such communication is maintained by the*
25 *volunteer).*

1 “(11) No payment for supportive services or re-
2 imbursement of out-of-pocket expenses made to per-
3 sons serving pursuant to this subsection shall be sub-
4 ject to any tax or charge or be treated as wages or
5 compensation for the purposes of unemployment, dis-
6 ability, retirement, public assistance, or similar ben-
7 efit payments, or minimum wage laws.

8 “(12) Under regulations which the Adminis-
9 trator shall prescribe, counsel may be employed and
10 counsel fees, court costs, bail, and other expenses inci-
11 dental to the defense of volunteers may be paid in ju-
12 dicial or administrative proceedings arising directly
13 out of the performance of activities pursuant to this
14 subsection to which volunteers have been made par-
15 ties.

16 “(c) *SMALL BUSINESS INSTITUTES.*—In carrying out
17 its functions under this section, the Administrator may
18 make grants (including contracts or cooperative agree-
19 ments) to any public or private institution of higher edu-
20 cation for the establishment and operation of a small busi-
21 ness institute, which shall be used to provide business coun-
22 seling and assistance to small business concerns through the
23 activities of students enrolled at the institution, which stu-
24 dents shall be entitled to receive educational credits for their
25 activities. To the extent practicable, the Administrator shall

1 *select applicants that demonstrate the best capability of*
2 *servicing small manufacturers.*

3 “(d) *BUSINESS GRANTS AND COOPERATIVE AGREE-*
4 *MENTS.—*

5 “(1) *IN GENERAL.—In accordance with this sub-*
6 *section, the Administrator may make grants to and*
7 *enter into cooperative agreements with any coalition*
8 *of private entities, public entities, or any combination*
9 *of private and public entities—*

10 “(A) *to expand business-to-business rela-*
11 *tionships between large and small businesses*
12 *by—*

13 “(i) *identifying opportunities for small*
14 *business concerns located in areas of high*
15 *unemployment or low income;*

16 “(ii) *assisting small business concerns*
17 *and small manufacturers in finding oppor-*
18 *tunities to supply goods and services to*
19 *other businesses, particularly large busi-*
20 *nesses that have previously obtained such*
21 *goods and services from businesses located*
22 *outside of the United States; and*

23 “(iii) *providing such other assistance*
24 *as the Administrator may identify;*

1 “(B) to maintain a database, to the extent
2 *practicable, of supply chain management oppor-*
3 *tunities for small business concerns and small*
4 *manufacturers;*

5 “(C) to provide businesses, directly or indi-
6 *rectly, with online information and a database*
7 *of companies that are interested in mentor-pro-*
8 *tege programs or community-based, statewide, or*
9 *local business development programs; and*

10 “(D) by providing businesses with informa-
11 *tion on the best practices used by other business*
12 *concerns in establishing mentor-protege or other*
13 *business development programs and not limited*
14 *solely to procurement by Federal, State, or local*
15 *governments.*

16 “(2) *MATCHING REQUIREMENT.*—*The Adminis-*
17 *trator may make a grant to a coalition under para-*
18 *graph (1) only if the coalition provides for activities*
19 *described in paragraph (1) an amount, either in kind*
20 *or in cash, equal to the grant amount.*

21 “(3) *DEFINITIONS.*—*For purposes of this sub-*
22 *section, the term ‘supply chain’ means a network of*
23 *facilities and distribution options that performs the*
24 *functions of procurement of materials, transformation*
25 *of these materials into intermediate and furnished*

1 *products, and distribution of the finished products to*
2 *customers.*

3 “(4) *AUTHORIZATION OF APPROPRIATIONS.—*
4 *There is authorized to be appropriated to carry out*
5 *this subsection \$10,000,000, to remain available until*
6 *expended, for each of fiscal years 2004 through*
7 *2005.”.*

8 **SEC. 210. CONTRACTING ASSISTANCE; ETC.**

9 (a) *CERTAIN DISAGREEMENTS SUBMITTED TO*
10 *OMB.—Section 15(a) of the Small Business Act (15 U.S.C.*
11 *644(a)) is amended by striking the sentence beginning*
12 *“Whenever the Administrator and the contracting procure-*
13 *ment agency fail to agree,” and inserting the following:*
14 *“Whenever the Administration and the contracting procure-*
15 *ment agency fail to agree, the Administrator shall submit*
16 *the matter to the Director of the Office of Management and*
17 *Budget, who shall render his decision regarding the matter*
18 *not later than 10 days after receiving the matter. The Direc-*
19 *tor may not delegate his duties under the preceding sentence*
20 *except to a subordinate official within the Office of Manage-*
21 *ment and Budget appointed by the President, by and with*
22 *the advice and consent of the Senate.”.*

23 (b) *PROGRAMS FOR BLIND AND HANDICAPPED INDI-*
24 *VIDUALS.—Section 15(c) of the Small Business Act (15*
25 *U.S.C. 644(c)) is amended to read as follows:*

1 “(c) *PROGRAMS FOR BLIND AND HANDICAPPED INDI-*
2 *VIDUALS.*—

3 “(1) *As used in this subsection:*

4 “(A) *The term ‘Committee’ means the Com-*
5 *mittee for Purchase From People Who Are Blind*
6 *or Severely Disabled established under the first*
7 *section of the Act entitled ‘An Act to create a*
8 *Committee on Purchases of Blind-made Prod-*
9 *ucts, and for other purposes’, approved June 25,*
10 *1938 (41 U.S.C. 46).*

11 “(B) *The term ‘public or private organiza-*
12 *tion for the disabled’ means any organization—*

13 “(i) *which is organized under the laws*
14 *of the United States or of any State, oper-*
15 *ated in the interest of disabled individuals,*
16 *the net income of which does not inure in*
17 *whole or in part to the benefit of any share-*
18 *holder or other individual;*

19 “(ii) *which complies with any applica-*
20 *ble occupational health and safety pre-*
21 *scribed by the Secretary of Labor; and*

22 “(iii) *which in the production of com-*
23 *modities and in the provision of services*
24 *during any fiscal year employs disabled in-*
25 *dividuals for not less than 75 percent of the*

1 *man-hours required for the production or*
2 *provision of the commodities or services.*

3 *“(C) The term ‘disabled person’ means any*
4 *individual who—*

5 *“(i) is a service-disabled veteran; or*

6 *“(ii) has a disability (as defined in*
7 *section 3 of the Americans with Disabilities*
8 *Act of 1990) which limits such individual’s*
9 *selection of any type of employment for*
10 *which such individual would otherwise be*
11 *qualified or qualifiable.*

12 *“(2) The Administrator shall evaluate the place-*
13 *ment of products on the procurement list maintained*
14 *by the Committee pursuant to section 2 of the Act en-*
15 *titled ‘An Act to create a Committee on Purchases of*
16 *Blind made Products, and for other purposes’, ap-*
17 *proved June 25, 1938 (41 U.S.C. 47) to determine the*
18 *impact of such placement on for-profit small business*
19 *concerns.*

20 *“(3) The Administrator shall monitor and evalu-*
21 *ate the participation of public or private organiza-*
22 *tions for the disabled in Federal procurement con-*
23 *tracts and shall annually report the results of such*
24 *monitoring and evaluation to the Committee on*
25 *Small Business of the House of Representatives and*

1 *the Committee on Small Business and Entrepreneur-*
2 *ship of the Senate not later than March 31st of each*
3 *year. This report shall include the impact of such*
4 *participation on for-profit small business concerns.*

5 *“(4)(A) Not later than 10 days after the an-*
6 *nouncement of a proposed award of a contract by an*
7 *agency or department to a public or private organiza-*
8 *tion for the disabled, a for-profit small business con-*
9 *cern that has experienced or is likely to experience se-*
10 *vere economic injury as the result of the proposed*
11 *award may file an appeal of the proposed award with*
12 *the Administrator.*

13 *“(B) If such a concern files an appeal of a pro-*
14 *posed award under subparagraph (A) and the Admin-*
15 *istrator, after consultation with the Executive Direc-*
16 *tor of the Committee, finds that the concern has expe-*
17 *rienced or is likely to experience severe economic in-*
18 *jury as the result of the proposed award, not later*
19 *than 30 days after the filing of the appeal, the Ad-*
20 *ministrator shall require each agency and department*
21 *having procurement powers to take such action as*
22 *may be appropriate to alleviate economic injury sus-*
23 *tained or likely to be sustained by the concern.*

24 *“(5) Each agency and department having pro-*
25 *curement powers shall report to the Office of Federal*

1 *Procurement Policy each time a contract subject to*
2 *paragraph (2)(A) is entered into, and shall include in*
3 *its report the amount of the next highest bid sub-*
4 *mitted by a for-profit small business concern. The Of-*
5 *fice of Federal Procurement Policy shall collect data*
6 *reported under the preceding sentence through the*
7 *Federal procurement data system and shall report to*
8 *the Administrator who shall notify all such agencies*
9 *and departments when the maximum amount of*
10 *awards authorized under paragraph (2)(A) has been*
11 *made during any fiscal year.*

12 *“(6) For the purposes of this subsection, a con-*
13 *tract may be awarded only if at least 75 percent of*
14 *the direct labor performed on each item being pro-*
15 *duced under the contract in the sheltered workshop or*
16 *performed in providing each type of service under the*
17 *contract by the sheltered workshop is performed by*
18 *disabled individuals.*

19 *“(7) Agencies awarding one or more contracts to*
20 *such an organization pursuant to the provisions of*
21 *this subsection may use multiyear contracts, if appro-*
22 *priate.”.*

23 *(c) MINIMUM SOLICITATION PERIOD.—Section 15(e) of*
24 *the Small Business Act (15 U.S.C. 644(e)) is amended by*
25 *adding at the end the following new paragraph:*

1 “(5) *MINIMUM SOLICITATION PERIOD.*—*In the*
2 *case of a solicitation of offers for a bundled contract*
3 *that is issued by the head of an agency, small busi-*
4 *ness concerns shall be allowed to submit offers for a*
5 *period of not less than 60 days beginning on the date*
6 *the solicitation is issued.*”.

7 *(d) PROCUREMENT GOALS.*—*Section 15(g) of the*
8 *Small Business Act (15 U.S.C. 644(g)) is amended to read*
9 *as follows:*

10 “(g)(1) *The President shall before the close of each fis-*
11 *cal year establish new Government-wide procurement goals*
12 *for the following fiscal year for procurement contracts*
13 *awarded to small business concerns, small business concerns*
14 *owned and controlled by service-disabled veterans, qualified*
15 *HUBZone small business concerns, small business concerns*
16 *owned and controlled by socially and economically dis-*
17 *advantaged individuals, and small business concerns owned*
18 *and controlled by women. The President shall not simply*
19 *readopt the preceding years procurement goals. The Govern-*
20 *ment-wide goal for participation by small business concerns*
21 *shall be established at not less than 23 percent of the total*
22 *value of all prime contract awards for each fiscal year. The*
23 *Government-wide goal for participation by small business*
24 *concerns owned and controlled by service-disabled veterans*
25 *shall be established at not less than 3 percent of the total*

1 value of all prime contract and subcontract awards for each
2 fiscal year. The Government-wide goal for participation by
3 qualified HUBZone small business concerns shall be estab-
4 lished at not less than 3 percent of the total value of all
5 prime contract awards. The Government-wide goal for par-
6 ticipation by small business concerns owned and controlled
7 by socially and economically disadvantaged individuals
8 shall be established at not less than 5 percent of the total
9 value of all prime contract awards and not less than 5 per-
10 cent of the total value of all subcontract awards for each
11 fiscal year. The Government-wide goal for participation by
12 small business concerns owned and controlled by women
13 shall be established at not less than 5 percent of the total
14 value of all prime contract awards and not less than 5 per-
15 cent of the total value of all subcontract awards for each
16 fiscal year. Notwithstanding the Government-wide goal,
17 each agency shall have an annual goal that presents, for
18 that agency, the maximum practicable opportunity for
19 small business concerns, small manufacturers, small busi-
20 ness concerns owned and controlled by service-disabled vet-
21 erans, qualified HUBZone small business concerns, small
22 business concerns owned and controlled by socially and eco-
23 nomically disadvantaged individuals, small business con-
24 cerns participating in the program established by section
25 8(a) of this Act, and small business concerns owned and

1 *controlled by women to participate in the performance of*
2 *contracts let by such agency. For the purposes of the pre-*
3 *ceding sentence, each agency is prohibited from counting*
4 *towards its procurement goal for small business concerns*
5 *owned and controlled by socially and economically dis-*
6 *advantaged individuals any contract awarded to small*
7 *business concerns participating in the program established*
8 *pursuant to section 8(a) of this Act. The Administrator and*
9 *the Administrator of the Office of Federal Procurement Pol-*
10 *icy shall, when exercising their authority pursuant to para-*
11 *graph (2), insure that the cumulative annual prime con-*
12 *tract goals for all agencies meet or exceed the annual Gov-*
13 *ernment-wide prime contract goal established by the Presi-*
14 *dent pursuant to this paragraph.*

15 “(2) *The head of each Federal agency shall, after con-*
16 *sultation with the Administrator, establish goals for the*
17 *participation by small business concerns, small manufac-*
18 *turers, small business concerns owned and controlled by*
19 *service-disabled veterans, qualified HUBZone small busi-*
20 *ness concerns, small business concerns owned and controlled*
21 *by socially and economically disadvantaged individuals,*
22 *small business concerns participating in the program estab-*
23 *lished pursuant to section 8(a) of this Act, and small busi-*
24 *ness concerns owned and controlled by women in procure-*
25 *ment contracts of such agency having a value of \$25,000*

1 or more. For the purposes of the preceding sentence, each
2 agency is prohibited from counting towards its procurement
3 goal for small business concerns owned and controlled by
4 socially and economically disadvantaged individuals any
5 contract awarded to small business concerns participating
6 in the program established pursuant to section 8(a) of this
7 Act. Goals established under this subsection shall be jointly
8 established by the Administrator and the head of each Fed-
9 eral agency and shall realistically reflect the potential of
10 small business concerns, small manufacturers, small busi-
11 ness concerns owned and controlled by service-disabled vet-
12 erans, qualified HUBZone small business concerns, small
13 business concerns owned and controlled by socially and eco-
14 nomically disadvantaged individuals, small business con-
15 cerns participating in the program established pursuant to
16 section 8(a) of this Act, and small business concerns owned
17 and controlled by women to perform subcontracts under
18 such contracts. For the purposes of the preceding sentence,
19 each agency is prohibited from counting towards its pro-
20 curement goal for small business concerns owned and con-
21 trolled by socially and economically disadvantaged individ-
22 uals any contract awarded to small business concerns par-
23 ticipating in the program established pursuant to section
24 8(a) of this Act. Whenever the Administrator and the head
25 of any Federal agency fail to agree on established goals,

1 *the disagreement shall be submitted to the Administrator*
2 *of the Office of Federal Procurement Policy for final deter-*
3 *mination. For the purpose of establishing goals under this*
4 *subsection, the head of each Federal agency shall make con-*
5 *sistent efforts to annually expand participation by small*
6 *business concerns from each industry category in procure-*
7 *ment contracts of the agency, including participation by*
8 *small business concerns owned and controlled by service-*
9 *disabled veterans, qualified HUBZone small business con-*
10 *cerns, small business concerns owned and controlled by so-*
11 *cially and economically disadvantaged individuals, small*
12 *business concerns participating in the program established*
13 *pursuant to section 8(a), small business concerns owned*
14 *and controlled by women, and small manufacturers. For*
15 *the purposes of the preceding sentence, each agency is pro-*
16 *hibited from counting towards its procurement goal for*
17 *small business concerns owned and controlled by socially*
18 *and economically disadvantaged individuals any contract*
19 *awarded to small business concerns participating in the*
20 *program established pursuant to section 8(a) of this Act.*
21 *The head of each Federal agency, in attempting to attain*
22 *such participation, shall consider—*
23 *“(A) contracts awarded as the result of unre-*
24 *stricted competition; and*

1 “(B) contracts awarded after competition re-
2 stricted to eligible small business concerns under this
3 section and under the program established under sec-
4 tion 8(a).”.

5 (e) *REPORTS*.—Section 15(h) of the Small Business
6 Act (15 U.S.C. 644(h)) is amended to read as follows:

7 “(h)(1) At the conclusion of each fiscal year, the head
8 of each Federal agency shall report to the Administrator
9 on the extent of participation by small business concerns,
10 small manufacturers, small business concerns owned and
11 controlled by veterans (including service-disabled veterans),
12 qualified HUBZone small business concerns, small business
13 concerns owned and controlled by socially and economically
14 disadvantaged individuals, small business concerns partici-
15 pating in the program established pursuant to section 8(a)
16 of this Act, and small business concerns owned and con-
17 trolled by women in procurement contracts of such agency.
18 Such reports shall contain appropriate justifications for
19 failure to meet the goals established under subsection (g)
20 of this section. Additionally, such reports shall contain suf-
21 ficient justification if goals established for the most recent
22 fiscal year end were established lower than the same goals
23 for the previous fiscal year.

24 “(2) The Administrator shall annually compile and
25 analyze the reports submitted by the individual agencies

1 pursuant to paragraph (1) and shall submit them to the
2 President and the Congress. The Administrator's submis-
3 sion to the President shall include the following:

4 “(A) The Government-wide goals for participa-
5 tion by small business concerns, small business con-
6 cerns owned and controlled by service-disabled vet-
7 erans, qualified HUBZone small business concerns,
8 small business concerns owned and controlled by so-
9 cially and economically disadvantaged individuals,
10 small business concerns participating in the program
11 established pursuant to section 8(a) of this Act, and
12 small business concerns owned and controlled by
13 women and the performance in attaining such goals.

14 “(B) The goals in effect for each agency and the
15 agency's performance in attaining such goals.

16 “(C) An analysis of any failure to achieve the
17 Government-wide goals or any individual agency
18 goals and the actions planned by such agency (and
19 approved by the Administrator) to achieve the goals
20 in the succeeding fiscal year.

21 “(D) The number and dollar value of prime con-
22 tracts awarded to small business concerns, small
23 manufacturers small business concerns owned and
24 controlled by service-disabled veterans, qualified
25 HUBZone small business concerns, small business

1 *concerns owned and controlled by socially and eco-*
2 *nomically disadvantaged individuals, small business*
3 *concerns participating in the program established*
4 *pursuant to section 8(a) of this Act, and small busi-*
5 *ness concerns owned and controlled by women. For*
6 *each agency and on a government-wide basis, number*
7 *and dollar value of contracts issued through—*

8 *“(i) noncompetitive negotiation;*

9 *“(ii) competition restricted to small busi-*
10 *ness concerns owned and controlled by socially*
11 *and economically disadvantaged individuals;*

12 *“(iii) competition restricted to small busi-*
13 *ness concerns participating in the program es-*
14 *tablished by section 8(a) of this Act;*

15 *“(iv) competition restricted to small busi-*
16 *ness concerns; and*

17 *“(v) unrestricted competitions.*

18 *“(E) The number and dollar value of sub-*
19 *contracts awarded to small business concerns, small*
20 *manufacturers, small business concerns owned and*
21 *controlled by service-disabled veterans, qualified*
22 *HUBZone small business concerns, small business*
23 *concerns owned and controlled by socially and eco-*
24 *nomically disadvantaged individuals, small business*
25 *concerns participating in the program established*

1 *pursuant to section 8(a) of this Act, and small busi-*
2 *ness concerns owned and controlled by women.*

3 “(3) *The President shall include the information re-*
4 *quired by paragraph (2) in each annual report to the Con-*
5 *gress on the state of small business prepared pursuant to*
6 *section 303(a) of the Small Business Economic Policy Act*
7 *of 1980 (15 U.S.C. 631b(a)).*

8 “(4) *For the purpose of this subsection, the term ‘small*
9 *disadvantaged business’ means any small business concern*
10 *that is certified as a ‘small disadvantaged business’ by the*
11 *Administrator.’.*”

12 (f) *RESTRICTED COMPETITION.*—Section 15(j) of the
13 *Small Business Act (15 U.S.C. 644(j)) is amended to read*
14 *as follows:*

15 “(j)(1) *Each contract for the purchase of goods and*
16 *services that has an anticipated value greater than \$2,500*
17 *but not greater than \$1,000,000 shall be reserved exclusively*
18 *for small business concerns unless the contracting officer is*
19 *unable to obtain offers from two or more small business con-*
20 *cerns that are competitive with market prices and are com-*
21 *petitive with regard to the quality and delivery of the goods*
22 *or services being purchased.*

23 “(2) *In carrying out paragraph (1), a contracting offi-*
24 *cer shall consider a responsive offer timely received from*
25 *an eligible small business offeror.*

1 “(3) *Nothing in paragraph (1) shall be construed as*
2 *precluding an award of a contract with a value not greater*
3 *than \$1,000,000 under the authority of section 8(a) of this*
4 *Act, section 2323 of title 10, United States Code, section*
5 *712 of the Business Opportunity Development Reform Act*
6 *of 1988 (Public Law 100–656; 15 U.S.C. 644 note), or sec-*
7 *tion 7102 of the Federal Acquisition Streamlining Act of*
8 *1994.”.*

9 (g) *ASSIGNMENT OF PROCUREMENT CENTER REP-*
10 *RESENTATIVES.—Section 15(l) of the Small Business Act*
11 *(15 U.S.C. 644(l)) is amended to read as follows:*

12 “(l)(1) *The Administrator shall assign to each major*
13 *procurement center a procurement center representative*
14 *with such assistance as may be appropriate. The procure-*
15 *ment center representative shall carry out the activities de-*
16 *scribed in paragraph (2), and shall be an advocate for the*
17 *breakout of items for procurement through full and open*
18 *competition, whenever appropriate, while maintaining the*
19 *integrity of the system in which such items are used, and*
20 *an advocate for the use of full and open competition, when-*
21 *ever appropriate, for the procurement of supplies and serv-*
22 *ices by such center. Any procurement center representative*
23 *assigned under this subsection shall be in addition to the*
24 *representative referred to in subsection (k)(6).*

1 “(2) A procurement center representative is authorized
2 to—

3 “(A) work directly with small businesses to coun-
4 sel them on the Federal market and contracting with
5 the Federal Government;

6 “(B) identify Federal agency buyers of small
7 business products and services;

8 “(C) attend any provisioning conference or simi-
9 lar evaluation session during which determinations
10 are made as to whether requirements are to be pro-
11 cured through other than full and open competition
12 and make recommendations with respect to such re-
13 quirements to the members of such conference or ses-
14 sion;

15 “(D) review, at any time, restrictions on com-
16 petition previously imposed on items through acquisi-
17 tion method coding or similar procedures, and rec-
18 ommend to personnel of the appropriate activity the
19 prompt reevaluation of such limitations;

20 “(E) review restrictions on competition arising
21 out of restrictions on the rights of the United States
22 in technical data, and, when appropriate, recommend
23 that personnel of the appropriate activity initiate a
24 review of the validity of such an asserted restriction;

1 “(F) obtain from any governmental source, and
2 make available to personnel of the appropriate activ-
3 ity, technical data necessary for the preparation of a
4 competitive solicitation package for any item of sup-
5 ply or service previously procured noncompetitively
6 due to the unavailability of such technical data;

7 “(G) have access to procurement records and
8 other data of the procurement center commensurate
9 with the level of such representative’s approved secu-
10 rity clearance classification; and

11 “(H) receive unsolicited engineering proposals
12 and, when appropriate—

13 “(i) either—

14 “(I) conduct a value analysis of such
15 proposal to determine whether such pro-
16 posal, if adopted, will result in lower costs
17 to the United States without substantially
18 impeding legitimate acquisition objectives
19 and forward to personnel of the appropriate
20 activity recommendations with respect to
21 such proposal; or

22 “(II) forward such proposals without
23 analysis to personnel of the activity respon-
24 sible for reviewing such proposals and who
25 shall furnish the breakout procurement cen-

1 *ter representative with information regard-*
2 *ing the disposition of any such proposal;*
3 *and*

4 *“(ii) review the systems that account for the*
5 *acquisition and management of technical data*
6 *within the procurement center to assure that*
7 *such systems provide the maximum availability*
8 *and access to data needed for the preparation of*
9 *offers to sell to the United States those supplies*
10 *to which such data pertain which potential*
11 *offerors are entitled to receive.*

12 *“(3) A procurement center representative is authorized*
13 *to appeal the failure to act favorably on any recommenda-*
14 *tion made pursuant to paragraph (2). Such appeal shall*
15 *be filed and processed in the same manner and subject to*
16 *the same conditions and limitations as an appeal filed by*
17 *the Administrator pursuant to subsection (a).*

18 *“(4) The Administrator shall assign and co-locate at*
19 *least two small business technical advisers to each major*
20 *procurement center in addition to such other advisers as*
21 *may be authorized from time to time. The sole duties of*
22 *such advisers shall be to assist the procurement center rep-*
23 *resentative for the center to which such advisers are as-*
24 *signed in carrying out the functions described in paragraph*
25 *(2) and the representatives referred to in subsection (k)(6).*

1 “(5)(A) *The procurement center representatives and*
2 *technical advisers assigned pursuant to this subsection shall*
3 *be—*

4 “(i) *full-time employees of the Administration;*
5 *and*

6 “(ii) *fully qualified, technically trained, and fa-*
7 *miliar with the supplies and services procured by the*
8 *major procurement center to which they are assigned.*

9 “(B) *In addition to the requirements of subparagraph*
10 *(A), each procurement center representative, and at least*
11 *one technical adviser assigned to such representative, shall*
12 *be an accredited engineer.*

13 “(C) *The Administrator shall establish personnel posi-*
14 *tions for procurement representatives and advisers assigned*
15 *pursuant to this subsection which are classified at a grade*
16 *level of the General Schedule sufficient to attract and retain*
17 *highly qualified personnel.*

18 “(6) *For purposes of this subsection, the term ‘major*
19 *procurement center’ means a procurement center that, in*
20 *the opinion of the Administrator, purchases substantial dol-*
21 *lar amounts of other than commercial items and which has*
22 *the potential to incur significant savings as the result of*
23 *the placement of a procurement center representative.*

24 “(7)(A) *At such times as the Administrator deems ap-*
25 *propriate, the procurement center representative shall con-*

1 *duct familiarization sessions for contracting officers and*
2 *other appropriate personnel of the procurement center to*
3 *which such representative is assigned. Such sessions shall*
4 *acquaint the participants with the provisions of this sub-*
5 *section and shall instruct them in methods designed to fur-*
6 *ther the purposes of such subsection.*

7 “(B) *The procurement center representative shall pre-*
8 *pare and personally deliver an annual briefing and report*
9 *to the head of the procurement center to which such rep-*
10 *resentative is assigned. Such briefing and report shall detail*
11 *the past and planned activities of the representative and*
12 *shall contain such recommendations for improvement in the*
13 *operation of the center as may be appropriate. The head*
14 *of such center shall personally receive such briefing and re-*
15 *port and shall, within sixty calendar days after receipt, re-*
16 *spond, in writing, to each recommendation made by such*
17 *representative.”.*

18 *(h) OTHER DUTIES OF ADMINISTRATOR.—Section 15*
19 *of the Small Business Act (15 U.S.C. 644) is amended by*
20 *adding at the end the following new subsection:*

21 “(q)(1) *The Administrator shall obtain information as*
22 *to methods and practices which Government prime contrac-*
23 *tors utilize in letting subcontracts and to take action to en-*
24 *courage the letting of subcontracts by prime contractors to*

1 *small business concerns and small manufacturers at prices*
2 *and on conditions and terms which are fair and equitable.*

3 “(2) *The Administrator shall determine within any in-*
4 *dustry the concerns, firms, persons, corporations, partner-*
5 *ships, cooperatives, or other business enterprises which are*
6 *to be designated as small business concerns or small manu-*
7 *facturers for the purpose of effectuating the provisions of*
8 *this Act. To carry out this purpose the Administrator, when*
9 *requested to do so, shall issue in response to each such re-*
10 *quest an appropriate certificate certifying an individual*
11 *concern as a small business concern or small manufacturer*
12 *in accordance with criteria expressed in this Act. Any such*
13 *certificate shall be subject to revocation when the concern*
14 *covered thereby ceases to be a small business concern or*
15 *small manufacturer. Offices of the Government having pro-*
16 *curement or lending powers, or engaging in the disposal*
17 *of Federal property or allocating materials or supplies, or*
18 *promulgating regulations affecting the distribution of mate-*
19 *rials or supplies, shall accept as conclusive the Administra-*
20 *tion’s determination as to which enterprises are to be des-*
21 *ignated as small business concerns or small manufacturers,*
22 *as authorized and directed under this paragraph.*

23 “(3)(A) *The Administration shall certify to Govern-*
24 *ment procurement officers, and officers engaged in the sale*
25 *and disposal of Federal property, with respect to all ele-*

1 *ments of responsibility, including, but not limited to, capa-*
2 *bility, competency, capacity, credit, integrity, perseverance,*
3 *and tenacity, of any small business concern or group of such*
4 *concerns to receive and perform a specific Government con-*
5 *tract. A Government procurement officer or an officer en-*
6 *gaged in the sale and disposal of Federal property may not,*
7 *for any reason specified in the preceding sentence, preclude*
8 *any small business concern or group of such concerns from*
9 *being awarded such contract without referring the matter*
10 *for a final disposition to the Administration.*

11 “(B) *If a Government procurement officer finds that*
12 *an otherwise qualified small business concern may be ineli-*
13 *gible due to the provisions of section 35(a) of the Act enti-*
14 *tled ‘An Act to provide conditions for the purchase of sup-*
15 *plies and the making of contracts by the United States, and*
16 *for other purposes’, approved June 30, 1936 (popularly*
17 *known as the ‘Walsh-Healey Act’; 41 U.S.C. 35(a)), he shall*
18 *notify the Administration in writing of such finding. The*
19 *Administration shall review such finding and shall either*
20 *dismiss it and certify the small business concern to be an*
21 *eligible Government contractor for a specific Government*
22 *contract or if it concurs in the finding, forward the matter*
23 *to the Secretary of Labor for final disposition, in which*
24 *case the Administration may certify the small business con-*

1 *cern only if the Secretary of Labor finds the small business*
2 *concern not to be in violation.*

3 “(C) *In any case in which a small business concern*
4 *or group of such concerns has been certified by the Adminis-*
5 *trator pursuant to (A) or (B) to be a responsible or eligible*
6 *Government contractor as to a specific Government con-*
7 *tract, the officers of the Government having procurement*
8 *or property disposal powers are directed to accept such cer-*
9 *tification as conclusive, and shall let such Government con-*
10 *tract to such concern or group of concerns without requiring*
11 *it to meet any other requirement of responsibility or eligi-*
12 *bility. Notwithstanding the first sentence of this subpara-*
13 *graph, the Administrator may not establish an exemption*
14 *from referral or notification or refuse to accept a referral*
15 *or notification from a Government procurement officer*
16 *made pursuant to subparagraph (A) or (B) of this para-*
17 *graph, but nothing in this paragraph shall require the proc-*
18 *essing of an application for certification if the small busi-*
19 *ness concern to which the referral pertains declines to have*
20 *the application processed.*

21 “(4) *The Administrator shall obtain from any Federal*
22 *department, establishment, or agency engaged in procure-*
23 *ment or in the financing of procurement or production such*
24 *reports concerning the letting of contracts and subcontracts*

1 *and the making of loans to business concerns as it may*
2 *deem pertinent in carrying out its functions under this Act.*

3 “(5) *The Administrator shall obtain from any Federal*
4 *department, establishment, or agency engaged in the dis-*
5 *posal of Federal property such reports concerning the solici-*
6 *tation of bids, time of sale, or otherwise as it may deem*
7 *pertinent in carrying out its functions under this Act.*

8 “(6) *The Administrator shall obtain from suppliers of*
9 *materials information pertaining to the method of filling*
10 *orders and the bases for allocating their supply, whenever*
11 *it appears that any small business is unable to obtain mate-*
12 *rials from its normal sources.*

13 “(7) *The Administrator shall make studies and rec-*
14 *ommendations to the appropriate Federal agencies to insure*
15 *that a fair proportion of the total purchases and contracts*
16 *for property and services for the Government be placed with*
17 *small-business concerns, to insure that a fair proportion of*
18 *Government contracts for research and development be*
19 *placed with small-business concerns, to insure that a fair*
20 *proportion of the total sales of Government property be*
21 *made to small-business concerns, and to insure a fair and*
22 *equitable share of materials, supplies, and equipment to*
23 *small-business concerns.*

24 “(8) *The Administrator shall consult and cooperate*
25 *with all Government agencies for the purpose of insuring*

1 *that small-business concerns shall receive fair and reason-*
2 *able treatment from such agencies.”.*

3 *(i) PRIORITY OF SMALL BUSINESS PROCUREMENT*
4 *PREFERENCES.—Section 15 of the Small Business Act (15*
5 *U.S.C. 644) is further amended by adding at the end the*
6 *following new subsection:*

7 *“(r) PRIORITY OF SMALL BUSINESS PROCUREMENT*
8 *PREFERENCES.—*

9 *“(1) IN GENERAL.—A contracting officer may*
10 *not make a procurement from a source on the basis*
11 *of a preference provided under any provision of this*
12 *Act referred to in paragraph (2) unless the con-*
13 *tracting officer has determined that such procurement*
14 *cannot be made on the basis of a preference provided*
15 *under another provision of this Act with a higher pri-*
16 *ority under such subsection.*

17 *“(2) ORDER OF PRIORITY.—For purposes of this*
18 *subsection, the following provisions of this Act are*
19 *listed in order of priority from highest to lowest:*

20 *“(A) Section 8(a).*

21 *“(B) Section 31(b)(2)(B).*

22 *“(C) Section 31(b)(2)(A).*

23 *“(D) Section 8(m).*

24 *“(3) PRIORITY OF CERTAIN OTHER PROCURE-*
25 *MENT PREFERENCES.—A procurement may not be*

1 *made from a source on the basis of a preference pro-*
2 *vided under any provision of this Act referred to in*
3 *paragraph (2) if the procurement would otherwise be*
4 *made from a different source under section 4124 or*
5 *4125 of title 18, United States Code, or the Act enti-*
6 *tled ‘An Act to create a Committee on Purchases of*
7 *Blind made Products, and for other purposes’, ap-*
8 *proved June 25, 1938 (41 U.S.C. 47).”.*

9 *(j) PROCUREMENT PROGRAM FOR VERY SMALL BUSI-*
10 *NESS CONCERNS.—Section 15 of the Small Business Act (15*
11 *U.S.C. 644) is further amended by adding at the end the*
12 *following new subsection:*

13 *“(s) PROCUREMENT PROGRAM FOR VERY SMALL BUSI-*
14 *NESS CONCERNS.—*

15 *“(1) ESTABLISHMENT.—The Administrator shall*
16 *establish and carry out a program in accordance with*
17 *the requirements of this subsection to provide im-*
18 *proved access to Federal contract opportunities for*
19 *very small business concerns.*

20 *“(2) PROCUREMENT CONTRACTS.—*

21 *“(A) IDENTIFICATION OF CONTRACTS.—The*
22 *Administrator shall identify procurement con-*
23 *tracts of Federal agencies for award under the*
24 *program.*

1 “(B) *CONTRACT AWARDS.*—*Under the pro-*
2 *gram established pursuant to this subsection, the*
3 *award of a procurement contract of a Federal*
4 *agency identified by the Administrator pursuant*
5 *to subparagraph (A) shall be made by the agency*
6 *to a very small business concern selected, and de-*
7 *termined to be responsible, by the agency.*

8 “(C) *COMPETITION.*—*All contract opportu-*
9 *nities offered for award under the program shall*
10 *be awarded on the basis of competition among*
11 *very small business concerns. A contracting offi-*
12 *cer may rely in good faith on a written certifi-*
13 *cation that a small business concern is a very*
14 *small business concern.*

15 “(3) *FINANCIAL ASSISTANCE.*—*In order to assist*
16 *very small business concerns receiving contract*
17 *awards under the program, the Administrator shall*
18 *establish a preauthorization program for such con-*
19 *cerns for the purpose of receiving financial assistance*
20 *under section 7(a).*

21 “(4) *VERY SMALL BUSINESS CONCERN.*—*For*
22 *purposes of this subsection, the term ‘very small busi-*
23 *ness concern’ means a small business concern that has*
24 *not more than 15 employees and—*

1 “(A) in the case of a small manufacturer,
2 annual gross receipts of not more than
3 \$2,000,000; or

4 “(B) in any other case, annual gross re-
5 ceipts of not more than \$500,000.

6 “(5) REGULATIONS.—The Administrator shall—

7 “(A) issue proposed regulations to carry out
8 this subsection not later than 180 days after the
9 date of enactment of this subsection; and

10 “(B) issue final regulations to carry out
11 this subsection not later than 270 days after the
12 date of enactment of this subsection.”.

13 (k) OTHER AMENDMENTS TO SECTION 15.—

14 (1) Section 15(e)(1) of the Small Business Act
15 (15 U.S.C. 644(e)(1)) is amended by inserting “in the
16 following order” after “concerns”.

17 (2) Section 15(e)(4) of the Small Business Act
18 (15 U.S.C. 644(e)(4)) is amended by striking “bun-
19 dled”.

20 (3) Section 15(k)(9) of the Small Business Act
21 (15 U.S.C. 644(k)(9)) is amended by striking “Ad-
22 ministration” and inserting “Administrator”.

23 (4) Section 15(p)(4)(A) of the Small Business
24 Act (15 U.S.C. 644(p)(4)(A)) is amended by striking
25 “Administration” and inserting “Administrator”.

1 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS; ETC.**

2 *Section 20 of the Small Business Act (15 U.S.C. 631*
3 *note) is amended to read as follows:*

4 **“SEC. 20. AUTHORIZATION OF APPROPRIATIONS; ETC.**

5 *“(a)(1) For fiscal year 2004 and each fiscal year there-*
6 *after, there are authorized to be appropriated such sums*
7 *as may be necessary and appropriate, to remain available*
8 *until expended, and to be available solely—*

9 *“(A) to carry out the Small Business Develop-*
10 *ment Center Program under section 21, but not to ex-*
11 *ceed the annual funding level, as specified in section*
12 *21(j)(7);*

13 *“(B) to pay the expenses of the National Small*
14 *Business Development Center Advisory Board, as pro-*
15 *vided in section 21(m)(1);*

16 *“(C) to pay the expenses of the information shar-*
17 *ing system, as provided in section 21(o);*

18 *“(D) to pay the expenses of the association re-*
19 *ferred to in section 21(k) for conducting the certifi-*
20 *cation program, as provided in section 21(l); and*

21 *“(E) to pay the expenses of the Administration,*
22 *including salaries of examiners, for conducting ex-*
23 *aminations as part of the accreditation program con-*
24 *ducted by the association referred to in section 21(l).*

25 *“(2)(A) Notwithstanding any other provision of law,*
26 *the Administrator shall enter into commitments for direct*

1 *loans and to guarantee loans, debentures, payment of rent-*
2 *als, or other amounts due under qualified contracts and*
3 *other types of financial assistance and enter into commit-*
4 *ments to purchase debentures and preferred securities and*
5 *to guarantee sureties against loss pursuant to programs*
6 *under this Act and the Small Business Investment Act of*
7 *1958, in the full amounts provided by law subject only to—*

8 *“(i) the availability of qualified applications;*
9 *and*

10 *“(ii) limitations contained in appropriations*
11 *Acts.*

12 *“(B) Nothing in this paragraph authorizes the Admin-*
13 *istrator to reduce or limit its authority to enter into such*
14 *commitments.*

15 *“(3) Subject to approval in appropriations Acts,*
16 *amounts authorized for preferred securities, debentures or*
17 *participating securities under title III of the Small Busi-*
18 *ness Investment Act of 1958 may be obligated in one fiscal*
19 *year and disbursed or guaranteed in any 1 or more of the*
20 *4 subsequent fiscal years.*

21 *“(4) The amount of deferred participation loans au-*
22 *thorized in this section—*

23 *“(A) shall mean the net amount of the loan prin-*
24 *cipal guaranteed by the Administrator (and does not*
25 *include any amount which is not guaranteed); and*

1 “(B) shall be available for a national program,
2 except as otherwise provided in section 7(a).

3 “(b) There are authorized to be appropriated to the
4 Administration for each fiscal year such sums as may be
5 necessary to carry out the provisions of this Act and the
6 Small Business Investment Act of 1958. There also are here-
7 by authorized to be appropriated such sums as may be nec-
8 essary and appropriate for the carrying out of the provi-
9 sions and purposes, including administrative expenses, of
10 sections 7(b) of this Act; and there are authorized to be
11 transferred from such sums as may be necessary and appro-
12 priate for such administrative expenses.

13 “(c) FISCAL YEAR 2004.—

14 “(1) PROGRAM LEVELS.—The following program
15 levels are authorized for fiscal year 2004:

16 “(A) For the programs authorized by this
17 Act, the Administrator is authorized to make—

18 “(i) \$70,000,000 in technical assist-
19 ance grants, as provided in section 7(m);
20 and

21 “(ii) \$100,000,000 in direct loans, as
22 provided in section 7(m).

23 “(B) For the programs authorized by this
24 Act, the Administrator is authorized to make
25 \$22,000,000,000 in deferred participation loans

1 *and other financings. Of such sum, the Adminis-*
2 *tration is authorized to make—*

3 “(i) \$16,000,000,000 in general busi-
4 ness loans as provided in section 7(a);

5 “(ii) \$5,500,000,000 in financings as
6 provided in section 7(a)(13) of this Act and
7 section 504 of the Small Business Invest-
8 ment Act of 1958; and

9 “(iii) \$500,000,000 in loans as pro-
10 vided in section 7(a)(21).

11 “(C) For the programs authorized by title
12 III of the Small Business Investment Act of
13 1958, the Administrator is authorized to make—

14 “(i) \$5,000,000,000 in purchases of
15 participating securities; and

16 “(ii) \$4,000,000,000 in guarantees of
17 debentures.

18 “(D) For the programs authorized by part
19 B of title IV of the Small Business Investment
20 Act of 1958, the Administration is authorized to
21 enter into guarantees not to exceed
22 \$6,000,000,000, of which not more than 50 per-
23 cent may be in bonds approved pursuant to sec-
24 tion 411(a)(3) of that Act.

1 “(E) *There is authorized to be appropriated*
2 *\$7,000,000 to carry out section 12(b).*

3 “(2) *ADDITIONAL AUTHORIZATIONS.—*

4 “(A) *There are authorized to be appro-*
5 *priated to the Administration for fiscal year*
6 *2004 such sums as may be necessary to carry out*
7 *this Act not elsewhere provided for, including ad-*
8 *ministrative expenses and necessary loan capital*
9 *for disaster loans pursuant to section 7(b), and*
10 *to carry out the Small Business Investment Act*
11 *of 1958, including salaries and expenses of the*
12 *Administration.*

13 “(B) *Notwithstanding any other provision*
14 *of this paragraph, for fiscal year 2004—*

15 “(i) *no funds are authorized to be pro-*
16 *vided to carry out the loan program author-*
17 *ized by section 7(a)(21) except by transfer*
18 *from another Federal department or agency*
19 *to the Administration, unless the program*
20 *level authorized for general business loans*
21 *under paragraph (1)(B)(i) is fully funded;*
22 *and*

23 “(ii) *the Administrator may not ap-*
24 *prove loans on behalf of the Administration*
25 *or on behalf of any other department or*

1 agency, by contract or otherwise, under
2 terms and conditions other than those spe-
3 cifically authorized under this Act or the
4 Small Business Investment Act of 1958, ex-
5 cept that he may approve loans under sec-
6 tion 7(a)(21) of this Act in gross amounts
7 of not more than \$1,250,000.

8 “(d) FISCAL YEAR 2005.—

9 “(1) PROGRAM LEVELS.—The following program
10 levels are authorized for fiscal year 2005:

11 “(A) For the programs authorized by this
12 Act, the Administrator is authorized to make—

13 “(i) \$75,000,000 in technical assist-
14 ance grants as provided in section 7(m);
15 and

16 “(ii) \$105,000,000 in direct loans, as
17 provided in section 7(m).

18 “(B) For the programs authorized by this
19 Act, the Administrator is authorized to make
20 \$23,000,000,000 in deferred participation loans
21 and other financings. Of such sum, the Adminis-
22 tration is authorized to make—

23 “(i) \$16,500,000,000 in general busi-
24 ness loans as provided in section 7(a);

1 “(ii) \$6,000,000,000 in financings as
2 provided in section 7(a)(13) of this Act and
3 section 504 of the Small Business Invest-
4 ment Act of 1958; and

5 “(iii) \$500,000,000 in loans as pro-
6 vided in section 7(a)(21).

7 “(C) For the programs authorized by title
8 III of the Small Business Investment Act of
9 1958, the Administration is authorized to
10 make—

11 “(i) \$5,500,000,000 in purchases of
12 participating securities; and

13 “(ii) \$4,500,000,000 in guarantees of
14 debentures.

15 “(D) For the programs authorized by part
16 B of title IV of the Small Business Investment
17 Act of 1958, the Administration is authorized to
18 enter into guarantees not to exceed
19 \$6,000,000,000, of which not more than 50 per-
20 cent may be in bonds approved pursuant to sec-
21 tion 411(a)(3) of that Act.

22 “(E) There is authorized to be appropriated
23 \$7,000,000 to carry out section 12(b).

24 “(2) ADDITIONAL AUTHORIZATIONS.—

1 “(A) *There are authorized to be appro-*
2 *priated to the Administration for fiscal year*
3 *2005 such sums as may be necessary to carry out*
4 *this Act not elsewhere provided for, including ad-*
5 *ministrative expenses and necessary loan capital*
6 *for disaster loans pursuant to section 7(b), and*
7 *to carry out the Small Business Investment Act*
8 *of 1958, including salaries and expenses of the*
9 *Administration.*

10 “(B) *Notwithstanding any other provision*
11 *of this paragraph, for fiscal year 2005—*

12 “(i) *no funds are authorized to be pro-*
13 *vided to carry out the loan program author-*
14 *ized by section 7(a)(21) except by transfer*
15 *from another Federal department or agency*
16 *to the Administration, unless the program*
17 *level authorized for general business loans*
18 *under paragraph (1)(B)(i) is fully funded;*
19 *and*

20 “(ii) *the Administrator may not ap-*
21 *prove loans on behalf of the Administration*
22 *or on behalf of any other department or*
23 *agency, by contract or otherwise, under*
24 *terms and conditions other than those spe-*
25 *cifically authorized under this Act or the*

1 *Small Business Investment Act of 1958, ex-*
2 *cept that he may approve loans under sec-*
3 *tion 7(a)(21) of this Act in gross amounts*
4 *of not more than \$1,250,000.”.*

5 **SEC. 212. SMALL BUSINESS DEVELOPMENT CENTERS.**

6 *(a) IN GENERAL.—Section 21 of the Small Business*
7 *Act (15 U.S.C. 648) is amended to read as follows:*

8 **“SEC. 21. SMALL BUSINESS DEVELOPMENT CENTER PRO-**
9 **GRAM.**

10 *“(a) ESTABLISHMENT OF PROGRAM.—The Adminis-*
11 *trator is authorized to make grants to any eligible appli-*
12 *cant to establish the network of small business development*
13 *centers proposed in the plan submitted by such applicant*
14 *under subsection (b).*

15 *“(b) SELECTION OF GRANTEES.—*

16 *“(1) APPLICATION.—An eligible applicant may*
17 *apply for a grant under subsection (a) by submitting*
18 *to the Administrator for approval a plan for estab-*
19 *lishing a network of small business development cen-*
20 *ters.*

21 *“(2) SELECTION.—The Administrator shall select*
22 *the applicant that demonstrates it has the budgetary*
23 *and other resources to ensure that it will provide the*
24 *most comprehensive and coordinated assistance*
25 *throughout the State. The Administrator shall require*

1 *the grantee to have a separate budget for the purpose*
2 *of operating its network of small business development*
3 *centers and to primarily utilize institutions of higher*
4 *education and women’s business centers operating*
5 *pursuant to section 29 to provide for the operation of*
6 *the small business development centers. The Adminis-*
7 *trator may approve, conditionally approve, or reject,*
8 *a plan or combination of plans submitted under this*
9 *section. The Administrator may not delegate the au-*
10 *thority to select grantees under this section except to*
11 *the Deputy Administrator.*

12 *“(3) LIMITATION BY STATE.—*

13 *“(A) IN GENERAL.—Except as otherwise*
14 *provided in this paragraph, the Administrator*
15 *shall select one grantee from each State to serve*
16 *the entire State.*

17 *“(B) UNAVAILABILITY EXCEPTION.—The*
18 *Administrator may select 2 grantees to serve a*
19 *State if no eligible applicant submits an appli-*
20 *cation to serve the entire State. With respect to*
21 *any such State, the Administrator, at the end of*
22 *the 2-year period beginning on the date of the se-*
23 *lection of such grantees, shall seek applications*
24 *under this subsection for the purpose of replacing*

1 *such grantees with a single grantee to serve the*
2 *entire State.*

3 “(C) *HISTORICAL EXCEPTION.*—*Subpara-*
4 *graph (A) shall not apply with respect to any*
5 *State if multiple grantees served such State dur-*
6 *ing calendar year 2000 or 2001.*

7 “(D) *CERTAIN TERRITORIES.*—*In the case*
8 *that no eligible applicant from a qualified terri-*
9 *tory applies for a grant under this section, the*
10 *Administrator may select a grantee from any*
11 *State to serve such qualified territory. For pur-*
12 *poses of the preceding sentence, the term ‘quali-*
13 *fied territory’ means Guam, the United States*
14 *Virgin Islands, American Samoa, and the Com-*
15 *monwealth of the Northern Mariana Islands.*

16 “(4) *ELIGIBLE APPLICANT.*—*For purposes of this*
17 *section, the term ‘eligible applicant’ means—*

18 “(A) *any institution of higher education;*

19 “(B) *any women’s business center operating*
20 *pursuant to section 29; or*

21 “(C) *in the case of an entity that was re-*
22 *ceiving a grant under this section on December*
23 *31, 1990, any of the following:*

24 “(i) *Any State government or any*
25 *agency thereof.*

1 “(ii) *Any regional entity.*

2 “(iii) *Any State-chartered develop-*
3 *ment, credit or finance corporation.*

4 “(iv) *Any entity formed by two or*
5 *more of the entities described in this para-*
6 *graph.*

7 “(5) *REQUIREMENT TO SEEK APPLICATIONS.—If*
8 *for any reason a grant under this section is termi-*
9 *nated or not renewed, the Administrator shall seek*
10 *applications from eligible applicants with respect to*
11 *such grant.*

12 “(c) *GRANT PROVISIONS.—*

13 “(1) *AGREEMENT BETWEEN GRANTEE AND AD-*
14 *MINISTRATOR.—The Administrator and the grantee*
15 *shall jointly develop, negotiate, and agree upon the*
16 *terms and conditions of the grant. The grantee shall*
17 *also consult with the district office or offices within*
18 *the State to determine the special services and assist-*
19 *ance that are needed by the community or commu-*
20 *nities served by the grantee’s small business develop-*
21 *ment centers.*

22 “(2) *REQUIREMENTS.—Each grant shall—*

23 “(A) *allow the grantee to serve portions of*
24 *the State by subcontracting the operation of a*
25 *small business development center to another en-*

1 *tity, provided that such small business develop-*
2 *ment centers shall, to the extent feasible, be lo-*
3 *cated at institutions of higher education or*
4 *Women’s Business Centers established pursuant*
5 *to section 29 of this Act;*

6 *“(B) ensure that the grantee provides serv-*
7 *ices as close as possible to small business con-*
8 *cerns by providing extension services and uti-*
9 *lizing satellite facilities, including those of any*
10 *subcontractor;*

11 *“(C) ensure that the grantee provides facili-*
12 *ties and staff for each small business develop-*
13 *ment center to provide maximum accessibility*
14 *and benefit to small business concerns;*

15 *“(D) ensure that the grantee is utilizing the*
16 *resources of other Federal agencies in providing*
17 *the services and assistance set forth in subsection*
18 *(f); and*

19 *“(E) allow the grantee to enter into a con-*
20 *tract described in subsection (g)(2).*

21 *“(3) PROHIBITION ON DELEGATION TO DISTRICT*
22 *OFFICES.—The Administrator shall not delegate any*
23 *authority under paragraph (1) to any employee of the*
24 *Administration located in a regional or district office.*

1 “(4) *FORM OF GRANT AGREEMENTS.*—*For pur-*
2 *poses of this section, the term ‘grant’ includes any*
3 *contract or cooperative agreement.*

4 “(5) *PROHIBITION ON CERTAIN GRANT REQUIRE-*
5 *MENTS.*—*The Administrator shall not require, and a*
6 *grant agreement shall not include a requirement, that*
7 *the grantee serve a particular number of small busi-*
8 *ness concerns with respect to loans under section 7 of*
9 *this Act or title V of the Small Business Investment*
10 *Act of 1958.*

11 “(d) *TERM, RENEWAL, AND TERMINATION OF*
12 *GRANTS.*—

13 “(1) *TERM OF GRANTS.*—*Each grant made*
14 *under this section shall be made on the basis of a cal-*
15 *endar year or the Federal fiscal year, as determined*
16 *by the Administrator.*

17 “(2) *AUTOMATIC RENEWAL.*—*Unless the Admin-*
18 *istrator for cause terminates the grant or the grantee*
19 *decides not to seek renewal of the grant, the Adminis-*
20 *trator and the grantee shall renew the agreement and*
21 *may make mutually satisfactory modifications to the*
22 *agreement. The renewal shall take effect on the date*
23 *of termination of the old agreement.*

24 “(3) *STANDARDS FOR TERMINATION.*—*After the*
25 *opportunity for notice and comment and consultation*

1 with the association authorized by subsection (k), the
2 Administrator shall promulgate standards for deter-
3 mining when cause exists to terminate a grantee.
4 Such standards shall be codified in the Code of Fed-
5 eral Regulations and shall take into account the
6 grantee's compliance with the standards set forth in
7 the grant agreement, any budgetary restrictions faced
8 by the grantee, the overall economic climate in the
9 State served by the grantee, and the accreditation of
10 the grantee's small business development centers
11 (whether operated by the grantee or through a subcon-
12 tractor) under the program established pursuant to
13 subsection (l).

14 “(4) NOTICE OF TERMINATION.—If the Adminis-
15 trator determines that cause exists to terminate a
16 grant agreement under this section, the Administrator
17 shall provide the grantee with written notification set-
18 ting forth the reasons therefor and affording the ap-
19 plicant an opportunity for a hearing pursuant to sec-
20 tions 554, 556, and 557 of title 5, United States Code.

21 “(e) MANAGEMENT OF SMALL BUSINESS DEVELOP-
22 MENT CENTERS BY GRANTEES.—

23 “(1) APPOINTMENT OF GRANTEE DIRECTOR.—
24 Each Grantee shall appoint a full-time director to
25 oversee the operations of the grant, the subcontractors

1 to the grantee, and the small business development
2 centers operated by the grantee. The grantee's director
3 shall be responsible for accounting for any Federal
4 funds used by the grantee to carry out the require-
5 ments of this section. The grantee shall have the sole
6 discretion of selecting the director without requiring
7 the approval of the Administrator, except that the Ad-
8 ministrator may terminate the employment of the
9 grantee's director if the Administrator determines
10 that the grantee's director is unfit for the position be-
11 cause of a prior conviction for a felony.

12 “(2) *SMALL BUSINESS DEVELOPMENT CENTER*
13 *STAFF.*—Each small business development center shall
14 have a staff, which shall be full-time, part-time, or on
15 a contract basis, as the grantee may determine.

16 “(3) *EXPENDITURES.*—Expenditures of funds by
17 the grantee shall not require the approval of the Ad-
18 ministrator except that the Administrator may pro-
19 hibit an expenditure using Federal funds if, after con-
20 sultation with the General Counsel, the Administrator
21 determines that such expenditure violates Federal law.

22 “(f) *SERVICES PROVIDED BY THE GRANTEE THROUGH*
23 *SMALL BUSINESS DEVELOPMENT CENTERS.*—

24 “(1) *IN GENERAL.*—Each grantee and its sub-
25 contractors shall assist small business concerns in

1 *solving problems concerning operations, manufac-*
2 *turing, engineering, technology exchange and develop-*
3 *ment, personnel administration, marketing, sales,*
4 *merchandising, finance, accounting, business strategy*
5 *development, and other disciplines required for small*
6 *business growth and expansion, innovation, increased*
7 *productivity, and management improvement, and for*
8 *decreasing industry economic concentrations. Small*
9 *Business Development Centers shall, in providing as-*
10 *sistance to small manufacturers, coordinate such as-*
11 *sistance and utilize the resources of the Manufac-*
12 *turing Extension Partnership of the National Insti-*
13 *tutes of Standards and Technology.*

14 “(2) *PERIODIC MODIFICATION.*—*Each grantee or*
15 *its subcontractors shall continue to upgrade and mod-*
16 *ify its services, as needed, in order to meet the chang-*
17 *ing and evolving needs of the small business commu-*
18 *nity and those of small manufacturers in particular.*

19 “(3) *ACCESS TO PROFESSIONALS.*—*Each grantee*
20 *shall ensure that small business development centers*
21 *provide access to:*

22 “(A) *Business analysts to counsel, assist,*
23 *and inform small business clients.*

24 “(B) *Technology transfer agents to provide*
25 *state of art technology to small business concerns*

1 *through coupling with national and regional*
2 *technology data sources.*

3 “(C) *Information specialists to assist in*
4 *providing information searches and referrals to*
5 *small business concerns.*

6 “(D) *Part-time professional specialists to*
7 *conduct research or to provide counseling assist-*
8 *ance whenever the need arises.*

9 “(E) *Laboratory and adaptive engineering*
10 *facilities.*

11 “(4) *SERVICES.—Each grantee shall ensure that*
12 *the services provided by its network of small business*
13 *development centers include—*

14 “(A) *furnishing one-to-one individual coun-*
15 *seling to small business concerns, including—*

16 “(i) *working with individuals to in-*
17 *crease awareness of basic credit practices*
18 *and credit requirements;*

19 “(ii) *working with individuals to de-*
20 *velop business plans, financial packages,*
21 *credit applications, and contract proposals;*

22 “(iii) *working with the Administration*
23 *to develop and provide informational tools*
24 *for use in working with individuals on pre-*

1 *business startup planning, existing business*
2 *expansion, and export planning; and*

3 “(iv) *working with individuals referred*
4 *by the district offices of the Administration*
5 *and Administration participating lenders;*

6 “(B) *assisting in technology transfer, re-*
7 *search and development, including applied re-*
8 *search, and coupling from existing sources to*
9 *small business concerns, including—*

10 “(i) *working to increase the access of*
11 *small business concerns to the capabilities of*
12 *automated flexible manufacturing systems;*

13 “(ii) *working through existing net-*
14 *works and developing new networks for*
15 *technology transfer that encourage partner-*
16 *ship between the small business and aca-*
17 *demie communities to help commercialize*
18 *university-based research and development*
19 *and introduce university-based engineers*
20 *and scientists to their counterparts in small*
21 *technology-based firms and small manufac-*
22 *turers;*

23 “(iii) *exploring the viability of devel-*
24 *oping shared production facilities, under*
25 *appropriate circumstances; and*

1 “(iv) assisting small manufacturers in
2 developing more efficient operations, includ-
3 ing coordination of assistance with the
4 Manufacturing Extension Partnership of
5 the National Institutes of Standards and
6 Technology;

7 “(C) in cooperation with the Department of
8 Commerce, the entities providing services pursu-
9 ant to section 12(d), and other relevant Federal
10 agencies, actively assisting small business con-
11 cerns in exporting by identifying and developing
12 potential export markets, facilitating export
13 transactions, developing linkages between United
14 States small business concerns and prescreened
15 foreign buyers, assisting small business concerns
16 to participate in international trade shows, as-
17 sisting small business concerns in obtaining ex-
18 port financing, assisting small manufacturers in
19 identifying supply chain management opportu-
20 nities, and facilitating the development or reori-
21 entation of marketing and production strategies;
22 where appropriate, the grantee and the Adminis-
23 trator may work in cooperation with the State
24 to establish a State international trade center for
25 these purposes;

1 “(D) developing a program in conjunction
2 with the Export-Import Bank and local and re-
3 gional Administration offices that will enable
4 Small Business Development Centers to serve as
5 an information network and to assist small busi-
6 ness applicants for Export-Import Bank financ-
7 ing programs, and otherwise identify and help to
8 make available export financing programs to
9 small business concerns;

10 “(E) working closely with the small business
11 community, small business consultants, State
12 agencies, universities and other appropriate
13 groups to make translation services more readily
14 available to small business concerns doing busi-
15 ness, or attempting to develop business, in for-
16 eign markets;

17 “(F) in providing assistance under this sub-
18 section, grantees shall cooperate with the Depart-
19 ment of Commerce and other relevant Federal
20 agencies to increase access to available export
21 market information systems such as the CIMS
22 system;

23 “(G) assisting small business concerns to
24 develop and implement strategic business plans
25 to timely and effectively respond to the planned

1 *closure (or reduction) of a Department of Defense*
2 *facility within the community, or actual or pro-*
3 *jected reductions in such firms' business base due*
4 *to the actual or projected termination (or reduc-*
5 *tion) of a Department of Defense program or a*
6 *contract in support of such program—*

7 *“(i) by developing broad economic as-*
8 *sessments of the adverse impacts of—*

9 *“(I) the closure (or reduction) of*
10 *the Department of Defense facility on*
11 *the small business concerns providing*
12 *goods or services to such facility or to*
13 *the military and civilian personnel*
14 *currently stationed or working at such*
15 *facility; and*

16 *“(II) the termination (or reduc-*
17 *tion) of a Department of Defense pro-*
18 *gram (or contracts under such pro-*
19 *gram) on the small business concerns*
20 *participating in such program as a*
21 *prime contractor, subcontractor or sup-*
22 *plier at any tier;*

23 *“(ii) by developing, in conjunction*
24 *with appropriate Federal, State, and local*
25 *governmental entities and other private sec-*

1 *tor organizations, the parameters of a tran-*
2 *sition adjustment program adaptable to the*
3 *needs of individual small business concerns;*

4 *“(iii) by conducting appropriate pro-*
5 *grams to inform the affected small business*
6 *community regarding the anticipated ad-*
7 *verse impacts identified under clause (i)*
8 *and the economic adjustment assistance*
9 *available to such firms; and*

10 *“(iv) by assisting small business con-*
11 *cerns to develop and implement an individ-*
12 *ualized transition business plan;*

13 *“(H) maintaining current information con-*
14 *cerning Federal, State, and local regulations that*
15 *affect small business concerns and counsel small*
16 *business concerns on methods of compliance.*
17 *Counseling and technology development shall be*
18 *provided when necessary to help small business*
19 *concerns find solutions for complying with envi-*
20 *ronmental, energy, health, safety, and other Fed-*
21 *eral, State, and local regulations;*

22 *“(I) coordinating and conducting research*
23 *into technical and general small business prob-*
24 *lems for which there are no ready solutions;*

1 “(J) providing and maintaining a com-
2 prehensive library that contains current infor-
3 mation and statistical data needed by small
4 business concerns;

5 “(K) maintaining a working relationship
6 and open communications with the financial
7 and investment communities, legal associations,
8 local and regional private consultants, and local
9 and regional small business groups and associa-
10 tions in order to help address the various needs
11 of the small business community;

12 “(L) conducting in-depth surveys for local
13 small business groups in order to develop general
14 information regarding the local economy and
15 general small business strengths and weaknesses
16 in the locality;

17 “(M) in cooperation with the Department of
18 Commerce, the Administration and other rel-
19 evant Federal agencies, actively assisting rural
20 small business concerns, including rural small
21 manufacturers, in exporting by identifying and
22 developing potential export markets for rural
23 small business concerns, facilitating export
24 transactions for rural small business concerns,
25 developing linkages between United States rural

1 *small business concerns and prescreened foreign*
2 *buyers, assisting rural small business concerns to*
3 *participate in international trade shows, assist-*
4 *ing rural small business concerns in obtaining*
5 *export financing and developing marketing and*
6 *production strategies;*

7 “(N) *assisting rural small business concerns*
8 *in developing marketing and production strate-*
9 *gies that will enable them to better compete in*
10 *the domestic market by providing technical as-*
11 *sistance needed by rural small business concerns,*
12 *by making available managerial assistance to*
13 *rural small business concerns, and by providing*
14 *information and assistance in obtaining financ-*
15 *ing for business startups and expansion;*

16 “(O) *in conjunction with the United States*
17 *Travel and Tourism Administration, assist rural*
18 *small business concerns in developing the tour-*
19 *ism potential of rural communities by—*

20 “(i) *identifying the cultural, historic,*
21 *recreational, and scenic resources of such*
22 *communities;*

23 “(ii) *providing assistance to small*
24 *business concerns in developing tourism*

1 *marketing and promotion plans relating to*
2 *tourism in rural areas; and*

3 *“(iii) assisting small business concerns*
4 *to obtain capital for starting or expanding*
5 *businesses primarily serving tourists;*

6 *“(P) maintaining lists of local and regional*
7 *private consultants to whom small business con-*
8 *cerns can be referred;*

9 *“(Q) providing information to small busi-*
10 *ness concerns regarding compliance with regu-*
11 *latory requirements;*

12 *“(R) developing informational publications,*
13 *establishing resource centers of reference mate-*
14 *rials, and distributing compliance guides pub-*
15 *lished under section 312(a) of the Small Business*
16 *Regulatory Enforcement Fairness Act of 1996;*

17 *“(S) providing small business concerns with*
18 *access to a wide variety of export-related infor-*
19 *mation by establishing on-line computer linkages*
20 *between small business development centers and*
21 *an international trade data information network*
22 *with ties to the Export Assistance Center pro-*
23 *gram;*

1 “(T) providing information and assistance
2 to small business concerns with respect to estab-
3 lishing drug-free workplace programs;

4 “(U) in the case of a small business develop-
5 ment center located at an institution of higher
6 learning, hosting semi-annually a procurement
7 conference to which the grantee (or its sub-
8 contractors) invites small business concerns, in-
9 cluding small manufacturers, to meet with the
10 procurement officials of such institution in an
11 effort to increase procurement by such institution
12 from small business concerns and small manu-
13 facturers;

14 “(V) providing comprehensive plans (devel-
15 oped in cooperation with relevant State and Fed-
16 eral agencies) relating to the export potential of
17 small business concerns, including small manu-
18 facturers; and

19 “(W) assisting small business concerns to
20 develop and implement strategic business plans
21 to timely and effectively respond to the closure of
22 a large business concern that has a significant
23 adverse impact on the community—

1 “(i) by developing broad economic as-
2 sessments of the adverse impacts of such clo-
3 sure;

4 “(ii) by developing, in conjunction
5 with appropriate Federal, State, and local
6 governmental entities and other private sec-
7 tor organizations, the parameters of a tran-
8 sition adjustment program adaptable to the
9 needs of individual small business concerns;

10 “(iii) by conducting appropriate pro-
11 grams to inform the affected small business
12 community regarding the adverse impacts
13 identified under clause (i) and the economic
14 adjustment assistance available to such
15 firms;

16 “(iv) by assisting small business con-
17 cerns to develop and implement an individ-
18 ualized transition business plan; and

19 “(v) by assisting unemployed individ-
20 uals in establishing a small business con-
21 cern.

22 “(g) *SPECIAL RULES RELATING TO SMALL BUSINESS*
23 *DEVELOPMENT CENTERS.*—

24 “(1) *SERVICES TO OUT-OF-STATE SMALL BUSI-*
25 *NESS CONCERNS.*—*The Administrator may allow a*

1 *small business development center to serve small busi-*
2 *ness concerns located outside the State in which such*
3 *center is located (or, in the case of a State with more*
4 *than one grantee, outside the area served by the*
5 *grantee) to the extent such business concerns are lo-*
6 *cated within close geographical proximity to the small*
7 *business development center as determined by the Ad-*
8 *ministrator.*

9 “(2) *CONTRACTS WITH OTHER AGENCIES.*—Sub-
10 *ject to the restrictions set forth in this paragraph, a*
11 *grantee (or its subcontractors, with the grantee’s ap-*
12 *proval) may contract with a Federal Department or*
13 *agency to provide specific assistance to small business*
14 *concerns through its network of small business devel-*
15 *opment centers. Before bidding on a contract de-*
16 *scribed in this paragraph, a grantee shall receive ap-*
17 *proval from the Administrator. Before granting ap-*
18 *proval, the Administrator shall consider the subject*
19 *and scope of the contract and the extent to which per-*
20 *formance of the contract would provide assistance to*
21 *small business and not impair the performance of the*
22 *grantee’s obligations under this section. A contract for*
23 *assistance under this paragraph shall not count to-*
24 *ward the achievement of any contracting goal under*
25 *section 15(g).*

1 “(3) *SMALL BUSINESS VENDORS.*—Each grantee
2 shall ensure, to the extent practicable, that its network
3 of small business development centers utilize and com-
4 pensate qualified small business vendors, including
5 private management consultants, private consulting
6 engineers, and private testing laboratories, to provide
7 services under this section to small business concerns.
8 To the extent appropriate for the community served
9 by the small business development center, such quali-
10 fied small business vendors should include at least one
11 such vendor with expertise in manufacturing and as-
12 sisting small manufacturers.

13 “(4) *COORDINATION WITH DISTRICT OFFICES,*
14 *ETC.*—The grantees shall ensure that the small busi-
15 ness development centers shall work in close coopera-
16 tion with the Administration’s regional and district
17 offices, the local small business community, and ap-
18 propriate State and local agencies. No action by a
19 grantee or its subcontractors or staff shall require the
20 approval of any employee in a regional or district of-
21 fice of the Administration. Any such employee shall,
22 after consultation with district counsel, notify the As-
23 sistant Administrator for Small Business Develop-
24 ment Centers if such employee believes that the grant-
25 ee or its subcontractors or staff has taken action that

1 *violates the law or jeopardizes the legal position of*
2 *the United States.*

3 “(5) *ASSISTANCE FROM STATE INTERNATIONAL*
4 *TRADE OFFICES.*—*The grantee may use funds pro-*
5 *vided by State international trade offices and co-lo-*
6 *cate employees of such offices at small business devel-*
7 *opment centers.*

8 “(6) *COORDINATION WITH ADMINISTRATION.*—
9 *On an annual basis, the grantee, after consultation*
10 *with the district director, shall review and coordinate*
11 *public and private partnerships and cosponsorships*
12 *with the Administrator for the purpose of more effi-*
13 *ciently leveraging available resources on a national*
14 *and a State basis. Should the grantee be unable to*
15 *consult with the district director, the grantee shall*
16 *consult with the Assistant Administrator for Small*
17 *Business Development Centers.*

18 “(7) *PROHIBITION ON CERTAIN FEES.*—*Each*
19 *grantee shall ensure that small business development*
20 *centers shall not impose or otherwise collect a fee or*
21 *other compensation in connection with the provision*
22 *of counseling services under this section.*

23 “(8) *PRIVACY REQUIREMENTS.*—

24 “(A) *IN GENERAL.*—*Each grantee shall en-*
25 *sure that small business development centers*

1 shall not disclose the name or address of any in-
2 dividual or small business concern receiving as-
3 sistance under this section without the consent of
4 such individual or small business concern, except
5 that—

6 “(i) the Administrator shall require
7 such disclosure if ordered to do so by a
8 court in any civil or criminal action; and

9 “(ii) if the Administrator considers it
10 necessary while undertaking a financial
11 audit of a small business development center
12 or the grantee’s network of small business
13 development centers, the Administrator shall
14 require such disclosure for the sole purpose
15 of undertaking such audit.

16 “(B) REGULATIONS.—After notice and com-
17 ment and not later than 180 days after the date
18 of the enactment of this subparagraph, the Ad-
19 ministrator shall issue regulations to establish
20 standards for requiring disclosures during a fi-
21 nancial audit under subparagraph (A)(ii).

22 “(h) ADDITIONAL GRANTS.—

23 “(1) IN GENERAL.—Any grantee may apply to
24 the Administrator for an additional grant to be used
25 solely to assist—

1 “(A) *with the development and enhancement*
2 *of exports by small business concerns;*

3 “(B) *in technology transfer;*

4 “(C) *with outreach, development, and en-*
5 *hancement of minority-owned small business*
6 *startups or expansions, HUBZone small business*
7 *concerns, veteran-owned small business startups*
8 *or expansions, and women-owned small business*
9 *startups or expansions, in communities affected*
10 *by base closings or military or corporate*
11 *downsizing, or in rural or underserved commu-*
12 *nities; and*

13 “(D) *small manufacturers.*

14 “(2) *CERTAIN RULES TO APPLY.—Except as oth-*
15 *erwise provided in this subsection, any additional*
16 *grant under this subsection shall be subject to rules*
17 *similar to the rules that apply to grants made under*
18 *subsection (a).*

19 “(3) *GRANT AMOUNT.—A grant shall not be*
20 *made under this subsection if such grant which would*
21 *exceed the grantee’s pro rata share of a \$15,000,000*
22 *program based upon the populations to be served by*
23 *the grantee as compared to the total population of the*
24 *United States. The minimum amount of eligibility*
25 *for any State shall be \$100,000. Any additional grant*

1 *made under this section shall not be taken into ac-*
2 *count for purposes of the dollar program limitations*
3 *specified in subsection (j).*

4 “(4) *REALLOCATION OF UNUSED FUNDS.—If the*
5 *Administrator has not received an application for an*
6 *additional grant from a grantee pursuant to this sub-*
7 *section within 90 days after the Administrator and*
8 *the grantee have signed an agreement pursuant to*
9 *subsection (c) or within 60 days after the grantee and*
10 *Administrator has renewed an agreement pursuant to*
11 *subsection (c), the Administrator may make such*
12 *grant to any eligible applicant (determined without*
13 *regard to so much of subsection (b)(4)(C) as precedes*
14 *‘1990,’) in that State to carry out the activities speci-*
15 *fied in this subsection subject to the requirements of*
16 *paragraphs (2) and (3).*

17 “(i) *MATCHING FUNDS.—*

18 “(1) *IN GENERAL.—The Administrator shall re-*
19 *quire as a condition of any grant (or amendment or*
20 *modification thereof) made to a grantee under this*
21 *section, that a matching amount equal to the amount*
22 *of such grant be provided from sources other than the*
23 *Federal Government, to be comprised of not less than*
24 *50 percent cash and not more than 50 percent of in-*
25 *direct costs and in-kind contributions.*

1 “(2) *RESTRICTION.*—*The matching amount de-*
2 *scribed in paragraph (1) shall not include—*

3 “(A) *any indirect costs or in-kind contribu-*
4 *tions derived from any Federal program; and*

5 “(B) *any amount received under a contract*
6 *described in subsection (g)(2).*

7 “(j) *FUNDING FORMULA.*—

8 “(1) *IN GENERAL.*—*Subject to paragraph (3), the*
9 *amount of funds to be made available to the grantee*
10 *or grantees within a State under this subsection shall*
11 *be equal to an amount determined in accordance with*
12 *the following formula:*

13 “(A) *The annual amount made available*
14 *for the Small Business Development Center Pro-*
15 *gram under section 20(a), less any reductions*
16 *made for expenses authorized by paragraph (5),*
17 *shall be divided on a pro rata basis, based on the*
18 *percentage of the population of each State, as*
19 *compared to the population of the United States.*

20 “(B) *If the pro rata amount calculated*
21 *under subparagraph (A) for any State is less*
22 *than the minimum funding level under para-*
23 *graph (3), the Administrator shall determine the*
24 *aggregate amount necessary to achieve that min-*
25 *imum funding level for each such State.*

1 “(C) The aggregate amount calculated
2 under subparagraph (B) shall be deducted from
3 the amount calculated under subparagraph (A)
4 for States eligible to receive more than the min-
5 imum funding level. The deductions shall be
6 made on a pro rata basis, based on the popu-
7 lation of each such State, as compared to the
8 total population of all such States.

9 “(D) The aggregate amount deducted under
10 subparagraph (C) shall be added to the funds of
11 those States that are not eligible to receive more
12 than the minimum funding level in order to
13 achieve the minimum funding level for each such
14 State, except that the eligible amount of funds
15 made available to any State under this sub-
16 section shall not be reduced to an amount below
17 the minimum funding level.

18 “(2) FUNDS AVAILABILITY DETERMINATION.—
19 The amount of funds that one or more grantees with-
20 in a State are eligible to receive under this subsection
21 shall be the amount determined under paragraph (1),
22 subject to any modifications required under para-
23 graph (3), and shall be based on the amount available
24 for the fiscal year in which performance of the grant
25 commences, but not including amounts distributed in

1 *accordance with paragraph (4). The amount of funds*
2 *received by one or more grantees in any State under*
3 *any provision of this subsection shall not exceed the*
4 *amount of matching funds from sources other than the*
5 *Federal Government, as required under subsection (i).*

6 *“(3) MINIMUM FUNDING LEVEL.—The amount of*
7 *the minimum funding level for each State shall be de-*
8 *termined for each fiscal year based on the amount*
9 *made available for that fiscal year to carry out this*
10 *section, as follows:*

11 *“(A) If the amount made available is not*
12 *less than \$81,500,000 and not more than*
13 *\$90,000,000, the minimum funding level shall be*
14 *\$500,000.*

15 *“(B) If the amount made available is less*
16 *than \$81,500,000, the minimum funding level*
17 *shall be the remainder of \$500,000 minus a per-*
18 *centage of \$500,000 equal to the percentage*
19 *amount by which the amount made available is*
20 *less than \$81,500,000.*

21 *“(C) If the amount made available is more*
22 *than \$90,000,000, the minimum funding level*
23 *shall be the sum of \$500,000 plus a percentage*
24 *of \$500,000 equal to the percentage amount by*

1 *which the amount made available exceeds*
2 *\$90,000,000.*

3 “(4) *DISTRIBUTIONS.*—*Subject to paragraph (3),*
4 *if one or more grantees within a State do not apply*
5 *for, or use, their full funding eligibility for a fiscal*
6 *year, the Administration shall distribute the remain-*
7 *ing funds as follows:*

8 “(A) *If the grant to any State is less than*
9 *the amount received by that State in fiscal year*
10 *2000, the Administrator shall distribute such re-*
11 *maining funds, on a pro rata basis, based on the*
12 *percentage of shortage of each such State, as*
13 *compared to the total amount of such remaining*
14 *funds available, to the extent necessary in order*
15 *to increase the amount of the grant to the*
16 *amount received by that State in fiscal year*
17 *2000, or until such funds are exhausted, which-*
18 *ever first occurs.*

19 “(B) *If any funds remain after the applica-*
20 *tion of subparagraph (A), the remaining amount*
21 *may be distributed as supplemental funds to a*
22 *grantee or grantees in any State, as the Admin-*
23 *istrator determines, in its discretion, to be ap-*
24 *propriate, after consultation with the association*
25 *referred to in subsection (k).*

1 “(5) *USE OF AMOUNTS.*—Of the amounts made
2 available in any fiscal year to carry out this section
3 not more than \$500,000 may be used by the Adminis-
4 trator to pay expenses enumerated in subparagraphs
5 (B) through (D) of section 20(a)(1).

6 “(6) *EXCLUSIONS.*—Funds made available to one
7 or more grantees within a State provided by the Ad-
8 ministrator or another Federal agency to carry out
9 subsection (f)(4), (g)(2), (h), or (o) or for supple-
10 mental grants set forth in paragraph (4)(B), shall not
11 be included in the calculation of maximum funding
12 to be made available to one or more grantees within
13 the State under paragraph (2).

14 “(7) *AUTHORIZATION OF APPROPRIATIONS.*—
15 There is authorized to be appropriated to carry out
16 this section \$135,000,000 for fiscal year 2004 and
17 \$145,000,000 for fiscal year 2005. The authority to
18 award grants under this section shall be in effect for
19 each fiscal year only to the extent and in the amounts
20 as are provided in advance in appropriations Acts.

21 “(k) *FORMATION OF ASSOCIATION.*—The grantees’ di-
22 rectors are authorized to form an association to pursue mat-
23 ters of common concern. If more than a majority of the
24 grantees’ directors are members of such an association, the
25 Administrator is authorized and directed to recognize the

1 *existence and activities of such an association and to con-*
2 *sult with it and develop documents—*

3 “(1) *announcing the annual scope of activities*
4 *pursuant to this section;*

5 “(2) *requesting proposals to deliver assistance as*
6 *provided in this section; and*

7 “(3) *governing the general operations and ad-*
8 *ministration of the Small Business Development Cen-*
9 *ter Program, specifically including the development of*
10 *regulations and a uniform negotiated grant agree-*
11 *ment for use on an annual basis when entering into*
12 *agreements with grantees.*

13 “(l) *PROGRAM EXAMINATION AND ACCREDITATION.—*

14 “(1) *EXAMINATION.—The Administrator shall*
15 *develop and implement a biennial programmatic and*
16 *financial examination of each network of small busi-*
17 *ness development centers established pursuant to this*
18 *section. The biennial examination shall be conducted*
19 *by the Assistant Administrator for Small Business*
20 *Development Centers.*

21 “(2) *ACCREDITATION.—The Administrator shall*
22 *provide financial support, by contract or otherwise, to*
23 *the association authorized by subsection (k) for the*
24 *purpose of developing and implementing a small busi-*
25 *ness development center accreditation program.*

1 “(3) *EXTENSION OR RENEWAL OF COOPERATIVE*
2 *AGREEMENTS.—*

3 “(A) *IN GENERAL.—In renewing a grant or*
4 *cooperative agreement or contract of a grantee,*
5 *the Administrator shall consider the results of*
6 *the examination and accreditation program con-*
7 *ducted pursuant to paragraphs (1) and (2).*

8 “(B) *ACCREDITATION REQUIREMENT.—The*
9 *Administrator may not renew any grant under*
10 *this section unless the grantee’s small business*
11 *development centers have been accredited under*
12 *the program conducted pursuant to this sub-*
13 *section, except that the Assistant Administrator*
14 *for Small Business Development Centers may*
15 *waive such accreditation requirement if the As-*
16 *stant Administrator determines that the grant-*
17 *ee is making a good faith effort to obtain accred-*
18 *itation for each of the grantee’s small business*
19 *development centers.*

20 “(m) *SMALL BUSINESS DEVELOPMENT CENTER ADVI-*
21 *SORY BOARDS.—*

22 “(1) *NATIONAL SMALL BUSINESS DEVELOPMENT*
23 *CENTER ADVISORY BOARD.—*

24 “(A) *ESTABLISHMENT.—There is estab-*
25 *lished a National Small Business Development*

1 *Center Advisory Board (herein referred to as*
2 *‘Board’) which shall consist of nine members ap-*
3 *pointed from civilian life by the Administrator*
4 *and who shall be persons of outstanding quali-*
5 *fications known to be familiar and sympathetic*
6 *with small business needs and problems. No more*
7 *than three members shall be from universities or*
8 *their affiliates and six shall be from small busi-*
9 *ness concerns or associations representing small*
10 *business concerns. At the time of the appoint-*
11 *ment of the Board, the Administrator shall des-*
12 *ignate one-third of the members and at least one*
13 *from each category whose term shall end in two*
14 *years from the date of appointment, a second*
15 *third whose term shall end in three years from*
16 *the date of appointment, and the final third*
17 *whose term shall end in four years from the date*
18 *of appointment. Succeeding Boards shall have*
19 *three-year terms, with one-third of the Board*
20 *changing each year.*

21 “(B) OPERATION.—*The Board shall elect a*
22 *Chairman and advise, counsel, and confer with*
23 *the Assistant Administrator for Small Business*
24 *Development Centers in carrying out the duties*
25 *described in this section. The Board shall meet at*

1 *least semiannually and at the call of the Chair-*
2 *man of the Board. Each member of the Board*
3 *shall be entitled to be compensated at the rate*
4 *not in excess of the per diem equivalent of the*
5 *highest rate of pay for individuals occupying the*
6 *position under GS-18 of the General Schedule*
7 *for each day engaged in activities of the Board*
8 *and shall be entitled to be reimbursed for ex-*
9 *penses as a member of the Board.*

10 “(2) *LOCAL SMALL BUSINESS DEVELOPMENT*
11 *CENTER ADVISORY BOARDS.—Each grantee’s director*
12 *shall establish an advisory board for the grantee’s net-*
13 *work of small business development centers. The dis-*
14 *trict director shall have no authority to approve or*
15 *disapprove the members of the advisory board selected*
16 *by the grantee’s director.*

17 “(n) *ADMINISTRATION OF PROGRAM.—*

18 “(1) *IN GENERAL.—Except as otherwise provided*
19 *in this section, the program established by this section*
20 *shall be administered by the Administrator, acting*
21 *through the Assistant Administrator for Small Busi-*
22 *ness Development Centers with such oversight by the*
23 *Associate Administrator for Enterprise Outreach and*
24 *Training as the Administrator determines to be ap-*
25 *propriate.*

1 “(2) *DUTIES OF ASSISTANT ADMINISTRATOR FOR*
2 *SMALL BUSINESS DEVELOPMENT CENTERS.—The du-*
3 *ties of the Assistant Administrator for Small Business*
4 *Development Centers shall include recommending the*
5 *annual program budget, reviewing the annual budgets*
6 *submitted by each grantee, establishing appropriate*
7 *funding levels therefore, advising the Administrator*
8 *on the selection of grantees to participate in the pro-*
9 *gram, implementing the provisions of this section,*
10 *maintaining a clearinghouse to provide for the dis-*
11 *semination and exchange of information between*
12 *grantees and their subcontractors and conducting au-*
13 *ditions of recipients of grantees under this section.*

14 “(3) *CONSULTATION REQUIREMENTS.—In car-*
15 *rying out the duties described in paragraph (2), the*
16 *Assistant Administrator shall confer with and seek*
17 *the advice of the advisory boards established pursuant*
18 *to subsection (m) and the heads of the regional and*
19 *district offices of the Administration.*

20 “(o) *ESTABLISHMENT OF INFORMATION SHARING SYS-*
21 *TEM.—*

22 “(1) *IN GENERAL.—The Administrator, in con-*
23 *sultation with the grantees, their subcontractors, and*
24 *the association authorized by this section shall develop*

1 *and implement an information sharing system. Such*
2 *system shall—*

3 “(A) *allow small business development cen-*
4 *ters to exchange information about their pro-*
5 *grams;*

6 “(B) *provide information central to tech-*
7 *nology transfer; and*

8 “(C) *provide information central to in-*
9 *creased utilization by United States businesses of*
10 *sourcing their procurement requirements with*
11 *small manufacturers.*

12 “(2) *GRANT AUTHORITY.—The Administrator*
13 *may make grants to one or more grantees to carry out*
14 *the provisions of this subsection. Such grants shall be*
15 *awarded for a period of not to exceed 5 years. The*
16 *matching funds requirements of subsection (i) shall*
17 *not be applicable to grants made under this sub-*
18 *section.*

19 “(p) *COOPERATION WITH FEDERAL SCIENCE RE-*
20 *SEARCH FACILITIES AND AGENCIES.—*

21 “(1) *IN GENERAL.—Laboratories operated and*
22 *funded by the Federal Government are authorized and*
23 *directed to cooperate with the Administrator in devel-*
24 *oping and establishing programs to support small*
25 *business development centers by making facilities and*

1 *equipment available; providing experiment station ca-*
2 *pabilities in adaptive engineering; providing library*
3 *and technical information processing capabilities;*
4 *and providing professional staff for consulting. The*
5 *Administrator is authorized to reimburse the labora-*
6 *tories for such services.*

7 “(2) *NATIONAL SCIENCE FOUNDATION.—The Na-*
8 *tional Science Foundation is authorized and directed*
9 *to cooperate with the Administrator in developing*
10 *and establishing programs to support small business*
11 *development centers.*

12 “(3) *NATIONAL AERONAUTICS AND SPACE AD-*
13 *MINISTRATION.—The National Aeronautics and Space*
14 *Administration and regional technology transfer cen-*
15 *ters supported by the National Aeronautics and Space*
16 *Administration are authorized and directed to cooper-*
17 *ate with grantees and their small business develop-*
18 *ment centers.*

19 “(q) *REGULATIONS.—In promulgating regulations to*
20 *carry out this section, the Administration shall identify,*
21 *and require grantee compliance with, the provisions in-*
22 *cluded in uniform requirements of Office of Management*
23 *and Budget (OMB) Circulars which govern audits, cost*
24 *principles and administrative requirements for Federal*
25 *grants, and contracts and cooperative agreements.”.*

1 (b) *CONFORMING AMENDMENT.*—Paragraph (2) of sec-
2 tion 27(g) of the Small Business Act (15 U.S.C. 654(g))
3 is amended by striking “section 21(c)(3)(T)” and inserting
4 “section 21(f)(4)(T)”.

5 (c) *EFFECTIVE DATE.*—

6 (1) *IN GENERAL.*—Except as provided in para-
7 graph (2), the amendments made by this section shall
8 take effect on the date of the enactment of this Act.

9 (2) *GRANTS.*—To the extent that the amendment
10 made by subsection (a) applies with respect to grants,
11 such amendment shall apply to grants made, renewed,
12 or terminated after the date of the enactment of this
13 Act.

14 (d) *TRANSITION RULES.*—

15 (1) *MULTIPLE GRANTEES REPLACED WITH SIN-*
16 *GLE GRANTEE.*—In the case of a State which is served
17 by two or more grantees under section 21 of the Small
18 Business Act on the date of the enactment of this Act,
19 the Administrator shall be required to select a new
20 grantee for such State following the selection process
21 set forth in such section (as in effect on the day after
22 the date of the enactment of this Act) if the grantees
23 serving such State on the date of the enactment of this
24 Act were selected after January 1, 2002.

1 (2) *SMALL BUSINESS DEVELOPMENT CENTER AD-*
2 *VISORY BOARDS.*—*Each member of the National*
3 *Small Business Development Center Advisory Board*
4 *and each member serving on a local small business*
5 *development center advisory board on the day before*
6 *the date of the enactment of this Act shall continue*
7 *to so serve until the end of such member’s term.*

8 **SEC. 213. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF**
9 **INTERNATIONAL TRADE.**

10 *Section 22 of the Small Business Act (15 U.S.C. 649)*
11 *is amended by adding at the end the following new sub-*
12 *section:*

13 *“(h) In carrying out this section, the Administrator*
14 *shall ensure that the number of full-time equivalent employ-*
15 *ees of the Office assigned to the one-stop shops referred to*
16 *in section 2301(b) of the Omnibus Trade and Competitive-*
17 *ness Act of 1988 (15 U.S.C. 4721(b)) is not less than the*
18 *number of such employees so assigned on January 1,*
19 *2003.”.*

20 **SEC. 214. SUPERVISORY AND ENFORCEMENT AUTHORITY**
21 **FOR SMALL BUSINESS LENDING COMPANIES.**

22 *Section 23 of the Small Business Act (15 U.S.C. 650)*
23 *is amended to read as follows:*

1 **“SEC. 23. SUPERVISORY AND ENFORCEMENT AUTHORITY**
2 **FOR SMALL BUSINESS LENDING COMPANIES.**

3 *“(a) IN GENERAL.—The Administrator is author-*
4 *ized—*

5 *“(1) to supervise the safety and soundness of*
6 *small business lending companies and non-Federally*
7 *regulated lenders;*

8 *“(2) with respect to small business lending com-*
9 *panies to set capital standards to regulate, to exam-*
10 *ine, and to enforce laws governing such companies, in*
11 *accordance with the purposes of this Act; and*

12 *“(3) with respect to non-Federally regulated*
13 *lenders to regulate, to examine, and to enforce laws*
14 *governing the lending activities of such lenders under*
15 *section 7(a) in accordance with the purposes of this*
16 *Act.*

17 *“(b) CAPITAL DIRECTIVE.—The Administrator may*
18 *determine that failure of a small business lending company*
19 *to maintain capital at the minimum level established by*
20 *the Administrator is an unsafe and unsound practice. In*
21 *addition to any other action authorized by law, the Admin-*
22 *istrator may issue a directive to a small business lending*
23 *company that does not comply with the minimum capital*
24 *requirement requiring the small business lending company*
25 *to increase capital to level established by the Administrator.*

1 “(c) *CIVIL ACTION.*—*If a small business lending com-*
2 *pany violates this Act, the Administrator may institute a*
3 *civil action in an appropriate district court to terminate*
4 *the rights, privileges, and franchises of the company under*
5 *this Act.*

6 “(d) *REVOCATION OR SUSPENSION OF LOAN AUTHOR-*
7 *ITY.*—

8 “(1) *The Administrator may revoke or suspend*
9 *the authority of a small business lending company or*
10 *a non-Federally regulated lender to make, service or*
11 *liquidate business loans authorized by section 7(a) of*
12 *this Act—*

13 “(A) *for false statements knowingly made in*
14 *any written submission required under this Act;*

15 “(B) *for omission of a material fact from*
16 *any written submission required under this Act;*

17 “(C) *for willful or repeated violation of this*
18 *Act;*

19 “(D) *for willful or repeated violation of any*
20 *condition imposed by the Administrator with re-*
21 *spect to any application, request, or agreement*
22 *under this Act; or*

23 “(E) *for violation of any cease and desist*
24 *order of the Administrator under this section.*

1 “(2) *The Administrator may revoke or suspend*
2 *authority under paragraph (1) only after a hearing*
3 *under subsection (f). The Administrator may delegate*
4 *power to revoke or suspend authority under para-*
5 *graph (1) only to the Deputy Administrator and only*
6 *if the Administrator is unavailable to take such ac-*
7 *tion.*

8 “(A) *The Administrator, after finding ex-*
9 *traordinary circumstances and in order to pro-*
10 *tect the financial or legal position of the United*
11 *States, may issue a suspension order without*
12 *conducting a hearing pursuant to subsection (f).*
13 *If the Administrator issues a suspension under*
14 *the preceding sentence, the Administrator shall*
15 *within two business days follow the procedures*
16 *set forth in subsection (f).*

17 “(B) *Any suspension under paragraph (1)*
18 *shall remain in effect until the Administrator*
19 *makes a decision pursuant to subparagraph (4)*
20 *to permanently revoke the authority of the small*
21 *business lending company or non-Federally regu-*
22 *lated lender, suspend the authority for a time*
23 *certain, or terminate the suspension.*

24 “(3) *The small business lending company or*
25 *non-Federally regulated lender must notify borrowers*

1 of a revocation and that a new entity has been ap-
2 pointed to service their loans. The Administrator or
3 an employee of the Administration designated by the
4 Administrator may provide such notice to the bor-
5 rower.

6 “(4) Any revocation or suspension under para-
7 graph (1) shall be made by the Administrator except
8 that the Administrator shall delegate to an adminis-
9 trative law judge as that term is used in section 3105
10 of title 5, United States Code the authority to conduct
11 any hearing required under subsection (f). The Ad-
12 ministrator shall base the decision to revoke on the
13 record of the hearing.

14 “(e) CEASE AND DESIST ORDER.—

15 “(1) Where a small business lending company, a
16 non-Federally regulated lender, or other person vio-
17 lates this Act or is engaging or is about to engage in
18 any acts or practices which constitute or will con-
19 stitute a violation of this Act, the Administrator may
20 order, after the opportunity for hearing pursuant to
21 subsection (f), the company, lender, or other person to
22 cease and desist from such action or failure to act.
23 The Administrator may delegate the authority under
24 the preceding sentence only to the Deputy Adminis-

1 *trator and only if the Administrator is unavailable to*
2 *take such action.*

3 *“(2) The Administrator, after finding extraor-*
4 *dinary circumstances and in order to protect the fi-*
5 *nancial or legal position of the United States, may*
6 *issue a cease and desist order without conducting a*
7 *hearing pursuant to subsection (f). If the Adminis-*
8 *trator issues a cease and desist order under the pre-*
9 *ceding sentence, the Administrator shall within two*
10 *business days follow the procedures set forth in sub-*
11 *section (f).*

12 *“(3) The Administrator may further order such*
13 *small business lending company or non-Federally reg-*
14 *ulated lender or other person to take such action or*
15 *to refrain from such action as the Administrator*
16 *deems necessary to insure compliance with this Act.*

17 *“(4) A cease and desist order under this sub-*
18 *section may also provide for the suspension of author-*
19 *ity to lend in subsection (d).*

20 *“(f) PROCEDURE FOR REVOCATION OR SUSPENSION OF*
21 *LOAN AUTHORITY AND FOR CEASE AND DESIST ORDER.—*

22 *“(1) Before revoking or suspending authority*
23 *under subsection (d) or issuing a cease and desist*
24 *order under subsection (e), the Administrator shall*
25 *serve an order to show cause upon the small business*

1 *lending company, non-Federally regulated lender, or*
2 *other person why an order revoking or suspending the*
3 *authority or a cease and desist order should not be*
4 *issued. The order to show cause shall contain a state-*
5 *ment of the matters of fact and law asserted by the*
6 *Administrator and the legal authority and jurisdic-*
7 *tion under which a hearing is to be held, and shall*
8 *set forth that a hearing will be held before an admin-*
9 *istrative law judge at a time and place stated in the*
10 *order. Such hearing shall be conducted pursuant to*
11 *the provisions of sections 554, 556, and 557 of title*
12 *5, United States Code. If after hearing, or a waiver*
13 *thereof, the Administrator determines that an order*
14 *revoking or suspending the authority or a cease and*
15 *desist order should be issued, the Administrator shall*
16 *promptly issue such order, which shall include a*
17 *statement of the findings of the Administrator and the*
18 *grounds and reasons therefor and specify the effective*
19 *date of the order, and shall cause the order to be*
20 *served on the small business lending company, non-*
21 *Federally regulated lender, or other person involved.*

22 *“(2) Witnesses summoned before the Adminis-*
23 *trator shall be paid by the party at whose instance*
24 *they were called the same fees and mileage that are*
25 *paid witnesses in the courts of the United States.*

1 “(3) A cease and desist order, suspension or rev-
2 ocation issued by the Administrator, after the hearing
3 under this subsection is final agency action for pur-
4 poses of chapter 7 of title 5, United States Code. An
5 adversely aggrieved party shall have 20 days from the
6 date of issuance of the cease and desist order, suspen-
7 sion or revocation, to seek judicial review in an ap-
8 propriate district court.

9 “(g) *REMOVAL OR SUSPENSION OF MANAGEMENT OF-*
10 *FICIAL.—*

11 “(1) *DEFINITION.—*In this section, the term
12 ‘management official’ means, with respect to a small
13 business lending company or a non-Federally regu-
14 lated lender, an officer, director, general partner,
15 manager, employee, agent, or other participant in the
16 management of the affairs of the company’s or lend-
17 er’s activities under section 7(a) of this Act.

18 “(2) *REMOVAL OF MANAGEMENT OFFICIAL.—*

19 “(A) *NOTICE.—*The Administrator may
20 serve upon any management official a written
21 notice of its intention to remove that manage-
22 ment official if, in the opinion of the Adminis-
23 trator, the management official—

24 “(i) willfully and knowingly commits
25 a substantial violation of—

1 “(I) *this Act;*

2 “(II) *any regulation issued under*
3 *this Act;*

4 “(III) *a final cease-and-desist*
5 *order under this Act; or*

6 “(IV) *any agreement by the man-*
7 *agement official, the small business*
8 *lending company or non-Federally reg-*
9 *ulated lender under this Act; or*

10 “(i) *willfully and knowingly commits*
11 *a substantial breach of a fiduciary duty of*
12 *that person as a management official and*
13 *the violation or breach of fiduciary duty is*
14 *one involving personal dishonesty on the*
15 *part of such management official.*

16 “(B) *CONTENTS OF NOTICE.—A notice*
17 *under subparagraph (A) shall contain a state-*
18 *ment of the facts constituting grounds therefor*
19 *and shall fix a time and place at which a hear-*
20 *ing, conducted pursuant to sections 554, 556,*
21 *and 557 of title 5, United States Code, will be*
22 *held thereon.*

23 “(C) *HEARING.—*

24 “(i) *TIMING.—A hearing under sub-*
25 *paragraph (B) shall be held not earlier than*

1 30 days and later than 60 days after the
2 date of service of notice of the hearing, un-
3 less an earlier or a later date is set by the
4 Administrator at the request of—

5 “(I) the management official, and
6 for good cause shown; or

7 “(II) the Attorney General.

8 “(ii) CONSENT.—Unless the manage-
9 ment official appears at a hearing under
10 this paragraph in person or by a duly au-
11 thorized representative, the management of-
12 ficial shall be deemed to have consented to
13 the issuance of an order of removal under
14 subparagraph (A).

15 “(D) ORDER OF REMOVAL.—

16 “(i) IN GENERAL.—In the event of con-
17 sent under subparagraph (C)(ii), or if upon
18 the record made at a hearing under this
19 subsection, the Administrator finds that any
20 of the grounds specified in the notice of re-
21 moval has been established, the Adminis-
22 trator may issue such orders of removal
23 from office as the Administrator deems ap-
24 propriate.

1 “(ii) *EFFECTIVENESS.*—An order
2 under clause (i) shall—

3 “(I) take effect 30 days after the
4 date of service upon the subject small
5 business lending company or non-Fed-
6 erally regulated lender and the man-
7 agement official concerned (except in
8 the case of an order issued upon con-
9 sent as described in subparagraph
10 (C)(ii), which shall become effective at
11 the time specified in such order); and

12 “(II) remain effective and enforce-
13 able, except to such extent as it is
14 stayed, modified, terminated, or set
15 aside by action of the Administrator or
16 a reviewing court in accordance with
17 this section.

18 “(3) *AUTHORITY TO SUSPEND OR PROHIBIT PAR-*
19 *TICIPATION.*—

20 “(A) *IN GENERAL.*—In order to protect a
21 small business lending company, a non-Federally
22 regulated lender or the interests of the Adminis-
23 tration or the United States, the Administrator
24 may suspend from office or prohibit from further
25 participation in any manner in the management

1 *or conduct of the affairs of a small business lend-*
2 *ing company or a non-Federally regulated lender*
3 *a management official by written notice to such*
4 *effect served upon the management official. Such*
5 *suspension or prohibition may prohibit the man-*
6 *agement official from making, servicing, review-*
7 *ing, approving, or liquidating any loan under*
8 *section 7(a) of this Act.—*

9 “(B) *EFFECTIVENESS.—A suspension or*
10 *prohibition under subparagraph (A)—*

11 *“(i) shall take effect upon service of no-*
12 *tice under paragraph (2); and*

13 *“(ii) unless stayed by a court in pro-*
14 *ceedings authorized by subparagraph (C),*
15 *shall remain in effect—*

16 *“(I) pending the completion of the*
17 *administrative proceedings pursuant to*
18 *a notice of intention to remove served*
19 *under paragraph (2); and*

20 *“(II) until such time as the Ad-*
21 *ministrator dismisses the charges speci-*
22 *fied in the notice, or, if an order of re-*
23 *moval or prohibition is issued against*
24 *the management official, until the ef-*
25 *fective date of any such order.*

1 “(C) *JUDICIAL REVIEW OF SUSPENSION*
2 *PRIOR TO HEARING.*—Not later than 10 days
3 after a management official is suspended or pro-
4 hibited from participation under subparagraph
5 (A), the management official may apply to an
6 appropriate district court for a stay of the sus-
7 pension or prohibition pending the completion of
8 the administrative proceedings pursuant to a no-
9 tice of intent to remove served upon the manage-
10 ment official under paragraph (2).

11 “(4) *AUTHORITY TO SUSPEND ON CRIMINAL*
12 *CHARGES.*—

13 “(A) *IN GENERAL.*—If a management offi-
14 cial is charged in any information, indictment,
15 or complaint authorized by a United States at-
16 torney, with a felony involving dishonesty or
17 breach of trust, the Administrator may, by writ-
18 ten notice served upon the management official,
19 suspend the management official from office or
20 prohibit the management official from further
21 participation in any manner in the management
22 or conduct of the affairs of the small business
23 lending company or non-Federally regulated
24 lender.

1 “(B) *EFFECTIVENESS.*—A suspension or
2 prohibition under subparagraph (A) shall re-
3 main in effect until the information, indictment,
4 or complaint is finally disposed of, or until ter-
5 minated by the Administrator or upon an order
6 of a district court.

7 “(C) *AUTHORITY UPON CONVICTION.*—If a
8 judgment of conviction with respect to an offense
9 described in subparagraph (A) is entered against
10 a management official, then at such time as the
11 judgment is not subject to further judicial review
12 (and for purposes of this subparagraph shall not
13 include any petition for a writ of habeas cor-
14 pus), the Administrator may issue and serve
15 upon the management official an order removing
16 the management official, effective upon service of
17 a copy of the order upon the small business lend-
18 ing company or non-Federally regulated lender.

19 “(D) *AUTHORITY UPON DISMISSAL OR*
20 *OTHER DISPOSITION.*—A finding of not guilty or
21 other disposition of charges described in subpara-
22 graph (A) shall not preclude the Administrator
23 from instituting proceedings under subsection (e)
24 or (f).

1 “(5) *NOTIFICATION TO SMALL BUSINESS LEND-*
2 *ING COMPANY OR A NON-FEDERALLY REGULATED*
3 *LENDER.—Copies of each notice required to be served*
4 *on a management official under this section shall also*
5 *be served upon the small business lending company or*
6 *non-Federally regulated lender involved.*

7 “(6) *FINAL AGENCY ACTION AND JUDICIAL RE-*
8 *VIEW.—*

9 “(A) *ISSUANCE OF ORDERS.—After a hear-*
10 *ing under this subsection, and not later than 30*
11 *days after the Administrator notifies the parties*
12 *that the case has been submitted for final deci-*
13 *sion, the Administrator shall render a decision*
14 *in the matter (which shall include findings of*
15 *fact upon which its decision is predicated), and*
16 *shall issue and cause to be served upon each*
17 *party to the proceeding an order or orders con-*
18 *sistent with this section. The decision of the Ad-*
19 *ministrator shall constitute final agency action*
20 *for purposes of chapter 7 of title 5, United States*
21 *Code.*

22 “(B) *JUDICIAL REVIEW.—An adversely ag-*
23 *grieved party shall have 20 days from the date*
24 *of issuance of the order to seek judicial review in*
25 *an appropriate district court.*

1 “(h) *APPOINTMENT OF RECEIVER.*—

2 “(1) *In any proceeding under subsection (f)(4) or*
3 *subsection (g)(6)(C), the court may take exclusive ju-*
4 *isdiction of a small business lending company or a*
5 *non-Federally regulated lender and appoint a receiver*
6 *for assets of the company or lender.*

7 “(2) *Upon request of the Administrator, the*
8 *court may appoint the Administrator as a receiver*
9 *under paragraph (1).*

10 “(i) *POSSESSION OF ASSETS.*—

11 “(1) *If a small business lending company or a*
12 *non-Federally regulated lender is not in compliance*
13 *with capital requirements or is insolvent, the Admin-*
14 *istrator may take possession of the portfolio of loans*
15 *guaranteed by the Administrator and sell such loans*
16 *to a third party by means of a receiver appointed*
17 *under subsection (h).*

18 “(2) *If a small business lending company or a*
19 *non-Federally regulated lender is not in compliance*
20 *with capital requirements or is insolvent or otherwise*
21 *operating in an unsafe and unsound condition, the*
22 *Administrator may take possession of servicing ac-*
23 *tivities of loans that are guaranteed by the Adminis-*
24 *trator and sell such servicing rights to a third party*

1 *by means of a receiver appointed under subsection*
2 *(h).*

3 “(j) *PENALTIES AND FORFEITURES.*—

4 *“(1) Except as provided in paragraph (2), a*
5 *small business lending company or a non-Federally*
6 *regulated lender which violates any regulation or*
7 *written directive issued by the Administrator regard-*
8 *ing the filing of any regular or special report shall*
9 *pay to the United States a civil penalty of not more*
10 *than \$100 for each day of the continuance of the fail-*
11 *ure to file such report, unless it is shown that such*
12 *failure is due to reasonable cause and not due to will-*
13 *ful neglect. The civil penalties under this subsection*
14 *may be enforced in a civil action brought by the Ad-*
15 *ministrator. The penalties under this subsection shall*
16 *not apply to any affiliate of a small business lending*
17 *company that procures at least 10 percent of its an-*
18 *nuual purchasing requirements from small manufac-*
19 *turers.*

20 *“(2) The Administration may by rules and regu-*
21 *lations that shall be codified in the Code of Federal*
22 *Regulations, after an opportunity for notice and com-*
23 *ment, or upon application of an interested party, at*
24 *any time previous to such failure, by order, after no-*
25 *tice and opportunity for hearing which shall be con-*

1 *ducted pursuant to sections 554, 556, and 557 of title*
2 *5, United States Code, exempt in whole or in part,*
3 *any small business lending company or non-Federally*
4 *regulated lender from paragraph (1), upon such terms*
5 *and conditions and for such period of time as it*
6 *deems necessary and appropriate, if the Administra-*
7 *tion finds that such action is not inconsistent with*
8 *the public interest or the protection of the Adminis-*
9 *tration. The Administration may for the purposes of*
10 *this section make any alternative requirements appro-*
11 *priate to the situation.”.*

12 **SEC. 215. REAUTHORIZATION OF PAUL D. COVERDELL**
13 **DRUG-FREE WORKPLACE PROGRAM.**

14 *Paragraph (1) of section 27(g) of the Small Business*
15 *Act (15 U.S.C. 654(g)) is amended by striking “\$5,000,000*
16 *for each of fiscal years 2001 through 2003” and inserting*
17 *“\$2,000,000 for each of fiscal years 2003 through 2005”.*

18 **SEC. 216. WOMEN’S BUSINESS CENTER PROGRAM.**

19 *Section 29 of the Small Business Act (15 U.S.C. 656)*
20 *is amended to read as follows:*

21 **“SEC. 29. WOMEN’S BUSINESS CENTER PROGRAM.**

22 *“(a) DEFINITIONS.—For purposes of this section:*

23 *“(1) The term ‘private nonprofit organization’*
24 *means an entity that is described in section 501(c) of*

1 *the Internal Revenue Code of 1986 and exempt from*
2 *taxation under section 501(a) of such Code.*

3 “(2) *The term ‘women’s business center site’*
4 *means the location of—*

5 “(A) *a women’s business center; or*

6 “(B) *1 or more women’s business centers, es-*
7 *tablished in conjunction with another women’s*
8 *business center in another location within a*
9 *State or region—*

10 “(i) *that reach a distinct population*
11 *that would otherwise not be served;*

12 “(ii) *whose services are targeted to*
13 *women; and*

14 “(iii) *whose scope, function, and ac-*
15 *tivities are similar to those of the primary*
16 *women’s business center or centers in con-*
17 *junction with which it was established.*

18 “(b) *AUTHORITY.—The Administrator may provide fi-*
19 *nancial assistance to private nonprofit organizations to*
20 *conduct projects which will receive Federal funding for 5*
21 *years and those that receive extensions for funding under*
22 *the conditions set forth in this section for the benefit of*
23 *small business concerns owned and controlled by women.*
24 *The projects shall provide—*

1 “(1) *financial assistance, including training and*
2 *counseling in how to apply for and secure business*
3 *credit and investment capital, preparing and pre-*
4 *senting financial statements, and managing cash flow*
5 *and other financial operations of a business concern;*

6 “(2) *management assistance, including training*
7 *and counseling in how to plan, organize, staff, direct,*
8 *and control each major activity and function of a*
9 *small business concern; and*

10 “(3) *marketing assistance, including training*
11 *and counseling in identifying and segmenting domes-*
12 *tic and international market opportunities, preparing*
13 *and executing marketing plans, developing pricing*
14 *strategies, locating contract opportunities, negotiating*
15 *contracts, and utilizing varying public relations and*
16 *advertising techniques.*

17 “(c) *SUBMISSION OF 5-YEAR PLANS.—*

18 “(1) *In response to solicitations made by the Ad-*
19 *ministrator requesting applications for grants to op-*
20 *erate women’s business centers, each applicant orga-*
21 *nization initially shall submit a 5-year plan to the*
22 *Administrator detailing the budget required to pro-*
23 *vide the services set forth in subsection (b), the serv-*
24 *ices that will be provided, the target population, and*

1 *the proposed fundraising activities to meet the non-*
2 *Federal contributions mandated by this section.*

3 “(2)(A) *Notwithstanding any other provision of*
4 *law, the Administrator may use such expedited meth-*
5 *ods of solicitation and award as the Administrator*
6 *determines to be appropriate to carry out this section.*

7 “(B) *Any expedited procedures utilized by the*
8 *Administrator shall ensure that all small business*
9 *sources are provided a reasonable opportunity to sub-*
10 *mit applications.*

11 “(d) *CRITERIA.—The Administrator shall evaluate*
12 *and rank applicants in accordance with predetermined se-*
13 *lection criteria that shall be stated in terms of relative im-*
14 *portance. Such criteria and their relative importance shall*
15 *be made publicly available and stated in each solicitation*
16 *for applications made by the Administrator. The criteria*
17 *shall include—*

18 “(1) *the experience of the applicant in con-*
19 *ducting programs or ongoing efforts designed to im-*
20 *part or upgrade the business skills of women business*
21 *owners or potential owners;*

22 “(2) *the present ability of the applicant to com-*
23 *mence a project within a minimum amount of time;*

24 “(3) *the ability of the applicant to provide train-*
25 *ing and services to a representative number of women*

1 *who are both socially and economically disadvan-*
2 *tagged; and*

3 “(4) *the location for the women’s business center*
4 *site proposed by the applicant.*

5 “(e) *SELECTION OF GRANTEES.—Assuming other*
6 *ranking factors to be equal, the Administrator shall make*
7 *selection of grantees in the following order of preference:*

8 “(1) *The Administrator shall select from the ap-*
9 *plications those that demonstrate the greatest ability*
10 *to serve women who are socially and economically*
11 *disadvantaged whether located in standard metropoli-*
12 *tan statistical areas or rural areas and without re-*
13 *gard to the location of an existing center.*

14 “(2) *If, in the opinion of the Administrator, 2*
15 *or more applicants have the same rank with respect*
16 *to service of socially and economically disadvantaged*
17 *women, the Administrator shall prefer the applicant*
18 *that proposes to serve part of a State in a State that*
19 *was served by a higher number of women’s business*
20 *centers at any time in the last 5 years than the num-*
21 *ber of such centers that serve such State at the time*
22 *of selection.*

23 “(3) *If no application has been received under*
24 *which an award can be made pursuant to paragraph*
25 *(2), the Administrator then shall select an applicant*

1 *that proposes to serve a standard metropolitan statis-*
2 *tical area that was served by a higher number of*
3 *women’s business centers at any time in the last 5*
4 *years than the number of such centers that serve such*
5 *area at the time of selection.*

6 “(f) *ADMINISTRATOR FUNDING OF GRANTEES.—The*
7 *Administrator, except as otherwise provided by subsection*
8 *(m), shall provide funding according to the following for-*
9 *mula:*

10 “(1) *During the first and second years of oper-*
11 *ation, two dollars in Federal funds for each dollar in*
12 *matching funds as required by subsection (g).*

13 “(2) *During the third, fourth, and fifth years,*
14 *one dollar in Federal funds for each dollar in match-*
15 *ing funds as required by subsection (g).*

16 “(3) *The grant agreement shall provide for the*
17 *mechanism of disbursement of Federal funds by the*
18 *Administrator including payment in lump sum or*
19 *installments, in advance, or by way of reimburse-*
20 *ment. The Administrator may disburse up to 25 per-*
21 *cent of each year’s Federal share to a grantee before*
22 *the non-Federal sector matching funds are obtained.*

23 “(4) *If a grantee fails to obtain the required*
24 *non-Federal contribution at any time during the life*
25 *of the grant, such grantee shall not be eligible there-*

1 *after for advance disbursements pursuant to para-*
2 *graph (3) during the remainder of the term of the*
3 *grant, or for any other women’s business center which*
4 *it operates or for which it has applied to establish.*

5 *“(5) Prior to approving assistance to a grantee*
6 *for any other projects, the Administrator shall specifi-*
7 *cally determine whether the Administrator believes*
8 *that the grantee will be able to obtain the requisite*
9 *non-Federal funding and enter a written finding set-*
10 *ting forth the reasons for making such determination.*

11 *“(6) The authority of the Administrator to pro-*
12 *vide funding pursuant to this section shall only be in*
13 *effect for each fiscal year and only to the extent and*
14 *in amounts as are provided for in advance of appro-*
15 *priations Acts.*

16 *“(g) MATCHING FUNDS.—*

17 *“(1) Except as provided by subsection (n), each*
18 *grantee, shall be required to obtain matching con-*
19 *tributions according to the formula set forth in sub-*
20 *section (f).*

21 *“(2) No more than one-half of such contributions*
22 *may be in the form of in-kind contributions that are*
23 *budget line items only, including office equipment*
24 *and office space.*

1 “(3) *The restriction in paragraph (2) shall*
2 *apply to all grantees under this section.*

3 “(h) *CONTRACT AUTHORITY.—A women’s business*
4 *center may enter into a contract with a Federal department*
5 *or agency to provide specific assistance to women and other*
6 *underserved small business concerns. Performance of such*
7 *contract should not hinder the women’s business centers in*
8 *carrying out the terms of the grant received by the women’s*
9 *business centers from the Administrator.*

10 “(i) *ANNUAL PROGRAM EXAMINATION.—*

11 “(1) *The Administrator shall—*

12 “(A) *develop and implement an annual*
13 *programmatic and financial examination of*
14 *each women’s business center established pursu-*
15 *ant to this section, pursuant to which each such*
16 *center shall provide to the Administrator—*

17 “(i) *an itemized cost breakdown of ac-*
18 *tual expenditures for costs incurred during*
19 *the preceding year;*

20 “(ii) *documentation regarding the*
21 *amount of matching assistance from non-*
22 *Federal sources obtained and expended by*
23 *the center during the preceding year in*
24 *order to meet the requirements of subsection*
25 *(g) and, with respect to any in-kind con-*

1 *tributions described in that subsection that*
2 *were used to satisfy the matching require-*
3 *ments, verification of the existence and*
4 *valuation of those contributions; and*

5 *“(iii) a review of the grantee’s success*
6 *in fundraising plan and whether that needs*
7 *revision to ensure that the grantee can sus-*
8 *tain operations after five years; and*

9 *“(B) analyze the results of each such exam-*
10 *ination and, based on that analysis, make a de-*
11 *termination regarding the programmatic and fi-*
12 *nancial viability of each women’s business cen-*
13 *ter.*

14 *“(2) In conducting such annual examination, the*
15 *Administrator shall limit the total number of site vis-*
16 *its to a particular women’s business center to no more*
17 *than 2 per year, unless the Administrator determines*
18 *that extraordinary circumstances, as defined in regu-*
19 *lations promulgated by the Administrator, requires*
20 *more than 2 such visits.*

21 *“(j) RENEWAL OF FUNDING AND TERMINATION.—*

22 *“(1) On an annual basis, commencing with the*
23 *end of the grantee’s second year of operation of a*
24 *women’s business center, the Administrator, based on*
25 *the program review made pursuant to subsection (i),*

1 *shall determine whether to continue funding the*
2 *grantee according to the formula set forth in sub-*
3 *section (f). In determining whether to renew funding*
4 *during any year of the life of the project operated by*
5 *the grantee, the Administrator—*

6 *“(A) shall consider the results of each an-*
7 *nuual examination of the center under subsection*
8 *(i); and*

9 *“(B) may withhold funding for the fol-*
10 *lowing year or years, if the Administrator deter-*
11 *mines that—*

12 *“(i) the grantee has failed to provide*
13 *for any women’s business center which it*
14 *operates any information required to by the*
15 *Administrator to perform the annual pro-*
16 *gram examination required under sub-*
17 *section (i), or the information is deemed to*
18 *be inadequate to conduct the annual exam-*
19 *ination under subsection (i);*

20 *“(ii) the center has failed to provide*
21 *any information required to be provided by*
22 *the center for purposes of the report of the*
23 *Administrator under subsection (l), or the*
24 *information provided by the center is inad-*
25 *equately; or*

1 “(iii) the Administrator determines,
2 pursuant to regulations adopted by the Ad-
3 ministrators and codified in the Code of Fed-
4 eral Regulations, that the grantee has failed
5 to deliver the services required by subsection
6 (b) taking into account current economic
7 conditions and the target population served
8 by the grantee.

9 “(2) The Administrator shall not require, as a
10 condition of initial or continued funding, and a
11 grant agreement shall not include a requirement that
12 a women’s business center operated by the grantee
13 serve a particular number of women with respect to
14 loans under section 7 of this Act or title V of the
15 Small Business Investment Act of 1958.

16 “(3) The Administrator shall not fund a grantee
17 for the operation of a women’s business center that
18 has been in operation for 5 years unless it applies for
19 and receives an extension of Federal funding pursu-
20 ant to subsection (m) or the grantee reapplies as a
21 new applicant pursuant to subsection (c) and the Ad-
22 ministrators selects the grantee pursuant to subsections
23 (d) and (e).

24 “(4) If the Administrator makes a determination
25 pursuant to subparagraph (1)(B)(iii), prior to the

1 *withholding of any funds, the Administrator shall*
2 *provide the grantee with a written notification of the*
3 *reasons and shall provide the grantee with the oppor-*
4 *tunity for a hearing pursuant to sections 554, 556,*
5 *and 557 of title 5, United States Code.*

6 “(5) *The Administrator shall make a final deci-*
7 *sion based on the record of the hearing and such deci-*
8 *sion shall be made within 60 days of the notification*
9 *provided in paragraph (4).*

10 “(k) *MANAGEMENT REPORT.—*

11 “(1) *The Administrator shall prepare and sub-*
12 *mit to the Committee on Small Business of the House*
13 *of Representatives and the Committee on Small Busi-*
14 *ness and Entrepreneurship of the Senate a report on*
15 *the effectiveness of all projects, including those oper-*
16 *ated pursuant to extensions of Federal funding, con-*
17 *ducted under this section.*

18 “(2) *Each report submitted under paragraph (1)*
19 *shall include information concerning, with respect to*
20 *each women’s business center established pursuant to*
21 *this section—*

22 “(A) *the number of individuals receiving*
23 *assistance;*

24 “(B) *the number of startup business con-*
25 *cerns formed;*

1 “(C) the gross receipts of assisted concerns;

2 “(D) the employment increases or decreases
3 of assisted concerns;

4 “(E) to the maximum extent practicable,
5 increases or decreases in profits of assisted con-
6 cerns;

7 “(F) the number of hours of counseling and
8 training provided and workshops conducted; and

9 “(G) the most recent analysis, as required
10 under subsection (i)(1)(B), and the subsequent
11 determination made by the Administrator under
12 that subsection.

13 “(l) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) There is authorized to be appropriated—

15 “(A) \$ 16,000,000 for fiscal year 2004; and

16 “(B) \$ 17,500,000 for fiscal year 2005.

17 “(2)(A) Except as provided in subparagraph
18 (B), amounts made available under this subsection for
19 each fiscal year, may only be used for grant awards
20 and may not be used for costs incurred by the Admin-
21 istrator in connection with the management and ad-
22 ministration of the program under this section.

23 “(B) Of the amount made available under this
24 subsection for a fiscal year, 1.75 percent shall be

1 *available for costs associated with selection, moni-*
2 *toring, and oversight.*

3 “(3)(A) *Subject to subparagraph (B), 30.2 per-*
4 *cent of the funds authorized pursuant to this sub-*
5 *section shall be reserved to provide extensions of Fed-*
6 *eral funding to grantees that meet the standards set*
7 *forth in subsection (m).*

8 “(B) *If the Administrator does not distribute all*
9 *funds reserved for extensions of Federal funding pur-*
10 *suant to subsection (m), the Administrator shall uti-*
11 *lize the unawarded funds to grantees according to the*
12 *priorities set forth in paragraphs (1), (2), and (3) of*
13 *subsection (e).*

14 “(m) *EXTENSIONS OF FEDERAL FUNDING AFTER FIVE*
15 *YEARS.—*

16 “(1) *The Administrator is authorized to extend*
17 *Federal funding to any grantee for 5 years after the*
18 *term of the original grant ends.*

19 “(2) *In order to receive an extension of Federal*
20 *funding, the grantee shall submit an application in*
21 *the fourth year of its operation of a women’s business*
22 *center and has met all of the criteria set by the Ad-*
23 *ministrator for continued funding in its fifth year.*

24 “(n) *SELECTION OF GRANTEEES FOR EXTENSIONS OF*
25 *FEDERAL FUNDING.—*

1 “(1) *The Administrator shall review each appli-*
2 *cation submitted under paragraph (2) and select*
3 *grantees for extensions of Federal funding who have—*

4 “(A) *a demonstrated record of serving pre-*
5 *dominantly socially and economically disadvan-*
6 *taged women; and*

7 “(B) *are unable to meet their matching*
8 *fund requirements due to their target popu-*
9 *lations.*

10 “(2) *If the Administrator does not receive any*
11 *applications that meet the standards of subparagraph*
12 *(A), the Administrator shall select grantees under this*
13 *subsection according to the following preferences:*

14 “(A) *Those that meet the matching require-*
15 *ments in subsection (f)(2).*

16 “(B) *If there are no applicants that meet*
17 *that standard in subparagraph (A) then based*
18 *on criteria developed by the Administrator to*
19 *rank applicants for extensions of Federal fund-*
20 *ing.*

21 “(3) *The Administrator shall maintain a copy of*
22 *each application submitted under this subsection for*
23 *not less than 10 years.*

24 “(4) *In awarding an extension of Federal fund-*
25 *ing, the Administrator may condition such award on*

1 *the grantee obtaining a match requirement at least*
2 *equal to 2 non-Federal dollars for each dollar of Fed-*
3 *eral funding except that grantees meeting the stand-*
4 *ards of paragraph (1)(A) shall only be required to*
5 *match each Federal dollar with a non-Federal dol-*
6 *lar.”.*

7 **SEC. 217. HUBZONE PROGRAM.**

8 *Section 31 of the Small Business Act (15 U.S.C. 657a)*
9 *is amended to read as follows:*

10 **“SEC. 31. HUBZONE PROGRAM.**

11 *“(a) IN GENERAL.—There is established within the*
12 *Administration a program to be carried out by the Admin-*
13 *istrator to provide for Federal contracting assistance to*
14 *qualified HUBZone small business concerns in accordance*
15 *with this section.*

16 *“(b) ELIGIBLE CONTRACTS.—*

17 *“(1) AUTHORITY OF CONTRACTING OFFICER.—*

18 *“(A) A contracting officer may award sole*
19 *source contracts under this section to any quali-*
20 *fied HUBZone small business concern, if—*

21 *“(i) the qualified HUBZone small*
22 *business concern is determined to be a re-*
23 *sponsible contractor with respect to per-*
24 *formance of such contract opportunity, and*
25 *the contracting officer does not have a rea-*

1 *sonable expectation that 2 or more qualified*
2 *HUBZone small business concerns will sub-*
3 *mit offers for the contracting opportunity;*

4 *“(ii) the anticipated award price of the*
5 *contract (including options) will not ex-*
6 *ceed—*

7 *“(I) \$5,000,000, in the case of a*
8 *contract opportunity assigned a stand-*
9 *ard industrial classification code for*
10 *manufacturing; or*

11 *“(II) \$3,000,000, in the case of all*
12 *other contract opportunities; and*

13 *“(iii) in the estimation of the con-*
14 *tracting officer, the contract award can be*
15 *made at a fair and reasonable price.*

16 *“(B) A contract opportunity may be award-*
17 *ed pursuant to this section on the basis of com-*
18 *petition restricted to qualified HUBZone small*
19 *business concerns if the contracting officer has a*
20 *reasonable expectation that not less than 2 quali-*
21 *fied HUBZone small business concerns will sub-*
22 *mit offers and that the award can be made at a*
23 *fair market price.*

24 *“(2) PRICE EVALUATION PREFERENCE IN FULL*

25 *AND OPEN COMPETITIONS.—*

1 “(A) *IN GENERAL.*—*In any case in which a*
2 *contract is to be awarded on the basis of full and*
3 *open competition, the price offered by a qualified*
4 *HUBZone small business concern shall be*
5 *deemed as being lower than the price offered by*
6 *another offeror (other than another small busi-*
7 *ness concern), if the price offered by the qualified*
8 *HUBZone small business concern is not more*
9 *than 10 percent higher than the price offered by*
10 *the otherwise lowest, responsive, and responsible*
11 *offeror.*

12 “(B) *FULL AND OPEN COMPETITION.*—*For*
13 *purposes of this paragraph, the term ‘full and*
14 *open competition’ has the meaning given that*
15 *term in section 4 of the Office of Federal Pro-*
16 *curement Policy Act (41 U.S.C. 403).*

17 “(3) *RELATIONSHIP TO OTHER CONTRACTING*
18 *PREFERENCES.*—*A procurement may not be made*
19 *from a source on the basis of a preference provided in*
20 *paragraph (1) or (2), if the procurement would other-*
21 *wise be made from a different source under section*
22 *4124 or 4125 of title 18, United States Code, or the*
23 *Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.).*

24 “(c) *ENFORCEMENT; PENALTIES.*—

1 “(1) *VERIFICATION OF ELIGIBILITY.*—*In carrying out this section, the Administrator shall establish procedures relating to—*

2
3
4 “(A) *the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under section 3(p)(5); and*

5
6
7
8
9
10 “(B) *verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under section 3(p)(5).*

11
12
13 “(2) *EXAMINATIONS.*—*The procedures established under paragraph (1) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under section 3(p)(5).*

14
15
16
17 “(3) *PROVISION OF DATA.*—*Upon the request of the Administrator, the Secretary of Labor, the Secretary of Housing and Urban Development, and the*

1 *Secretary of the Interior (or the Assistant Secretary*
2 *for Indian Affairs), shall promptly provide to the Ad-*
3 *ministrator such information as the Administrator*
4 *determines to be necessary to carry out this sub-*
5 *section.*

6 *“(4) PENALTIES.—In addition to the penalties*
7 *described in section 16(d), any small business concern*
8 *that is determined by the Administrator to have mis-*
9 *represented the status of that concern as a ‘HUBZone*
10 *small business concern’ for purposes of this section,*
11 *shall be subject to—*

12 *“(A) section 1001 of title 18, United States*
13 *Code; and*

14 *“(B) sections 3729 through 3733 of title 31,*
15 *United States Code.*

16 *“(d) LIST OF QUALIFIED SMALL BUSINESS CON-*
17 *CERNS.—The Administrator shall establish and maintain*
18 *a list of qualified HUBZone small business concerns, which*
19 *list shall, to the extent practicable—*

20 *“(1) once the Administrator has made the certifi-*
21 *cation required by subsection 3(p)(5)(A)(i) of this Act*
22 *regarding a qualified HUBZone small business con-*
23 *cern and has determined that subsection 3(p)(5)(B)*
24 *does not apply to that concern, include the name, ad-*

1 *dress, and type of business with respect to each such*
2 *small business concern;*

3 “(2) *be updated by the Administrator not less*
4 *than annually; and*

5 “(3) *be provided upon request to any Federal*
6 *agency or other entity.*

7 “(e) *AUTHORIZATION OF APPROPRIATIONS.—There is*
8 *authorized to be appropriated to carry out the program es-*
9 *tablished by this section \$5,000,000 for each of fiscal years*
10 *2004 through 2005.”.*

11 **SEC. 218. OTHER REPEALS AND REORGANIZATIONS.**

12 (a) *SEVERABILITY CLAUSE MOVED TO END OF SMALL*
13 *BUSINESS ACT.—Section 36 of the Small Business Act is*
14 *amended to read as follows:*

15 **“SEC. 36. SEVERABILITY.**

16 *“If any provision of this Act, or the application thereof*
17 *to any person or circumstances, is held invalid, the remain-*
18 *der of this Act, and the application of such provision to*
19 *other persons or circumstances, shall not be affected there-*
20 *by.”.*

21 (b) *REPEALS.—*

22 (1) *Section 19 of the Small Business Act (15*
23 *U.S.C. 631 note) is amended to read as follows:*

1 **“SEC. 19. [RESERVED].”.**

2 (2) *Section 24 of the Small Business Act (15*
3 *U.S.C. 651) is amended to read as follows:*

4 **“SEC. 24. [RESERVED].”.**

5 (3) *Section 25 of the Small Business Act (15*
6 *U.S.C. 652) is amended to read as follows:*

7 **“SEC. 25. [RESERVED].”.**

8 (4) *Section 26 of the Small Business Act (15*
9 *U.S.C. 653) is amended to read as follows:*

10 **“SEC. 26. [RESERVED].”.**

11 (5) *Section 28 of the Small Business Act (15*
12 *U.S.C. 655) is amended to read as follows:*

13 **“SEC. 28. [RESERVED].”.**

14 **SEC. 219. RULES OF CONSTRUCTION.**

15 (a) *REFERENCES.*—*A reference to a provision of law*
16 *replaced by this title, including a reference in a regulation,*
17 *rule, order, or other law, is deemed to refer to the cor-*
18 *responding provision enacted by this Act.*

19 (b) *CONTINUING EFFECT.*—*Unless otherwise provided*
20 *in this Act or in an amendment made by this Act, any*
21 *regulation, rule, or order in effect under a provision of law*
22 *replaced by this title shall continue in effect under the cor-*
23 *responding provision enacted by this title until repealed,*
24 *amended, or superseded.*

25 (c) *INFERENCES OF REPEAL.*—*The repeal of a provi-*
26 *sion of law by this title shall not be construed as a legisla-*

1 *tive inference that the provision was or was not in effect*
2 *before its repeal.*

3 **TITLE III—OTHER PROVISIONS**

4 **SEC. 301. REPORT REGARDING NATIONAL DATABASE OF** 5 **SMALL MANUFACTURERS.**

6 *(a) STUDY AND REPORT.—The Administrator, in con-*
7 *sultation with the association of small business development*
8 *centers authorized by section 21(k) of the Small Business*
9 *Act, shall—*

10 *(1) study the feasibility of creating a national*
11 *database of small manufacturers that institutions of*
12 *higher education could access for purposes of meeting*
13 *procurement needs; and*

14 *(2) not later than one year after the date of the*
15 *enactment of this Act, transmit a report to the Con-*
16 *gress regarding the findings and conclusions of such*
17 *study.*

18 *(b) COST ESTIMATE.—The report referred to in sub-*
19 *section (a)(2) shall include an estimate of the cost of cre-*
20 *ating and maintaining the database described in subsection*
21 *(a).*

22 **SEC. 302. WORKFORCE TRANSFORMATION PLAN.**

23 *(a) REORGANIZATION.—The Administrator shall, to*
24 *the extent permitted by law, reorganize the structure of the*
25 *Administration and reassign employees in order to—*

1 (1) *increase outreach to small business concerns;*

2 (2) *improve coordination with Federal con-*
3 *tracting officers in an effort to increase prime con-*
4 *tract awards to small business concerns;*

5 (3) *enable small business concerns to obtain bet-*
6 *ter access to capital;*

7 (4) *expand assistance provided to small manu-*
8 *facturers; and*

9 (5) *meet goals in this section and the Small*
10 *Business Act for procurement center representatives*
11 *and commercial market representatives.*

12 (b) *REQUIRED COST SAVINGS.—In carrying out sub-*
13 *section (a), the Administrator shall achieve a 1 percent sav-*
14 *ings in the overall cost of operating the agency.*

15 (c) *INCREASED NUMBER OF PROCUREMENT CENTER*
16 *REPRESENTATIVES AND COMMERCIAL MARKETING REP-*
17 *RESENTATIVES.—In carrying out subsection (a), the Ad-*
18 *ministrator shall ensure—*

19 (1) *that the following number of procurement*
20 *center representatives are employed by the Adminis-*
21 *tration:*

22 (A) *75 by September 30, 2004; and*

23 (B) *100 by September 30, 2005; and*

1 (2) *that the following number of commercial*
2 *marketing representatives are employed by the Ad-*
3 *ministration:*

4 (A) *25 by September 30, 2004; and*

5 (B) *50 by September 30, 2005.*

6 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
7 *authorized to be appropriated such sums as may be nec-*
8 *essary to carry out this section.*

9 (e) *REPORT TO CONGRESS.—Not later than 1 year*
10 *after the date of the enactment of this Act, the Adminis-*
11 *trator shall transmit a report to the Congress describing*
12 *the steps taken by the Administrator to carry out this sec-*
13 *tion. Such report shall contain—*

14 (1) *a detailed analysis of how the transformation*
15 *has—*

16 (A) *increased contact with small business*
17 *concerns;*

18 (B) *expanded dollar financings to small*
19 *business concerns;*

20 (C) *increased the total number of prime and*
21 *subcontracting dollars awarded to small business*
22 *concerns, including increases in each contracting*
23 *program established pursuant to sections 8 and*
24 *15 of this Act; and*

1 (D) increased assistance provided to small
2 manufacturers; and

3 (2) the Administrator's assessment of further ac-
4 tions needed to transform the workforce to meet the
5 objectives described in paragraph (1).

6 **SEC. 303. REPEAL OF CERTAIN PROVISIONS OF THE DIS-**
7 **ASTER RELIEF ACT OF 1970.**

8 (a) *IN GENERAL.*—Section 237 of the Disaster Relief
9 Act of 1970 (15 U.S.C. 636d) is hereby repealed.

10 (b) *NO EFFECT ON OUTSTANDING LOANS.*—The repeal
11 made by this section shall not affect any loan made before
12 the date of the enactment of this Act.

13 **SEC. 304. REGULATIONS ON SIZE STANDARDS OF**
14 **FRANCHISEES.**

15 (a) *PROMULGATION.*—Not later than 180 days after
16 the date of the enactment of this Act, the Administrator
17 shall repeal section 121.103(g) of title 13, Code of Federal
18 Regulations (as in effect on the date of the enactment of
19 this Act) and promulgate a new regulation, after oppor-
20 tunity for notice and comment, taking into account whether
21 the franchisee or licensee—

22 (1) retains the majority of its profits but not less
23 than 51 percent;

24 (2) bears the burdens of its losses;

1 (3) *shares no common ownership or management*
2 *personnel with the franchisor or licensor;*

3 (4) *maintains daily control of its operations in-*
4 *cluding determining who its customers will be; and*

5 (5) *is subject to excessive restrictions on the sale*
6 *of its business given the interest of the franchisor or*
7 *licensor in protecting the goodwill of its trademarks,*
8 *tradenames, or service marks.*

9 (b) *FAILURE TO PROMULGATE NEW STANDARD.—If*
10 *the Administrator fails to comply with subsection (a), any*
11 *franchisee or licensee shall be treated as small for purposes*
12 *of the Small Business Act until the Administrator has*
13 *issued a final regulation as required under subsection (a).*

14 **SEC. 305. TEMPORARY SMALL BUSINESS DEVELOPMENT**

15 **CENTER ASSISTANCE TO INDIAN TRIBE MEM-**
16 **BERS, NATIVE ALASKANS, AND NATIVE HA-**
17 **WAIANS.**

18 (a) *IN GENERAL.—The Administrator of the Small*
19 *Business Administration may award a grant under this*
20 *section to any grantee under section 21 of the Small Busi-*
21 *ness Act. A grant under this section shall be used solely*
22 *to provide services described in section 21(f)(4) of the Small*
23 *Business Act to assist with outreach, development, and en-*
24 *hancement on Indian lands of small business startups and*

1 *expansions owned by Indian tribe members, Native Alas-*
2 *kans, and Native Hawaiians.*

3 (b) *LIMITATION.*—*A grant shall not be made to a*
4 *grantee under this section unless the area served by such*
5 *grantee has a combined population of Indian tribe mem-*
6 *bers, Natives Alaskans, and Native Hawaiians that com-*
7 *prises at least 1 percent of the area’s total population, as*
8 *shown by the latest available census.*

9 (c) *GRANT APPLICATIONS.*—*An applicant for a grant*
10 *under this section shall submit to the Administrator an ap-*
11 *plication that is in such form as the Administrator may*
12 *require. The application shall include information regard-*
13 *ing the applicant’s goals and objectives for the services to*
14 *be provided using the grant, including—*

15 (1) *the capability of the applicant to provide*
16 *training and services to Indian tribe members, Native*
17 *Alaskans, and Native Hawaiians;*

18 (2) *the locations of the small business develop-*
19 *ment centers that would provide the assistance de-*
20 *scribed in subsection (a);*

21 (3) *the required amount of grant funding needed*
22 *by the applicant to implement the program; and*

23 (4) *the extent to which the applicant has con-*
24 *sulted with local tribal councils.*

1 (d) *APPLICABILITY OF GRANT REQUIREMENTS.*—An
2 applicant for a grant under this section shall comply with
3 all of the requirements applicable to a grantee under section
4 21 of the Small Business Act, except that the matching
5 funds requirements of subsection (i) of such section shall
6 not apply.

7 (e) *MAXIMUM AMOUNT OF GRANTS.*—A grantee shall
8 not receive more than \$300,000 in grants under this section
9 in a fiscal year.

10 (f) *ADVICE OF LOCAL TRIBAL COUNSELS.*—A grantee
11 under this section shall request the advice of local tribal
12 councils regarding how best to provide assistance to Indian
13 tribe members, Native Alaskans, and Native Hawaiians
14 and where to locate centers to provide such assistance.

15 (g) *REGULATIONS.*—After providing notice and an op-
16 portunity for comment and after consulting with the asso-
17 ciation recognized by the Administrator under section 21(k)
18 of the Small Business Act (but not later than 180 days after
19 the date of the enactment of this Act), the Administrator
20 shall issue final regulations to carry out this section, in-
21 cluding regulations that establish—

22 (1) standards relating to educational, technical,
23 and support services to be provided by grantees under
24 this section; and

1 (2) *standards relating to any work plan that the*
2 *Administrator may require a grantee under this sec-*
3 *tion to develop.*

4 *(h) DEFINITIONS.—For purposes of this section:*

5 (1) *INDIAN LANDS.—The term “Indian lands”*
6 *has the meaning given the term “Indian country” in*
7 *section 1151 of title 18, United States Code, the*
8 *meaning given the term “Indian reservation” in sec-*
9 *tion 151.2 of title 25, Code of Federal Regulations (as*
10 *in effect on the date of the enactment of this Act), and*
11 *the meaning given the term “reservation” in section*
12 *4 of the Indian Child Welfare Act of 1978 (25 U.S.C.*
13 *1903).*

14 (2) *INDIAN TRIBE.—The term “Indian tribe” has*
15 *the meaning given such term in section 4(e) of the In-*
16 *Indian Self-Determination and Education Assistance*
17 *Act.*

18 (3) *INDIAN TRIBE MEMBER.—The term “Indian*
19 *tribe member” means a member of an Indian tribe*
20 *(other than a Native Alaskan).*

21 (4) *NATIVE ALASKAN.—The term “Native Alas-*
22 *kan” has the meaning given the term “Native” in sec-*
23 *tion 3(b) of the Alaska Native Claims Settlement Act*
24 *(43 U.S.C. 1602(b)).*

1 (5) *NATIVE HAWAIIAN.*—*The term “Native Ha-*
 2 *waiian” means any individual who is a descendant*
 3 *of the aboriginal people who, prior to 1778, occupied*
 4 *and exercised sovereignty in the area that now con-*
 5 *stitutes the State of Hawaii.*

6 (i) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
 7 *authorized to be appropriated to carry out this section*
 8 *\$7,000,000 for each of fiscal years 2004 through 2006.*

9 (j) *NONAPPLICABILITY OF CERTAIN LIMITATIONS.*—
 10 *Funding under this section shall not be taken into account*
 11 *under subsections (h), (i), and (j) of section 21 of the Small*
 12 *Business Act.*

13 (k) *LIMITATION ON USE OF FUNDS.*—*The Adminis-*
 14 *trator may carry out this section only with amounts appro-*
 15 *priated specifically to carry out this section.*

16 (l) *EVALUATION OF PROGRAM.*—*Not later than March*
 17 *31, 2006, the Administrator shall transmit to the Congress*
 18 *a report containing an evaluation of the grant program*
 19 *carried out under this section.*

20 **SEC. 306. TEMPORARY SMALL BUSINESS DEVELOPMENT**
 21 **CENTER ASSISTANCE FOR VOCATIONAL AND**
 22 **TECHNICAL ENTREPRENEURSHIP DEVELOP-**
 23 **MENT.**

24 (a) *IN GENERAL.*—*The Administrator may award a*
 25 *grant under this section to any grantee under section 21*

1 *of the Small Business Act. A grant under this section shall*
2 *be used solely to provide, on a statewide basis, technical*
3 *assistance to secondary schools, or to postsecondary voca-*
4 *tional or technical schools, for the development and imple-*
5 *mentation of curricula designed to promote vocational and*
6 *technical entrepreneurship.*

7 **(b) MINIMUM GRANT.**—*The Administrator shall not*
8 *make a grant under this section in an amount less than*
9 *\$200,000.*

10 **(c) APPLICATION.**—*Each applicant for a grant under*
11 *this section shall submit to the Administrator an applica-*
12 *tion in such form as the Administrator may require. The*
13 *application shall include information regarding the appli-*
14 *cant's goals and objectives for the educational programs to*
15 *be assisted.*

16 **(d) REPORT TO ADMINISTRATOR.**—*The Administrator*
17 *shall make a condition of each grant under the program*
18 *that not later than 18 months after the receipt of the grant*
19 *the grantee shall transmit to the Administrator a report*
20 *describing how the grant funds were used.*

21 **(e) COOPERATIVE AGREEMENTS AND CONTRACTS.**—
22 *The Administrator may enter into a cooperative agreement*
23 *or contract with any grantee under this section to provide*
24 *additional assistance that furthers the purposes of this sec-*
25 *tion.*

1 (f) *APPLICABILITY OF GRANT REQUIREMENTS.*—An
2 applicant for a grant under this section shall comply with
3 all of the requirements applicable to a grantee under section
4 21 of the Small Business Act, except that the matching
5 funds requirements of subsection (i) of such section shall
6 not apply.

7 (g) *EVALUATION OF PROGRAM.*—Not later than March
8 31, 2006, the Administrator shall transmit to the Congress
9 a report containing an evaluation of the grant program
10 carried out under this section.

11 (h) *CLEARINGHOUSE.*—The association recognized by
12 the Administrator under section 21(k) of the Small Business
13 Act shall act as a clearinghouse of information and exper-
14 tise regarding vocational and technical entrepreneurship
15 education programs. In each fiscal year in which grants
16 are made under the program, the Administrator shall pro-
17 vide additional assistance to such association to carry out
18 the functions described in this subsection.

19 (i) *AUTHORIZATION OF APPROPRIATIONS.*—There are
20 authorized to be appropriated to carry out this section
21 \$7,000,000 for each of fiscal years 2004, 2005, and 2006.

22 (j) *NONAPPLICABILITY OF CERTAIN LIMITATIONS.*—
23 Funding under this section shall not be taken into account
24 under subsections (h), (i), and (j) of section 21 of the Small
25 Business Act.

1 (k) *LIMITATION ON USE OF FUNDS.*—*The Adminis-*
2 *trator may carry out this section only with amounts appro-*
3 *priated specifically to carry out this section.*

4 **SEC. 307. VERY SMALL BUSINESS CONCERN CONTRACT**
5 **DATA COLLECTION.**

6 *The Administrator and the Administrator of General*
7 *Services, acting jointly, shall create, within the data collec-*
8 *tion capabilities of the Federal Procurement Data System,*
9 *a data element that identifies contract awards to very small*
10 *business concerns, under section 15(t) of the Small Business*
11 *Act. In carrying out the preceding sentence, the Adminis-*
12 *trators shall ensure that the data element is in use by all*
13 *Federal entities with respect to such awards not later than*
14 *90 days after the date of the enactment of this Act.*

15 **SEC. 308. VERY SMALL BUSINESS CONCERN PILOT PRO-**
16 **GRAM FOR COMPETITION AWARD TO HOME-**
17 **BASED BUSINESS.**

18 (a) *IN GENERAL.*—*The Administrator shall establish*
19 *a pilot program that ensures that at least one award to*
20 *a very small business concern resulting from competition*
21 *under section 15(t)(2)(C) of the Small Business Act is made*
22 *to a home-based business.*

23 (b) *DEFINITION.*—*As used in this section, the term*
24 *“home-based business” means a small business, the head-*

1 *quarters, main office, and records of which are located at*
2 *the primary residence of the majority owner.*

3 (c) *TERM OF PILOT PROGRAM.*—*The pilot program*
4 *shall begin not later than 90 days after the date of the en-*
5 *actment of this Act and shall end on September 30, 2007.*

6 **SEC. 309. SOCIALLY AND ECONOMICALLY DISADVANTAGED**
7 **BUSINESS.**

8 *Section 7102(c) of the Federal Acquisition Stream-*
9 *lining Act of 1994 (Public Law 103–355; 15 U.S.C. 644*
10 *note) is amended by striking “September 30, 2003” and in-*
11 *serting “September 30, 2005”.*

12 **SEC. 310. STUDY AND REPORT ON EFFECTIVENESS OF AG-**
13 **GREGATE LIMITATIONS ON AMOUNT OF AS-**
14 **SISTANCE TO ANY SINGLE ENTERPRISE.**

15 (a) *STUDY.*—*The Administrator shall conduct a study*
16 *of whether the aggregate amount limitation under section*
17 *306(a) of the Small Business Investment Act of 1958 (15*
18 *U.S.C. 686(a)) is an impediment to investment in small*
19 *manufacturers. In conducting the study, the Administrator*
20 *shall consult licensees and small manufacturers.*

21 (b) *REPORT.*—*Not later than one year after the date*
22 *of the enactment of this Act, the Administrator shall report*
23 *the results of the study to the Committee on Small Business*
24 *of the House of Representatives and the Committee on*
25 *Small Business and Entrepreneurship of the Senate.*

1 **SEC. 311. STUDY AND REPORT ON COORDINATION OF NEW**
2 **MARKETS VENTURE CAPITAL PROGRAM WITH**
3 **NEW MARKETS TAX CREDIT PROGRAM.**

4 (a) *IN GENERAL.*—*The Administrator shall conduct a*
5 *study to identify an approach to better coordinate the ad-*
6 *ministration of the New Markets Venture Capital Program*
7 *under part B of title III of the Small Business Investment*
8 *Act of 1958 (15 U.S.C. 689 et seq.) with the New Markets*
9 *Tax Credit under section 45D of the Internal Revenue Code*
10 *of 1986.*

11 (b) *REPORT.*—*Not later than 90 days after the date*
12 *of the enactment of this Act, the Administrator shall report*
13 *the results of the study to the Committee on Small Business*
14 *of the House of Representatives and the Committee on*
15 *Small Business and Entrepreneurship of the Senate.*

16 **SEC. 312. STUDY AND REPORT ON PREMIER CERTIFIED**
17 **LENDERS PROGRAM.**

18 (a) *IN GENERAL.*—*The Administrator shall enter into*
19 *a contract with a Federal agency experienced in community*
20 *development lending and financial regulation or with a*
21 *member of the Federal Financial Institutions Examina-*
22 *tions Council to conduct a study and prepare a report re-*
23 *garding—*

24 (1) *the extent to which statutory requirements*
25 *have caused overcapitalization in the loss reserves*
26 *maintained by certified development companies par-*

1 *ticipating in the Premier Certified Lenders Program*
2 *under section 508 of the Small Business Investment*
3 *Act of 1958 (15 U.S.C. 697e); and*

4 *(2) alternatives for establishing and maintaining*
5 *loss reserves that are sufficient to protect the Govern-*
6 *ment from the risk of loss associated with loans guar-*
7 *anteed under that Program.*

8 *(b) TRANSMISSION OF REPORT.—Not later than 180*
9 *days after the date of the enactment of this Act, the Admin-*
10 *istrator shall transmit the report to the Committee on Small*
11 *Business of the House of Representatives and the Committee*
12 *on Small Business and Entrepreneurship of the Senate.*

13 *(c) LIMITATION.—The amount of the contract under*
14 *subsection (a) shall not exceed \$75,000.*

15 **SEC. 313. DATA COLLECTION CAPABILITIES.**

16 *The Administrator shall work with the Administrator*
17 *of General Services to establish within the data collection*
18 *capabilities of the Federal Procurement Data System a*
19 *data element capable of identifying contract awards made*
20 *as a result of section 7102(c) of the Federal Acquisition*
21 *Streamlining Act of 1994 (Public Law 103–355; 15 U.S.C.*
22 *644 note). Such data element shall be established and popu-*
23 *lated by Federal agencies awarding contracts as a result*
24 *of section 7102(c) of the Federal Acquisition Streamlining*

1 *Act of 1994 (Public Law 103–355; 15 U.S.C. 644 note)*
2 *within 90 days of the date of the enactment of this Act.*

3 **SEC. 314. RESUBMISSION OF DISASTER LOAN APPLICA-**
4 **TIONS FOR BUSINESSES AFFECTED BY SEP-**
5 **TEMBER 11, 2001, TERRORIST ATTACKS.**

6 (a) *RESUBMISSION OF APPLICATIONS.*—*Until 90 days*
7 *after the date of the enactment of this Act, a small business*
8 *concern may resubmit an application for a loan under sec-*
9 *tion 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2))*
10 *may be resubmitted if the following conditions are met:*

11 (1) *ORIGINAL APPLICATION.*—*The small business*
12 *concern submitted the original application in re-*
13 *sponse to an injury due, in whole or in part, to the*
14 *terrorist attacks of September 11, 2001 in New York,*
15 *New York or Arlington, Virginia.*

16 (2) *LOCATION.*—*On September 11, 2001, and on*
17 *the date of the resubmission, a facility of the small*
18 *business concern is located in any of the following:*

19 (A) *Bronx, Kings, Nassau, New York,*
20 *Queens, Richmond, or Westchester county in New*
21 *York.*

22 (B) *Bergen, Hudson, Middlesex, or Union*
23 *county in New Jersey.*

24 (C) *Arlington or Fairfax county or the city*
25 *of Alexandria in Virginia.*

1 (D) *The District of Columbia.*

2 (E) *Montgomery county in Maryland.*

3 (3) *INABILITY TO OPERATE.—Without regard to*
4 *physical damage to a facility, the applicant was un-*
5 *able to operate at a facility referred to in paragraph*
6 *(2) because of—*

7 (A) *use of the facility, in whole or in part,*
8 *for any purpose, by or on behalf of, Federal,*
9 *State, or local authorities for more than 20 days,*
10 *beginning on or after September 11, 2001; or*

11 (B) *prohibition of use of the facility, in*
12 *whole or in part, by an order of a Federal agen-*
13 *cy for more than 20 days, beginning on or after*
14 *September 11, 2001.*

15 (b) *STANDARDS FOR APPROVAL.—The Administrator*
16 *shall approve a loan with respect to an application resub-*
17 *mitted under subsection (a), if the applicant has a ratio*
18 *of net operating income to debt service of not less than 1.15.*
19 *In calculating the ratio, the Administrator shall exclude*
20 *any Federal or State tax lien or obligation.*

21 (c) *SPECIAL RULE.—The Administrator shall resolve*
22 *any reasonable doubt of likelihood of repayment of an ap-*
23 *plication resubmitted under subsection (a) in favor of the*
24 *applicant.*

1 **SEC. 315. NATIONAL SMALL BUSINESS INCUBATOR PRO-**
2 **GRAM.**

3 (a) *PURPOSE.*—*It is the purpose of the National Small*
4 *Business Incubator Program to:*

5 (1) *Promote economic development and the cre-*
6 *ation of wealth and job opportunity in low-income ge-*
7 *ographic areas and parts of the country with declin-*
8 *ing manufacturing bases and among individuals liv-*
9 *ing in such areas through business incubation centers.*

10 (2) *Develop a business incubation program with*
11 *the mission of providing focused assistance to aid in*
12 *the development of small businesses.*

13 (3) *Make grants to economic development organi-*
14 *zations and other entities for the purpose of providing*
15 *business incubation services to small businesses.*

16 (4) *Revitalize and reuse industrial sites for eco-*
17 *nomie growth.*

18 (b) *GRANT PROGRAM.*—

19 (1) *IN GENERAL.*—*In accordance with the re-*
20 *quirements of this subsection, the Administrator may*
21 *make a 5-year grant to each of 10 eligible organiza-*
22 *tions to establish and operate a small business incu-*
23 *bator program.*

24 (2) *APPLICATIONS.*—*To be eligible to receive a*
25 *grant under this subsection, an eligible organization*
26 *shall submit an application to the Administrator at*

1 *such time and in such form and manner as the Ad-*
2 *ministrator may require. Each such application shall*
3 *include the grantee's plan for establishing and oper-*
4 *ating a small business incubator program.*

5 (3) *SELECTION OF GRANTEES.—In selecting the*
6 *10 grantees under this subsection, the Administrator*
7 *shall evaluate and rank applicants in accordance*
8 *with predetermined selection criteria that will be stat-*
9 *ed in terms of relevant importance of such criteria.*
10 *The relative importance of the criteria shall be made*
11 *publicly available and stated in each solicitation for*
12 *applicants made by the Administrator. The criteria*
13 *shall include the following:*

14 (A) *The experience of the applicant in con-*
15 *ducting business development.*

16 (B) *The experience of the applicant in tech-*
17 *nology and manufacturing.*

18 (C) *The extent to which the incubator will*
19 *assist in the development of low-income, women,*
20 *or minority business, or the revitalization of de-*
21 *pressed manufacturing areas.*

22 (D) *The extent to which the proposed site is*
23 *in an area of high unemployment and will result*
24 *in the reuse of a previously used industrial site.*

1 (E) *The extent to which the applicant has*
2 *a management team in place with experience in*
3 *running a business incubator or relevant busi-*
4 *ness development experience.*

5 (F) *The extent to which the applicant's plan*
6 *will result in the economic development of low-*
7 *income communities or high-unemployment*
8 *areas.*

9 (G) *The ability of the applicant to success-*
10 *fully establish and operate a small business incu-*
11 *bator program.*

12 (H) *The ability of the applicant to enter*
13 *into cooperative agreements with lending institu-*
14 *tions to provide a streamlined process for busi-*
15 *ness concerns utilizing the small business incu-*
16 *bator program to obtain financial assistance, in-*
17 *cluding loans under subsection (c).*

18 (I) *The ability of the applicant to provide*
19 *the services of licensed professionals.*

20 (J) *The extent to which the applicant's plan*
21 *for establishing and operating a small business*
22 *incubator program will do the following:*

23 (i) *Enhance small business develop-*
24 *ment.*

1 (ii) *Meet the needs and goals of the*
2 *community in which the incubator is to be*
3 *located.*

4 (iii) *Serve as a catalyst for further de-*
5 *velopment.*

6 (iv) *Involve the rehabilitation of a*
7 *warehouse, factory, or building which has*
8 *fallen into disrepair.*

9 (v) *Assist in redeveloping a disadvan-*
10 *tagged area.*

11 (vi) *Target minority and women entre-*
12 *preneurs.*

13 (vii) *Focus on the development of man-*
14 *ufacturing and technology.*

15 (viii) *Retain or create jobs.*

16 (ix) *Include assistance regarding mar-*
17 *keting, financial management, human re-*
18 *sources development, and access to capital*
19 *(both debt and equity).*

20 (4) *GRANT REQUIREMENTS.—Each grantee shall*
21 *use the grant funds to establish a small business incu-*
22 *bator program, which shall make the following assist-*
23 *ance available (on a shared or unshared basis, as the*
24 *grantee may determine) to businesses participating in*
25 *such program:*

1 (A) *Office space.*

2 (B) *Office equipment, including computers,*
3 *facsimile machines, photocopiers, access to tele-*
4 *communications services (including broadband*
5 *services), and manufacturing equipment.*

6 (C) *Administrative and technical staff.*

7 (D) *Training in the areas of marketing, fi-*
8 *nancial management, human resources, and con-*
9 *tracting.*

10 (E) *Assistance in obtaining loans, including*
11 *loans under subsection (c).*

12 (F) *Assistance in locating investors and*
13 *networking with local business organizations.*

14 (G) *Individualized reviews of marketing, fi-*
15 *nancial, and business plans, which shall occur*
16 *monthly for such period as the Administrator*
17 *may determine and quarterly thereafter.*

18 (H) *Legal, accounting, and marketing serv-*
19 *ices.*

20 (I) *Mentoring program with established,*
21 *successful, large businesses to last the duration of*
22 *the business' stay in the incubator.*

23 (5) *ADDITIONAL ASSISTANCE.—A grantee may*
24 *use grant funds to provide child care services to par-*

1 *ticipating business and any other assistance which is*
2 *approved by the Administrator.*

3 (6) *ADDITIONAL PROGRAM REQUIREMENTS.—*

4 (A) *PARTICIPATING BUSINESSES.—Each*
5 *grantee shall select the businesses which will par-*
6 *ticipate in the grantee's small business incuba-*
7 *tion program. The grantee shall select businesses*
8 *which are not yet well established but which have*
9 *the potential to be self-sustaining. Each grantee*
10 *shall require participating businesses to partici-*
11 *pate in the training described in paragraph*
12 *(4)(D), to submit marketing, financial, and busi-*
13 *ness plans and to participate in the review of*
14 *such plans described in paragraph (4)(G).*

15 (B) *COOPERATIVE AGREEMENTS WITH*
16 *LENDERS.—Each grantee shall enter into a coop-*
17 *erative agreement with one or more lenders to*
18 *provide a streamlined process by which partici-*
19 *pating businesses may obtain loans, including*
20 *loans under subsection (c).*

21 (C) *FEEES.—Each grantee may charge par-*
22 *ticipating businesses a fee for the assistance pro-*
23 *vided to such business by the grantee. The*
24 *amount of such fee shall be determined under a*
25 *sliding scale based on the financial success of the*

1 *participating business. The grantee may not*
2 *charge a participating business a fee for the first*
3 *2 years of such businesses participation in the*
4 *incubator.*

5 (7) *NON-FEDERAL MATCHING FUNDS.—The Ad-*
6 *ministrator shall not make available any grant funds*
7 *under this subsection until the grantee has contrib-*
8 *uted non-Federal matching funds in an amount equal*
9 *to 50 percent of the amount of such grant funds.*

10 (8) *ELIGIBLE ORGANIZATIONS.—For purposes of*
11 *this section, the term “eligible organization” means*
12 *any of the following:*

13 (A) *An organization described in section*
14 *501(c)(3) of the Internal Revenue Code of 1986*
15 *and exempt from tax under section 501(a) of*
16 *such Code.*

17 (B) *A business league, chamber of com-*
18 *merce, or board of trade described in section*
19 *501(c)(6) of the Internal Revenue Code of 1986*
20 *and exempt from tax under section 501(a) of*
21 *such Code.*

22 (C) *A local development agency that is*
23 *chartered, established, or otherwise sanctioned by*
24 *a State or local government.*

1 (D) *A small business development center*
2 *(within the meaning of section 21 of the Small*
3 *Business Act).*

4 (E) *A college or university.*

5 (F) *A unit of State or local government.*

6 (9) *FEDERAL COORDINATION.—The Adminis-*
7 *trator, in consultation with the Economic Develop-*
8 *ment Administration and the Minority Business De-*
9 *velopment Agency, shall—*

10 (A) *undertake efforts to coordinate and en-*
11 *hance Federal programs that relate to small*
12 *business incubation programs; and*

13 (B) *invite State and local governments,*
14 *lending institutions, and other appropriate pub-*
15 *lic and private organizations to serve as inter-*
16 *mediaries in outreach efforts related to small*
17 *business incubation programs.*

18 (10) *TERMINATION.—The Administrator shall*
19 *not make any new 5-year grants under this subsection*
20 *after the end of the 180-day period beginning on the*
21 *date that funds are first made available to carry out*
22 *this subsection.*

23 (11) *REPORTS.—*

24 (A) *INITIAL REPORT.—One year after the*
25 *first grant is made under this subsection, the Ad-*

1 *administrator shall transmit to the Congress a pre-*
2 *liminary report regarding the National Small*
3 *Business Incubator Program conducted under*
4 *this section.*

5 *(B) FINAL REPORT.—Four years after the*
6 *first grant is made under this subsection, the Ad-*
7 *ministrator shall transmit to the Congress a*
8 *final report regarding the National Small Busi-*
9 *ness Incubator Program conducted under this*
10 *section. Such report shall include any rec-*
11 *ommendations of the Administrator regarding*
12 *ways to improve such program and the rec-*
13 *ommendation of the Administrator as to whether*
14 *such program should be extended.*

15 *(12) AUTHORIZATION OF APPROPRIATIONS.—*
16 *There are authorized to be appropriated to carry out*
17 *this subsection \$25,000,000 for each of fiscal years*
18 *2004 and 2005, which amounts shall remain avail-*
19 *able until expended.*

20 *(c) LOAN PROGRAM.—*

21 *(1) IN GENERAL.—The Administrator may make*
22 *loans under section 7(a) of the Small Business Act to*
23 *small business concerns (as defined pursuant to sec-*
24 *tion 3 of the Small Business Act) participating in a*

1 *small business incubation program described in sub-*
2 *section (b).*

3 (2) *LOAN TERMS.—*

4 (A) *IN GENERAL.—Except as provided in*
5 *subparagraph (B), the rules which apply under*
6 *the Small Business Act to loans made under sec-*
7 *tion 7(a) shall apply with respect to loans made*
8 *under this subsection.*

9 (B) *SPECIAL RULES FOR DEFERRED PAR-*
10 *TICIPATION LOANS.—In the case of an agreement*
11 *to participate on a deferred basis in any such*
12 *loan:*

13 (i) *Such participation by the Adminis-*
14 *tration shall be equal to 90 percent of the*
15 *balance of the financing outstanding at the*
16 *time of the disbursement of the loan.*

17 (ii) *The Administrator shall collect*
18 *(except in the case of a loan that is repay-*
19 *able in 1 year or less) a guarantee fee,*
20 *which shall be payable by the participating*
21 *lender and may be charged to the borrower*
22 *as follows:*

23 (I) *A guarantee fee equal to 0.5*
24 *percent of the deferred participation*

1 *share of a total loan amount that is*
2 *not more than \$150,000.*

3 *(II) A guarantee fee equal to 1.5*
4 *percent of the deferred participation*
5 *share of a total loan amount that is*
6 *more than \$150,000, but not more than*
7 *\$700,000.*

8 *(III) A guarantee fee equal to 2*
9 *percent of the deferred participation*
10 *share of a total loan amount that is*
11 *more than \$700,000.*

12 *(iii) The annual fee assessed and col-*
13 *lected on any such loan shall not exceed an*
14 *amount equal to 0.15 percent of the out-*
15 *standing balance of the deferred participa-*
16 *tion share of the loan.*

17 *(iv) The Administrator may make such*
18 *loans without regard to the ability of a*
19 *small business concern to obtain credit else-*
20 *where.*

21 *(v) The Administrator shall make such*
22 *loans without regard to the availability of*
23 *collateral to secure such loans.*

1 (vi) *The Administrator may charge in-*
2 *terest on any such loan. Such charge may*
3 *not exceed a rate of 4 percent per year.*

4 (3) *REGULATIONS.—Not later than 120 days*
5 *after the date of enactment of this Act, the Adminis-*
6 *trator shall issue interim final rules and guidelines to*
7 *implement this subsection.*

8 (4) *AUTHORIZATION OF APPROPRIATIONS.—*
9 *There are authorized to be appropriated for fiscal*
10 *year 2004 such sums as may be necessary to carry*
11 *out this subsection, which sums shall remain available*
12 *until expended.*

13 **SEC. 316. REPORT REGARDING EFFECTS OF SALE OF DIS-**
14 **ASTER LOANS ON BORROWERS.**

15 *Not later than 1 year after the date of the enactment*
16 *of this Act, the Chief Counsel for Advocacy of the Small*
17 *Business Administration shall report to the Congress re-*
18 *garding the sale by the Administrator of loans made under*
19 *section 7(b) of the Small Business Act. Such report shall*
20 *include the following:*

21 (1) *A description of the effects of such sales on*
22 *borrowers.*

23 (2) *A description of the effects that prohibiting*
24 *such sales would have on the operations of the Admin-*
25 *istration.*

1 (3) *Any recommendations of the Chief Counsel*
2 *for Advocacy for reducing the effects of such sales on*
3 *borrowers.*

4 **SEC. 317. SUSPENSION AND EXTENSION OF CERTAIN DIS-**
5 **ASTER LOANS RELATED TO THE TERRORIST**
6 **ATTACKS OF SEPTEMBER 11, 2001.**

7 (a) *IN GENERAL.*—*With respect to any loan made*
8 *under section 7(b) of the Small Business Act to a qualified*
9 *small business concern as a result of the terrorist attacks*
10 *against the United States that occurred on September 11,*
11 *2001, the Administrator shall, upon application by such*
12 *concern during the 2-year period beginning on the date of*
13 *the enactment of this Act, suspend the payment of principal*
14 *and interest charges on, and extend the maturity of, the*
15 *Federal share of such loan for a period of not less than 2*
16 *years and not more than 5 years.*

17 (b) *QUALIFIED SMALL BUSINESS CONCERN.*—*For pur-*
18 *poses of this section, the term “qualified small business con-*
19 *cern” means, with respect to any loan made to such concern*
20 *under section 7(b) of the Small Business Act, a small busi-*
21 *ness concern that—*

22 (1) *was located in an area described in section*
23 *314(a)(2) on September 11, 2001; and*

1 (2) *would suffer substantial economic injury if*
2 *required to make the scheduled payments under such*
3 *loan.*

4 (c) *SUBSTANTIAL ECONOMIC INJURY.*—*For purposes of*
5 *this section, the term “substantial economic injury” has the*
6 *meaning given such term in section 7(b)(3)(A)(iii) of the*
7 *Small Business Act.*

8 **SEC. 318. DEFINITIONS.**

9 *For purposes of this title:*

10 (1) *ADMINISTRATOR.*—*The term “Adminis-*
11 *trator” means the Administrator of the Small Busi-*
12 *ness Administration.*

13 (2) *ADMINISTRATION.*—*The term “Administra-*
14 *tion” means the Small Business Administration.*

15 (3) *SMALL BUSINESS CONCERN.*—*The term*
16 *“small business concern” has the meaning given such*
17 *term pursuant to section 3(a) of the Small Business*
18 *Act.*

Union Calendar No. 249

108TH CONGRESS
2D SESSION

H. R. 2802

[Report No. 108-325, Part I]

A BILL

To reauthorize the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

OCTOBER 21, 2003

Reported with an amendment and referred to the Committee on Government Reform for a period ending not later than October 31, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X

MARCH 2, 2004

Referral to the Committee on Government Reform extended for a period ending not later than March 8, 2004

MARCH 8, 2004

Committee on Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed