

103^D CONGRESS
2^D SESSION

S. 2478

To amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 12), 1994

Mr. KERRY (for himself, Mr. BUMPERS, Mr. PRESSLER, Mr. NUNN, Mr. CHAFEE, Mr. INOUE, Mr. BURNS, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. WOFFORD, Mr. KOHL, Mr. ROBB, Mrs. HUTCHISON, Mr. DOMENICI, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Small Business

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Committee discharged

A BILL

To amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Business Development
5 Opportunity Act of 1994”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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1 **TITLE I—AMENDMENTS TO THE**
2 **MINORITY SMALL BUSINESS**
3 **AND CAPITAL OWNERSHIP**
4 **DEVELOPMENT PROGRAM**

5 **PART A—PROGRAM ORGANIZATION AND**
6 **PARTICIPATION STANDARDS**

7 **SEC. 101. MINORITY ENTERPRISE DEVELOPMENT PRO-**
8 **GRAM.**

9 (a) PROGRAM ESTABLISHED.—Section 7(j)(10) of
10 the Small Business Act (15 U.S.C. 636(j)(10)) is amend-
11 ed—

12 (1) by striking the subsection designation and
13 the first 2 sentences and inserting the following:

14 “(10) MINORITY ENTERPRISE DEVELOPMENT
15 PROGRAM.—

16 “(A) ESTABLISHMENT.—There is estab-
17 lished within the Administration a Minority En-
18 terprise Development Program (hereafter in
19 this paragraph referred to as the ‘Program’),
20 which shall be administered by an Associate Ad-
21 ministrator in accordance with this paragraph
22 and section 8(a).”;

23 (2) by striking subparagraph (B);

24 (3) by striking “(A) The Program shall—” and
25 inserting the following:

1 “(B) PROGRAM GOALS.—The Program
2 shall—”; and

3 (4) in subparagraph (C)(i), by striking “partici-
4 pating in any program or activity conducted under
5 the authority of this paragraph or”.

6 (b) PROGRAM PHASES.—Section 7(j)(12) of the
7 Small Business Act (15 U.S.C. 636(j)(12)) is amended to
8 read as follows:

9 “(12) SEGMENTING OF MINORITY ENTERPRISE
10 DEVELOPMENT PROGRAM.—

11 “(A) IN GENERAL.—In addition to such
12 other segments as the Administrator deems ap-
13 propriate, the Minority Enterprise Development
14 Program established in paragraph (10) shall
15 consist of the following 3 phases:

16 “(i) The Business Creation Phase.

17 “(ii) The Business Development
18 Phase.

19 “(iii) The Business Development
20 (Preferential Contracting) Phase.

21 “(B) ELIGIBILITY FOR PREFERENTIAL
22 CONTRACTING.—Only a firm participating in
23 the Business Development (Preferential Con-
24 tracting) Phase shall be eligible for award of
25 Federal contracts pursuant to section 8(a) (and

1 shall be referred to as a ‘Program Participant’
2 for the purposes of this section and section
3 8(a)).

4 “(C) PARTICIPATION BY FIRMS.—Except
5 as provided in section 10(c), a firm may partici-
6 pate in the Business Development (Preferential
7 Contracting) Phase described in subparagraph
8 (A)(iii) for a total period of not more than 9
9 years, which period shall be divided into the fol-
10 lowing 2 stages:

11 “(i) A developmental stage (of not
12 more than the first 5 years).

13 “(ii) A transitional stage.”.

14 (c) CONFORMING AMENDMENTS.—The Small Busi-
15 ness Act (15 U.S.C. 601 et seq.) is amended—

16 (1) by striking “Minority Small Business and
17 Capital Ownership Development” each place it ap-
18 pears and inserting “Minority Enterprise Develop-
19 ment”;

20 (2) by striking “Capital Ownership Develop-
21 ment” each place it appears and inserting “Minority
22 Enterprise Development”;

23 (3) by striking “capital ownership development”
24 each place it appears and inserting “minority enter-
25 prise development”;

1 (4) by striking “Business Opportunity Special-
2 ist” each place it appears and inserting “Business
3 Development Specialist”; and

4 (5) by striking section 7(j)(15) and inserting
5 the following:

6 “(15) [Reserved].”.

7 **SEC. 102. CONSOLIDATION OF ELIGIBILITY REVIEW FUNC-**
8 **TION.**

9 Section 7(j)(11)(E) of the Small Business Act (15
10 U.S.C. 636(j)(11)(E)) is amended by striking the third
11 sentence.

12 **SEC. 103. CLARIFICATION OF VARIOUS ELIGIBILITY CRI-**
13 **TERIA.**

14 (a) **TRIBALLY OWNED CORPORATIONS.**—Sections
15 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j),
16 637(a)) are each amended by striking “an economically
17 disadvantaged Indian tribe” each place it appears and in-
18 serting “an Indian tribe”.

19 (b) **NATIVE HAWAIIAN ORGANIZATIONS.**—Section
20 8(a)(4)(A) of the Small Business Act (15 U.S.C.
21 637(a)(4)(A)) is amended by striking “an economically
22 disadvantaged Native Hawaiian organization” each place
23 it appears and inserting “a Native Hawaiian organiza-
24 tion”.

1 (c) PRESUMPTION OF ECONOMIC DISADVANTAGE.—
2 Section 8(a)(6)(A) of the Small Business Act (15 U.S.C.
3 637(a)(6)(A)) is amended by striking the last sentence.

4 **SEC. 104. CLARIFICATION OF CERTAIN ADDITIONAL ELIGI-**
5 **BILITY CRITERIA IMPOSED BY REGULATION.**

6 Section 7(j)(11)(G) of the Small Business Act (15
7 U.S.C. 636(j)(11)(G)) is amended to read as follows:

8 “(G) An applicant shall not be denied admission into
9 the Minority Enterprise Development Program established
10 in paragraph (10) based solely on a determination by the
11 Division that—

12 “(i) specific contract opportunities are unavail-
13 able to assist in the development of such concern,
14 unless—

15 “(I) the Government has not previously
16 procured and is unlikely to procure the types of
17 products or services offered by the concern; and

18 “(II) the purchases of such products or
19 services by the Federal Government will not be
20 in quantities sufficient to support the devel-
21 opmental needs of the applicant and other Pro-
22 gram Participants providing the same or similar
23 items or services;

24 “(ii) the prospective Program Participant firm
25 has not been in operation for a period of time speci-

1 fied by the Administration prior to making applica-
2 tion to the Program, if the prospective Program
3 Participant firm can demonstrate that—

4 “(I) the individual or individuals upon
5 whom eligibility is to be based have substantial
6 and demonstrated business management experi-
7 ence;

8 “(II) the prospective Program Participant
9 has demonstrated technical expertise necessary
10 to carry out its business plan with a substantial
11 likelihood of success;

12 “(III) the prospective Program Participant
13 has, or can demonstrate its ability to timely ob-
14 tain, adequate capital to carry out its business
15 plan;

16 “(IV) the prospective Program Participant
17 can demonstrate the competitive award and per-
18 formance (either ongoing or completed) of con-
19 tracts from governmental or nongovernmental
20 sources in the primary industry category re-
21 flected in its business plan; and

22 “(V) the prospective Program Participant
23 has, or can demonstrate its ability to timely ob-
24 tain, the personnel, facilities, equipment, and
25 any other requirements needed to perform con-

1 tracts of the type likely to be awarded to the
2 firm pursuant to section 8(a);

3 “(iii) the individual or individuals upon whom
4 eligibility is to be based have not been working full
5 time at managing the prospective Program Partici-
6 pant firm for a period specified by the Administra-
7 tion prior to making application to the Program;

8 “(iv) the prospective Program Participant is a
9 tribally owned corporation whose chief executive offi-
10 cer (or chief operating officer) is other than a Native
11 American, if the governing body of the Indian tribe
12 certifies to the Administration that it was unable to
13 hire a qualified Native American after conducting a
14 national recruitment for such individual; or

15 “(v) the prospective Program Participant lacks
16 reasonable prospects for future success despite ac-
17 cess to one or more of the types of developmental as-
18 sistance provided for in paragraph (13), unless such
19 determination is supported by specific findings.”.

20 **SEC. 105. ENHANCING DUE PROCESS IN ELIGIBILITY DE-**
21 **TERMINATIONS.**

22 Section 7(j)(11)(H) of the Small Business Act (15
23 U.S.C. 636(j)(11)(H)) is amended—

24 (1) by striking “(H)” and inserting “(H)(i)”;
25 and

1 (2) by adding at the end the following new
2 clauses:

3 “(ii) The Associate Administrator for Minority En-
4 terprise Development shall—

5 “(I) notify an applicant, in writing, of the de-
6 nial of an application under clause (i), stating the
7 specific determinations supported by specific find-
8 ings in support of the denial; and

9 “(II) provide the applicant an opportunity to
10 respond (or to modify the business organization of
11 the applicant in response) to matters raised in the
12 notice of denial and to seek a reconsideration of the
13 application.

14 “(iii) If the application is denied upon reconsideration
15 pursuant to clause (ii) and the denial is based upon deter-
16 minations or findings not previously cited as a basis for
17 the initial denial of the application, the Associate Adminis-
18 trator for Minority Enterprise Development shall provide
19 the applicant an opportunity to respond to the determina-
20 tions or findings not previously raised, or to modify the
21 business organization of the applicant in response to such
22 determinations or findings.”.

1 **SEC. 106. IMPROVING GEOGRAPHIC DISTRIBUTION OF PRO-**
2 **GRAM PARTICIPANTS.**

3 (a) ACTION PLAN REQUIRED.—The Administrator of
4 the Small Business Administration shall develop an action
5 plan for improving participation in the Minority Enter-
6 prise Development Program established by section 101 by
7 firms across the Nation.

8 (b) CONTENTS OF THE ACTION PLAN.—In addition
9 to such other matters as the Administrator deems appro-
10 priate, the action plan developed under subsection (a) shall
11 address—

12 (1) an outreach program directed at small busi-
13 ness concerns owned and controlled by socially and
14 economically disadvantaged individuals eligible for
15 program participation in those States with histori-
16 cally low rates of participation in the Minority En-
17 terprise Development Program (and its predecessor
18 program, the Minority Small Business and Capital
19 Ownership Development Program); and

20 (2) improved implementation of section
21 8(a)(16)(B) of the Small Business Act (relating to
22 geographic distribution of contracts awarded non-
23 competitively pursuant to section 8(a)(1) of such
24 Act).

1 (c) PUBLIC PARTICIPATION.—In carrying out this
 2 section, the Administrator shall seek public comment on
 3 the proposals to be included in the action plan.

4 (d) SUBMISSION.—Not later than June 30, 1995, the
 5 action plan developed under subsection (a) shall be sub-
 6 mitted to the Committees on Small Business of the Senate
 7 and House of Representatives.

8 **PART B—BUSINESS DEVELOPMENT ASSISTANCE**

9 **SEC. 111. DEVELOPMENTAL ASSISTANCE AUTHORIZED FOR**
 10 **PROGRAM PARTICIPANTS.**

11 Section 7(j) of the Small Business Act (15 U.S.C.
 12 636(j)) is amended—

13 (1) in paragraph (13), in the matter preceding
 14 subparagraph (A), by striking “the stages of pro-
 15 gram participation specified in paragraph 12” and
 16 inserting “its Program participation”; and

17 (2) by striking paragraph (14) and inserting
 18 the following:

19 “(14) [Reserved].”.

20 **SEC. 112. EXPANDING THE ELIGIBLE USES FOR LOANS**
 21 **UNDER EXISTING LOAN PROGRAMS FOR PRO-**
 22 **GRAM PARTICIPANTS.**

23 Section 7(a)(20)(A)(iii) of the Small Business Act
 24 (15 U.S.C. 636(a)(20)(A)(iii)) is amended by striking “to
 25 be used” and all that follows before the semicolon.

1 **SEC. 113. TEST PROGRAM FOR THE USE OF SURETY BOND**
2 **WAIVERS.**

3 Section 7(j)(13)(D) of the Small Business Act (15
4 U.S.C. 636(j)(13)(D)) is amended—

5 (1) by striking clauses (i) through (iii);

6 (2) by striking “A maximum” and inserting
7 “(i) A maximum”;

8 (3) by striking “, except that, such exemptions
9 may be granted under this subparagraph only
10 if—” and inserting a period; and

11 (4) by adding at the end the following new
12 clauses:

13 “(ii) The agency with contracting authority
14 may, upon the request of the Program Partici-
15 pant, grant an exemption pursuant to clause
16 (i), if—

17 “(I) the Program Participant provides
18 certification, in the form prescribed by the
19 Administration, that the firm was unable
20 to obtain the requisite bonding from cor-
21 porate surety bonding firms even with a
22 guarantee issued by the Administration
23 pursuant to title IV of the Small Business
24 Investment Act of 1958;

25 “(II) the Program Participant has
26 provided for the protection of persons fur-

1 nishing materials or labor under the con-
2 tract by arranging for—

3 “(aa) the direct disbursement of
4 funds owed to such persons by the
5 procuring agency or through an es-
6 crow account provided by any bank
7 the deposits of which are insured by
8 the United States Government; or

9 “(bb) irrevocable letters of credit
10 (or other alternatives to surety bond-
11 ing acceptable to the procuring agen-
12 cy); and

13 “(III) the award value of the contract
14 for which the exemption is being sought
15 does not exceed \$1,000,000.

16 “(iii) The authority to grant an exemption
17 under clause (ii) shall cease to be effective on
18 September 30, 1997.”.

19 **SEC. 114. TARGETING SECTION 7(j) BUSINESS MANAGE-**
20 **MENT ASSISTANCE TO PROGRAM PARTICI-**
21 **PANTS.**

22 Section 7(j)(1) of the Small Business Act (15 U.S.C.
23 636(j)(1)) is amended by striking “individuals or enter-
24 prises eligible for assistance under sections 7(i), 7(j)(10),
25 and 8(a) of this Act” and inserting “participants in the

1 Minority Enterprise Development Program established in
2 paragraph (10)’’.

3 **SEC. 115. OTHER ENHANCEMENTS TO THE SECTION 7(j)**

4 **MANAGEMENT ASSISTANCE PROGRAM.**

5 (a) FOCUS ON BUSINESS MANAGEMENT ASSIST-
6 ANCE.—Section 7(j)(2)(E) of the Small Business Act (15
7 U.S.C. 636(j)(2)(E)) is amended to read as follows:

8 “(E) the furnishing of business development
9 services and related professional services, especially
10 accounting and legal services, with special emphasis
11 on marketing, bid and proposal preparation, finan-
12 cial management, strategic business planning, and
13 transition management planning for participants in
14 the Minority Enterprise Development Program, that
15 will foster the continued business development of the
16 Program Participants after program graduation.’’.

17 (b) TWO-YEAR AUTHORIZATION.—Section 7(j)(5) of
18 the Small Business Act (15 U.S.C. 636(j)(5)) is amended
19 to read as follows:

20 “(5)(A) Financial assistance authorized in paragraph
21 (1) may be provided through grants, cooperative agree-
22 ments, or contracts.

23 “(B) Funds appropriated to carry out paragraph (1)
24 shall remain available for obligation by the Administration

1 during the fiscal year succeeding the fiscal year for which
2 the funds were appropriated.

3 “(C) Recipients of financial assistance awarded pur-
4 suant to paragraph (1) may expend such funds prior to
5 the expiration date of the grant, cooperative agreement,
6 or contract under which the funds were awarded.”.

7 (c) ELIGIBILITY FOR CERTAIN EDUCATIONAL INSTI-
8 TUTIONS.—Section 7(j) of the Small Business Act (15
9 U.S.C. 636(j)) is amended—

10 (1) in paragraph (2)—

11 (A) by redesignating subparagraphs (A)
12 through (E) as subparagraphs (B) through (F),
13 respectively; and

14 (B) by inserting before subparagraph (B),
15 as redesignated, the following new subpara-
16 graph:

17 “(A) business executive education programs
18 conducted by institutions of graduate business edu-
19 cation for owners or managers of small business con-
20 cerns owned and controlled by socially and economi-
21 cally disadvantaged individuals (as defined in section
22 8(d)(3)(C));”; and

23 (2) by striking paragraph (4) and inserting the
24 following:

1 “(4) In making awards pursuant to paragraph (1)
2 to institutions of graduate business education eligible
3 under paragraph (2)(A), the Administration shall give
4 preference to institutions that have previously provided
5 such programs, with the greatest preference being ac-
6 corded to institutions that have provided such programs
7 for a period of not less than 10 consecutive years.”.

8 **SEC. 116. DEVELOPMENTAL TEAMING.**

9 (a) PROGRAM ESTABLISHED.—There is established a
10 Developmental Teaming Program (hereafter in this sec-
11 tion referred to as the “Program”) within the Minority
12 Enterprise Development Program established under sec-
13 tion 101.

14 (b) PURPOSE.—The purpose of the Program shall be
15 to foster the business development and long-term business
16 success of firms participating in the Minority Enterprise
17 Development Program by encouraging the formation of
18 teaming arrangements and long-term strategic business
19 alliances between such firms and firms that have grad-
20 uated from the Minority Enterprise Development Program
21 (and its predecessor program, the Minority Small Busi-
22 ness and Capital Ownership Development Program).

23 (c) PROGRAM PARTICIPANTS.—

24 (1) ASSISTANCE RECIPIENTS.—Small business
25 concerns owned and controlled by socially and eco-

1 nominally disadvantaged individuals that are partici-
2 pants in the Business Development (Preferential
3 Contracting) Phase of the Minority Enterprise De-
4 velopment Program shall be eligible to participate in
5 the Program (and shall be referred to as “Program
6 Participants” for purposes of this section).

7 (2) ASSISTANCE PROVIDERS.—A small business
8 concern owned and controlled by socially and eco-
9 nominally disadvantaged individuals that is a grad-
10 uate (or a current Program Participant in the Tran-
11 sitional Stage) of the Business Development (Pref-
12 erential Contracting Phase) of the Minority Enter-
13 prise Development Program (and its predecessor
14 program, the Minority Small Business and Capital
15 Ownership Development Program) shall be eligible
16 to participate in the Program and to furnish devel-
17 opmental assistance to Program Participants
18 through a developmental teaming agreement, ap-
19 proved pursuant to subsection (d). (For purposes of
20 this section, firms having, or seeking to establish, a
21 developmental teaming agreement shall be referred
22 to as “Developmental Teaming Partners”).

23 (d) TEAMING AGREEMENTS.—

24 (1) ASSISTANCE AUTHORIZED.—A Developmen-
25 tal Teaming Partner may provide to a Program Par-

1 participant one or more of the following forms of devel-
2 opmental assistance and training:

3 (A) General business management (includ-
4 ing financial management, organizational man-
5 agement and personnel management).

6 (B) Business development, marketing, and
7 proposal preparation.

8 (C) Process engineering (including produc-
9 tion, inventory control, and quality assurance).

10 (D) Award of subcontracts on a non-
11 competitive basis.

12 (E) Technology transfer.

13 (F) Financial assistance (including loans,
14 loan guarantees, surety bonding, advance pay-
15 ments, and accelerated progress payments).

16 (G) Such other forms of assistance de-
17 signed to foster the development of the Pro-
18 gram Participant, contained in a developmental
19 teaming agreement approved pursuant to para-
20 graph (3).

21 (2) CONTENT OF AGREEMENTS.—In addition to
22 such other matters as the parties may deem appro-
23 priate, each developmental teaming agreement shall
24 include the matters described in subsection (e).

1 (3) APPROVAL REQUIRED.—Each developmen-
2 tal teaming agreement shall be approved by the Ad-
3 ministration before—

4 (A) the furnishing of any type of devel-
5 opmental assistance to a Program Participant
6 pursuant to such agreement; or

7 (B) the Developmental Teaming Partner
8 becomes eligible for any of the incentives au-
9 thorized by subsection (f).

10 (4) ACTION BY THE ADMINISTRATION.—Each
11 proposed developmental teaming agreement shall be
12 reviewed and approved (or denied approval) not later
13 than 45 days after the receipt of such agreement by
14 the Administration. A denial of approval shall state
15 specific reasons for the denial and shall afford the
16 applicant an opportunity for reconsideration. Every
17 reasonable effort shall be made by the Administra-
18 tion to act upon matters relating to the administra-
19 tion of an approved developmental teaming agree-
20 ment not later than 30 days after the receipt of such
21 agreement by the Administration.

22 (e) CONTENT OF THE AGREEMENT.—

23 (1) FORMS OF ASSISTANCE.—Each developmen-
24 tal teaming agreement shall specify forms of busi-
25 ness development assistance to be furnished by the

1 Developmental Teaming Partner and indicate how
2 these forms of assistance are designed to advance
3 the approved business plan of the Program Partici-
4 pant.

5 (2) MEASURES OF SUCCESS.—Each devel-
6 opmental teaming agreement shall include specific
7 milestones or benchmarks which will permit objective
8 measurement of whether the agreement has ad-
9 vanced the business development of the Program
10 Participant.

11 (3) DURATION OF AGREEMENT.—Each devel-
12 opmental teaming agreement between a Program
13 Participant and a Developmental Assistance Pro-
14 vider may be for a term not to exceed 3 years, with
15 the option of the parties to renew the agreement
16 upon its expiration for an additional term of not to
17 exceed 2 years.

18 (4) TERMINATION OF AGREEMENT.—The devel-
19 opmental teaming agreement shall include provisions
20 regarding the termination of the agreement that
21 meet the standards of subsection (h).

22 (f) PARTICIPATION AS SUBCONTRACTOR.—A Devel-
23 opmental Teaming Partner may be awarded a subcontract
24 under a contract awarded pursuant to section 8(a)(1) of
25 the Small Business Act, without regard to the sub-

1 contracting limitations of section 8(a)(14) of such Act,
2 if—

3 (1) the contract was awarded to a Program
4 Participant with which such firm has an approved
5 developmental teaming agreement; and

6 (2) the subcontract award was approved as part
7 of the developmental teaming agreement (or subse-
8 quently approved by the Administration).

9 (g) AFFILIATION OR CONTROL.—For the purposes of
10 the Small Business Act, no determination of affiliation or
11 control (either direct or indirect) shall be found on the
12 basis that a Program Participant is being furnished (or
13 has entered into agreement to be furnished) developmental
14 assistance pursuant to a developmental teaming agree-
15 ment, approved pursuant to subsection (d).

16 (h) TERMINATION OF AGREEMENTS.—

17 (1) BY A PROGRAM PARTICIPANT.—A Program
18 Participant may voluntarily terminate a developmen-
19 tal teaming agreement after giving not less than 30
20 days advance notice to its Developmental Teaming
21 Partner.

22 (2) BY A DEVELOPMENTAL ASSISTANCE PRO-
23 VIDER.—

24 (A) WITHDRAWAL FROM PROGRAM.—A
25 Developmental Teaming Partner may terminate

1 its developmental teaming agreement with a
2 Program Participant by withdrawing from the
3 Program after giving not less than 30 days ad-
4 vance notice to the Administration and to each
5 of the Program Participants for which the firm
6 was a Developmental Teaming Partner.

7 (B) TERMINATING AN AGREEMENT FOR
8 CAUSE.—

9 (i) IN GENERAL.—A Developmental
10 Teaming Partner may terminate its devel-
11 opmental teaming agreement with a Pro-
12 gram Participant for cause in accordance
13 with the procedures in clause (ii).

14 (ii) NOTICE.—In terminating an
15 agreement under clause (i), the following
16 procedures shall apply:

17 (I) IN GENERAL.—The Program
18 Participant shall be furnished a writ-
19 ten notice of the proposed termination
20 under clause (i), not less than 30 days
21 prior to the effective date of such pro-
22 posed termination, that states the spe-
23 cific reasons for the proposed termi-
24 nation.

1 (II) RESPONSE.—The Program
2 Participant shall have not more than
3 30 days to respond to such notice of
4 proposed termination, rebutting any
5 findings believed to be erroneous and
6 offering a remedial program.

7 (III) FINAL ACTION.—After giv-
8 ing the Program Participant's re-
9 sponse prompt consideration, the De-
10 velopmental Teaming Partner shall ei-
11 ther withdraw the notice of proposed
12 termination or issue a notice of termi-
13 nation.

14 (iii) NONREVIEWABILITY.—The deci-
15 sion of the Developmental Teaming Part-
16 ner regarding a termination for cause, con-
17 forming to the procedures of clause (ii),
18 shall be final and shall not be subject to
19 review by the Administration.

20 (3) BY THE SMALL BUSINESS ADMINISTRA-
21 TION.—

22 (A) IN GENERAL.—The Administration
23 may terminate the participation of a Devel-
24 opmental Teaming Partner or a Program Par-

1 participant for cause in accordance with subpara-
2 graph (B).

3 (B) PROCEDURES.—In terminating an
4 agreement under subparagraph (A), the follow-
5 ing procedures shall apply:

6 (i) NOTICE.—The firm proposed for
7 termination from the Program shall be fur-
8 nished a written notice of the proposed ter-
9 mination, not less than 30 days prior to
10 the effective date of such proposed termi-
11 nation, that states the specific reasons for
12 the proposed termination.

13 (ii) RESPONSE.—The notice of pro-
14 posed termination shall provide 30 days for
15 the firm proposed for termination to re-
16 spond to such notice.

17 (iii) FINAL ACTION.—After giving
18 prompt consideration to the response of
19 the firm proposed for termination, the Ad-
20 ministration shall either withdraw the no-
21 tice of proposed termination or issue a no-
22 tice of termination.

23 (C) REVIEWABILITY.—A decision by the
24 Administration to terminate for cause the par-
25 ticipation of a firm in the Program shall be

1 final, but may be appealed pursuant to section
2 8(a)(9) of the Small Business Act.

3 (i) DURATION OF THE PROGRAM.—

4 (1) IN GENERAL.—Business concerns eligible to
5 participate in the Program may enter into devel-
6 opmental teaming agreements during the period
7 commencing on the effective date of the regulations
8 required by subsection (j) and ending on September
9 30, 1997.

10 (2) TERMINATION.—The Program shall termi-
11 nate on September 30, 2002.

12 (j) REGULATIONS.—The Administrator of the Small
13 Business Administration shall prescribe regulations to
14 carry out the Developmental Teaming Program. Proposed
15 regulations shall be published not later than 90 days after
16 the date of enactment of this Act. Final regulations shall
17 be promulgated not later than 180 days after the date of
18 enactment of this Act.

19 (k) DEFINITIONS.—For purposes of this section, the
20 following definitions shall apply:

21 (1) SMALL BUSINESS CONCERNS.—The term
22 “small business concern” means a business concern
23 that meets the requirements of section 3(a) of the
24 Small Business Act and the regulations promulgated
25 pursuant to such section.

1 (2) SMALL BUSINESS CONCERN OWNED AND
2 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-
3 ADVANTAGED INDIVIDUALS.—The term “small busi-
4 ness concern owned and controlled by socially and
5 economically disadvantaged individuals” has the
6 same meaning as in section 8(d)(3)(C) of the Small
7 Business Act.

8 (3) MINORITY ENTERPRISE DEVELOPMENT
9 PROGRAM.—The term “Minority Enterprise Develop-
10 ment Program” means the program authorized by
11 section 7(j)(10)(A) of the Small Business Act (as
12 amended by section 101).

13 (4) GRADUATED.—The term “graduated” has
14 the same meaning as in section 7(j)(10)(H) of the
15 Small Business Act.

16 **PART C—IMPROVING ACCESS TO EQUITY FOR**
17 **PROGRAM GRADUATES**

18 **SEC. 121. CONTINUED CONTRACT PERFORMANCE.**

19 Section 8(a)(21) of the Small Business Act (15
20 U.S.C. 637(a)(21) is amended—

21 (1) in subparagraph (B), by striking “The Ad-
22 ministrator may, on a nondelegable basis, waive the
23 requirements of subparagraph (A) only if 1 of the
24 following conditions exist:” and inserting “The re-

1 requirements of subparagraph (A) may be waived,
2 under any of the following circumstances:”; and

3 (2) by striking subparagraph (C) and inserting
4 the following:

5 “(C)(i) Except as provided in clause (ii), a request
6 for a waiver pursuant to subparagraph (B) shall be sub-
7 mitted prior to the actual relinquishment of ownership or
8 control.

9 “(ii) Under the circumstances described in subpara-
10 graph (B)(iii), the waiver request shall be made as soon
11 as practicable after the incapacity or death occurs.”.

12 **SEC. 122. CONTINUED PROGRAM PARTICIPATION.**

13 Section 7(j)(11)(D) of the Small Business Act (15
14 U.S.C. 636(j)(11)(D)) is amended to read as follows:

15 “(D)(i) A Program Participant shall remain eligible
16 for participation in the Program after a transfer of an
17 ownership interest in the firm if ownership and control
18 (as required by section 8(a)(4)) is—

19 “(I) retained by the socially and economically
20 disadvantaged individuals upon whom Program eligi-
21 bility is based; or

22 “(II) acquired by a small business concern
23 owned and controlled by socially and economically
24 disadvantaged individuals who have graduated from
25 the Program or otherwise exited the Program

1 through a means other than a termination proceed-
2 ing.

3 “(ii) A Program Participant shall remain eligible for
4 participation in the Program after transfer of ownership
5 and control (as required by section 8(a)(4)) to individuals
6 who are determined to be socially and economically dis-
7 advantaged pursuant to section 8(a). Unless graduated or
8 terminated, the Program Participant shall be eligible for
9 a period of continued Program Participation not to exceed
10 the period described in paragraph (15).

11 “(iii) A Program Participant that is a tribally owned
12 corporation may remain eligible for participation in the
13 Program with other than a Native American as the firm’s
14 chief executive officer (or chief operating officer), if the
15 governing body of the Indian tribe certifies to the Admin-
16 istration that it was unable to hire a qualified Native
17 American after conducting a national recruitment for such
18 an individual.”.

19 **PART D—CONTRACT AWARD AND ELIGIBILITY**
20 **MATTERS**

21 **SEC. 131. CONTRACT AWARD PROCEDURES.**

22 Section 8(a)(1) of the Small Business Act (15 U.S.C.
23 637(a)(1)) is amended—

24 (1) by striking subparagraphs (A), (B), and
25 (C); and

1 (2) by striking “(a)(1)” and inserting the fol-
2 lowing:

3 “(a)(1)(A) The Administration shall ensure that con-
4 tracts sufficient to satisfy the contract support levels iden-
5 tified by participants in the Minority Enterprise Develop-
6 ment Program established in section 7(j)(10) are des-
7 ignated by the various Federal agencies for award pursu-
8 ant to this subsection.

9 “(B) Except as provided in subparagraph (D), the
10 award of contracts under this section shall be made on
11 a noncompetitive basis by the agency offering the contract-
12 ing opportunity to the Program Participant selected for
13 the award, and determined to be responsible by such agen-
14 cy. The award shall be made at a fair market price.

15 “(C)(i) The Administration shall determine the eligi-
16 bility of the Program Participant to receive the award in
17 accordance with the eligibility criteria listed in paragraph
18 (16).

19 “(ii) With respect to an individual contracting oppor-
20 tunity, the Administration may provide, upon a request
21 by the Program Participant, assistance with respect to—

22 “(I) the negotiation of the terms and conditions
23 of the award; and

24 “(II) the resolution of controversies arising
25 from the performance of the contract prior to such

1 contract performance controversies becoming formal
2 contract disputes within the meaning of the Contract
3 Disputes Act of 1978;

4 “(iii) In the event of an adverse decision by an agency
5 regarding a contracting opportunity, the Administrator
6 may—

7 “(I) not later than 5 days after receiving notice
8 of such adverse decision, file a notice of intent to ap-
9 peal with the head of the agency; and

10 “(II) not later than 15 days after receiving
11 such notice, file an appeal with the head of the agen-
12 cy, requesting reconsideration of the adverse deci-
13 sion.

14 “(iv) Upon receipt of the notice of intent to file an
15 appeal under clause (iii)(I), further action regarding
16 award of the contract shall be suspended, unless the head
17 of the agency makes a written determination, supported
18 by specific findings, that urgent and compelling cir-
19 cumstances that significantly affect the interests of the
20 United States will not permit reconsideration of the ad-
21 verse decision.

22 “(v) If the head of the agency sustains the adverse
23 decision upon reconsideration, the decision by the head of
24 the agency shall be in writing and shall be supported by
25 specific findings.

1 “(vi) An adverse decision regarding the responsibility
2 of a Program Participant shall be decided pursuant to
3 subsection (b)(7).

4 “(vii) For the purposes of this subparagraph, an ad-
5 verse decision includes a decision by the contracting officer
6 responsible for the contracting opportunity—

7 “(I) failing to respond to a request from the
8 Administration to make a specific contracting oppor-
9 tunity available for award pursuant to this sub-
10 section;

11 “(II) declining to make available for award
12 under this subsection a contracting opportunity (or
13 class of contracting opportunities) or failing to sup-
14 port such a determination with specific findings;

15 “(III) finding a Program Participant to be in-
16 eligible for award of a contracting opportunity on
17 the basis of a determination of nonresponsibility; or

18 “(IV) failing to reach agreement with the Pro-
19 gram Participant with respect to the terms and con-
20 ditions of a contract selected for award under this
21 subsection.”.

22 **SEC. 132. TIMELY DETERMINATION OF ELIGIBILITY FOR**
23 **CONTRACT AWARD.**

24 (a) IN GENERAL.—Section 8(a)(16) of the Small
25 Business Act (15 U.S.C. 637(a)(16)) is amended—

1 (1) by redesignating subparagraph (B) as sub-
2 paragraph (E);

3 (2) by striking subparagraph (A) and inserting
4 the following:

5 “(A) Upon receiving notification that a Federal agen-
6 cy intends to consider a Program Participant for award
7 of a contract pursuant to this subsection (on a competitive
8 or noncompetitive basis), the Administration shall prompt-
9 ly notify the agency regarding the eligibility of the Pro-
10 gram Participant for award of the contract, and shall
11 identify all matters that could reasonably be expected to
12 render the Program Participant ineligible at the time of
13 the contract award.”; and

14 (3) by inserting after subparagraph (A) (as
15 added by paragraph (2)) the following new subpara-
16 graphs:

17 “(B) A Program Participant may be found to be in-
18 eligible for award of the contract pursuant to this sub-
19 section, if—

20 “(i) the award of the contract would result in
21 the Program Participant failing to attain its busi-
22 ness activity targets established pursuant to section
23 7(j)(10)(I); or

1 “(ii) the Program Participant has failed to
2 make the submissions required under paragraph
3 (6)(B).

4 “(C) A small business concern owned and controlled
5 by socially and economically disadvantaged individuals
6 that has completed its Program Participation term pursu-
7 ant to section 7(j)(15) shall be eligible for award if—

8 “(i) in the case of a contract to be competitively
9 awarded, the prospective contract recipient was a
10 Program Participant eligible for award of the con-
11 tract on the date specified for receipt of offers, and
12 such firm had timely submitted an offer (including
13 price); or

14 “(ii) in the case of a contract to be noncompeti-
15 tively awarded, the prospective contract recipient
16 was a Program Participant eligible for award of the
17 contract on the date specified by the agency con-
18 tracting officer for the submission of an offer (in-
19 cluding price).

20 “(D) If the Administration determines that a Pro-
21 gram Participant is ineligible for consideration for award
22 of a contract under subparagraph (B) or (C), the deter-
23 mination shall be supported by specific findings. The de-
24 termination (and supporting findings) shall be furnished

1 to the Program Participant and to the contracting officer
2 for the agency providing the contracting opportunity.”.

3 (b) CONFORMING AMENDMENTS.—Section 8(a) of
4 the Small Business Act (15 U.S.C. 637(a)) is amended—

5 (1) in paragraph (3)—

6 (A) by striking subparagraph (A) and in-
7 serting the following:

8 “(A) [Reserved].”; and

9 (B) by striking subparagraph (D) and in-
10 serting the following:

11 “(D) Subsequent to the award of a contract under
12 this subsection, if requested by the recipient of the con-
13 tract, the Administration shall not publicly disclose the
14 agency’s estimate of the fair market price.”;

15 (2) in paragraph (7), by striking subparagraph
16 (A) and inserting the following:

17 “(A) [Reserved].”;

18 (3) in paragraph (12)(A), by striking “eligible
19 to receive subcontracts” and inserting “eligible for
20 contract awards”; and

21 (4) in paragraph (9)(B)—

22 (A) in clause (iii), by striking “and”;

23 (B) by redesignating clause (iv) as clause
24 (v); and

1 (C) by inserting after clause (iii) the fol-
2 lowing new clause:

3 “(iv) a determination of ineligibility for award
4 of contract pursuant to paragraph (16)(B); and”.

5 **SEC. 133. COMPETITION REQUIREMENTS.**

6 (a) INDEFINITE QUANTITY AND DELIVERY CON-
7 TRACTS.—Section 8(a)(1)(D) of the Small Business Act
8 (15 U.S.C. 637(a)(1)(D)) is amended—

9 (1) by redesignating clause (ii) as clause (iv);
10 and

11 (2) by inserting after clause (i) the following
12 new clause:

13 “(ii) Whenever a requirements-type contract (includ-
14 ing a task order contract, indefinite quantity contract, or
15 indefinite delivery contract) is to be awarded, the thresh-
16 olds for competition required under clause (i)(II) shall be
17 calculated on the basis of the estimated total value of the
18 contract.”.

19 (b) AUTHORIZATION FOR ADDITIONAL NONCOMPETI-
20 TIVE CONTRACT AWARDS.—Section 8(a)(1)(D) of the
21 Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended
22 by inserting after clause (ii) (as added by subsection (a))
23 the following new clause:

24 “(iii) The Associate Administrator for Minority
25 Enterprise Development, on a nondelegable basis,

1 may authorize the noncompetitive award of contracts
2 in excess of the amounts specified in clause (i)(II)
3 to a Program Participant, if—

4 “(I) such Program Participant is an
5 emerging small business concern;

6 “(II) the award of such contracts would
7 contribute substantially to the development of
8 the Program Participant in accordance with its
9 business plan, including attainment of the busi-
10 ness activity targets established pursuant to
11 section 7(j)(10)(I), by the time such firm enters
12 the transitional stage;

13 “(III) the award value of the contract does
14 not exceed twice the amounts specified in clause
15 (i)(II); and

16 “(IV) the aggregate dollar value of awards
17 pursuant to this clause does not exceed
18 \$20,000,000.”.

19 **SEC. 134. STANDARD INDUSTRIAL CLASSIFICATION CODES.**

20 (a) APPROVAL OF CODES.—As part of the process of
21 developing and maintaining a business plan pursuant to
22 section 7(j)(10)(D) of the Small Business Act, a Program
23 Participant may designate its capabilities to perform con-
24 tracting opportunities under one or more standard indus-
25 trial classification codes.

1 (b) DETERMINATIONS BY PROCURING AGENCY RE-
2 GARDING APPLICABLE STANDARD INDUSTRIAL CLASSI-
3 FICATION CODE.—The standard industrial classification
4 code assigned to a contracting opportunity by the respon-
5 sible contracting officer shall apply, unless modified by the
6 contracting officer after considering additional informa-
7 tion furnished by the Administration or from other
8 sources.

9 (c) EFFECT OF RESPONSIBILITY DETERMINA-
10 TIONS.—The Administration shall be bound by a deter-
11 mination of responsibility by the agency contracting officer
12 with respect to a Program Participant being considered
13 for award of a contract pursuant to section 8(a) of the
14 Small Business Act.

15 (d) CONFORMING AMENDMENT.—Section 8(a)(7) of
16 the Small Business Act (15 U.S.C. 637(a)(7)) (as amend-
17 ed by section 132(b)(2)) is amended to read as follows:
18 “(7) [Reserved].”

19 **SEC. 135. USE OF CONTRACT SUPPORT LEVELS.**

20 Section 7(j)(10)(D) of the Small Business Act (15
21 U.S.C. 636(j)(10)(D)) is amended by adding at the end
22 the following new clause:

23 “(v) The forecasts of overall business activity con-
24 tained in the business plan of a Program Participant or
25 the estimate contained in the section 8(a) contract support

1 level of such firm shall not be used by the Administration
2 to make a determination that such firm is ineligible for
3 the award of a contract to be awarded pursuant to section
4 8(a).”.

5 **SEC. 136. BUSINESS MIX REQUIREMENTS.**

6 Section 7(j)(10) of the Small Business Act (15
7 U.S.C. 636(j)(10)) is amended—

8 (1) in subparagraph (D)—

9 (A) in clause (iii), by striking “contracts
10 awarded” and inserting “contracts awarded
11 noncompetitively”; and

12 (B) in clause (iv)(I), by striking “contracts
13 awarded” and inserting “contracts awarded
14 noncompetitively”; and

15 (2) in subparagraph (I)—

16 (A) in clause (i)—

17 (i) by striking “for contracts awarded
18 other than pursuant to section 8(a)” and
19 inserting “through contracts other than
20 contracts awarded noncompetitively pursu-
21 ant to section 8(a)”; and

22 (ii) by striking “will engage a” and
23 inserting “will engage in a”;

24 (B) in clause (iii)—

1 (i) by redesignating subclauses (II)
2 through (V) as subclauses (III) through
3 (VI), respectively;

4 (ii) by striking subclause (I) and in-
5 sserting the following:

6 “(I) establish business activity targets ap-
7 plicable to Program Participants during each
8 year of Program participation, which reflect a
9 consistent increase in new contracts awarded
10 other than pursuant to section 8(a), so that not
11 more than 20 percent of the dollar value of the
12 Program Participant’s business base (as a per-
13 centage of total sales) at the beginning of the
14 ninth year of Program participation is derived
15 from contracts awarded pursuant to section
16 8(a);

17 “(II) provide that the business activity tar-
18 gets established pursuant to subclause (I) re-
19 flect that not more than 50 percent of the dol-
20 lar value of the new contracts awarded during
21 the fifth and succeeding years of Program Par-
22 ticipation be awarded pursuant to section 8(a)
23 on a noncompetitive basis;”;

24 (iii) by striking subclause (IV), as re-
25 designated, and inserting the following:

1 “(IV) require that a Program Participant
2 in the transitional stage of Program participa-
3 tion certify compliance with its business activity
4 targets (or with any program of remedial meas-
5 ures that may have been imposed pursuant to
6 subclause (VI) for failing to attain such tar-
7 gets) to eligible for award of a contract pursu-
8 ant to section 8(a);”;

9 (iv) in subclause (V), as redesignated,
10 by striking “and” at the end;

11 (v) by striking subclause (VI), as re-
12 designated, and inserting the following:

13 “(VI) authorize the Administration to re-
14 quire a Program Participant that has failed to
15 attain a business activity target to undertake a
16 program of remedial measures designed to as-
17 sist the firm to reduce its dependence on con-
18 tracts awarded pursuant to section 8(a); and”;
19 and

20 (vi) by adding at the end the following
21 new subclause:

22 “(VII) authorize the Administration to
23 limit the dollar volume of contracts awarded to
24 the Program Participant pursuant to section
25 8(a), especially those awarded noncompetitively,

1 if the firm has not made substantial progress
2 toward attaining its business activity targets.”;
3 and

4 (C) by adding at the end the following new
5 clause:

6 “(iv) Actions by the Administration relating to
7 enforcing compliance with business activity targets
8 shall not be reviewable pursuant to section 8(a)(19),
9 unless such action is a termination from further
10 Program participation.”.

11 **SEC. 137. ENCOURAGING SELF-MARKETING.**

12 (a) **ELIMINATION OF REGULATORY LIMITATIONS.**—
13 In accordance with the schedule for the issuance of revised
14 regulations contained in section 601(a), the Administra-
15 tion shall promulgate such regulations as may be nec-
16 essary to eliminate regulatory limitations on self-market-
17 ing by Program Participants, including limitations relat-
18 ing to so-called “National Buys” and “Local Buys”.

19 (b) **CONFORMING AMENDMENT.**—Section 8(a)(11) of
20 the Small Business Act (15 U.S.C. 637(a)(11)) is amend-
21 ed to read as follows:

22 “(11) [Reserved].”.

1 **SEC. 138. BUNDLING OF CONTRACTOR CAPABILITIES.**

2 (a) IN GENERAL.—Section 8(a)(14) of the Small
3 Business Act (15 U.S.C. 637(a)(14)) is amended to read
4 as follows:

5 “(14)(A) Except as provided in subparagraph
6 (B), a contract shall not be awarded pursuant to
7 this subsection unless the small business concern
8 complies with the requirements of section 15(o).

9 “(B)(i) Whenever the Administration deter-
10 mines that a proposed contract opportunity rep-
11 resents a bundling of contract requirements as de-
12 fined by section 3(n), a Program Participant may
13 propose a team of subcontractors meeting the re-
14 quirements of clause (ii) without regard to the re-
15 quirements of section 15(o) or regulations of the Ad-
16 ministration regarding findings of affiliation or con-
17 trol, either direct or indirect.

18 “(ii) The subcontracting team proposed by a
19 Program Participant may include—

20 “(I) other Program Participants;

21 “(II) other small business concerns;

22 “(III) business concerns other than small
23 business concerns, whose aggregate participa-
24 tion may not represent more than 25 percent of
25 the anticipated total value of the contract; and

1 “(IV) historically black colleges and uni-
2 versities and other minority institutions.”.

3 (b) DEFINITION.—Section 3 of the Small Business
4 Act (15 U.S.C. 632) is amended by adding at the end the
5 following new subsection:

6 “(n) CONTRACT BUNDLING.—For purposes of con-
7 tracting opportunities subject to sections 8(a) and 15, the
8 terms ‘contract bundling’ and ‘bundling of contract re-
9 quirements’ mean the practice of consolidating two or
10 more procurement requirements of the type that were pre-
11 viously solicited and awarded as separate smaller contracts
12 into a single large contract solicitation likely to be unsuit-
13 able for award to a small business concern due to—

14 “(1) the diversity and size of the elements of
15 performance specified;

16 “(2) the aggregate dollar value of the antici-
17 pated award;

18 “(3) the geographical dispersion of the contract
19 performance sites; or

20 “(4) any combination of the factors described in
21 paragraphs (1), (2), and (3).”.

22 (c) CONFORMING AMENDMENT.—Section 15(a) of
23 the Small Business Act (15 U.S.C. 644(a)) is amended
24 by striking “If a proposed procurement” and all that fol-
25 lows through “prime contract participation unlikely,” and

1 inserting the following: “If a proposed procurement rep-
2 resents a bundling of contract requirements, as defined
3 in section 3(n),”.

4 **PART E—TRIBALLY OWNED CORPORATIONS**

5 **SEC. 141. MANAGEMENT AND CONTROL OF BUSINESS OP-**
6 **ERATIONS.**

7 Section 8(a)(4)(B)(ii) of the Small Business Act (15
8 U.S.C. 637(a)(4)(B)(ii)) is amended to read as follows:

9 “(ii) in the case of a tribally owned corporation,
10 an individual designated by the Indian tribe (or the
11 board of directors of a wholly owned entity of such
12 tribe), who shall be a Native American if such indi-
13 vidual is available; or”.

14 **SEC. 142. JOINT VENTURES.**

15 (a) IN GENERAL.—Section 8(a)(15) of the Small
16 Business Act (15 U.S.C. 637(a)(15)) is amended to read
17 as follows:

18 “(15)(A) Except as provided in subparagraph (B), a
19 contract may be awarded pursuant to this subsection to
20 a joint venture owned and controlled by a Program Partic-
21 ipant, notwithstanding the size status of such joint ven-
22 ture, if the Program Participant—

23 “(i) is owned and controlled by an Indian tribe;

24 “(ii) owns at least 51 percent of the joint ven-
25 ture;

1 “(iii) is located and performs most of its activi-
2 ties on the reservation of such Indian tribe; and

3 “(iv) employs members of such tribe for at least
4 50 percent of the work force of such joint venture.

5 “(B) A contract may not be awarded to a joint ven-
6 ture pursuant to subparagraph (A) if an Indian tribe owns
7 and controls one or more Program Participants who are
8 currently joint venturers on more than 5 contracts award-
9 ed pursuant to subparagraph (A).”.

10 (b) DEFINITIONS.—

11 (1) INDIAN TRIBE.—Section 3 of the Small
12 Business Act (15 U.S.C. 632) (as amended by sec-
13 tion 139(b)) is amended by adding at the end the
14 following new subsection:

15 “(o) INDIAN TRIBE.—For purposes of this Act, the
16 term ‘Indian tribe’ means an Indian tribe, band, nation,
17 or other organized group or community of Indians, includ-
18 ing any Alaska Native village or regional or village cor-
19 poration (as defined in section 3 of the Alaska Native
20 Claims Settlement Act that—

21 “(1) is recognized as eligible for the special pro-
22 grams and services provided by the United States to
23 Indians because of their status as Indians; or

1 owned business entity of such tribe) shall be considered
2 to be in compliance with section 23 of the Act of June
3 25, 1910 (25 U.S.C. 47).

4 **PART F—CONTRACT ADMINISTRATION MATTERS**

5 **SEC. 151. ACCELERATED PAYMENT.**

6 Section 8(a)(1) of the Small Business Act (15 U.S.C.
7 637(a)(1)) is amended by adding at the end the following
8 new subparagraph:

9 “(E)(i) Any contract awarded pursuant to subpara-
10 graph (B) to a Program Participant in the developmental
11 stage of the Program shall include a payment term requir-
12 ing payment of any invoice, progress payment request, or
13 other authorized request for payment, not later than 20
14 days after receipt of a proper invoice or other form of pay-
15 ment request.”.

16 **SEC. 152. EXPEDITED RESOLUTION OF CONTRACT ADMINIS-**
17 **TRATION MATTERS.**

18 Section 8(a)(1)(E) of the Small Business Act (15
19 U.S.C. 637(a)(1)(E)) (as added by section 151) is amend-
20 ed by adding at the end the following new clause:

21 “(ii)(I) A Federal agency awarding a contract under
22 this subsection shall make every reasonable effort to re-
23 spond in writing to any written request made to a con-
24 tracting officer with respect to a matter relating to the

1 administration of such contract, not later than 15 days
2 such request.

3 “(II) If the contracting officer is unable to reply be-
4 fore the expiration of the 15-day period described in
5 subclause (I), the contracting officer shall transmit to the
6 contractor within such period a written notification of a
7 specific date by which the contracting officer expects to
8 respond.

9 “(III) The provisions of this subparagraph do not
10 apply to a request for a contracting officer’s decision
11 under the Contract Disputes Act of 1978 nor create any
12 new rights pursuant to such Act.”.

13 **SEC. 153. AVAILABILITY OF ALTERNATIVE DISPUTE RESO-**
14 **LUTION.**

15 Section 8(a)(1)(E) of the Small Business Act (15
16 U.S.C. 637(a)(1)(E)) (as amended by sections 151 and
17 152) is amended by adding at the end the following new
18 clause:

19 “(iii)(I) Except as provided in subclause (II), an
20 agency awarding a contract pursuant to subparagraph (B)
21 shall make available, upon the request of a Program Par-
22 ticipant, an alternative means of dispute resolution pursu-
23 ant to subchapter IV of chapter 5, of title 5, United States
24 Code.

1 “(II) In carrying out this clause, the agency need not
2 provide an alternative dispute resolution procedure if the
3 agency makes a written determination, supported by spe-
4 cific findings, citing one or more of the conditions in sec-
5 tion 572(b) of title 5, United States Code, or such other
6 specific reasons, that alternative dispute resolution proce-
7 dures are inappropriate for the resolution of the dispute
8 for which such procedures were sought under the con-
9 tract.”.

10 **PART G—PROGRAM ADMINISTRATION**

11 **SEC. 161. SIMPLIFICATION OF ANNUAL REPORT TO CON-**
12 **GRESS.**

13 Section 7(j)(16)(B)(v) of the Small Business Act (15
14 U.S.C. 636(j)(16)(B)(v)) is amended to read as follows:

15 “(v) The total dollar value of receipts received during
16 the most recently completed program year from contracts
17 awarded pursuant to section 8(a), and such amount ex-
18 pressed as a percentage of the total sales of—

19 “(I) all firms participating in the Program dur-
20 ing the preceding fiscal year; and

21 “(II) firms in each of the 9 years of Program
22 participation.”.

1 **SEC. 162. REDUCTION IN REPORTING BY PROGRAM PAR-**
2 **TICIPANTS.**

3 Section 8(a)(20)(A) of the Small Business Act (15
4 U.S.C. 637(a)(20)(A)) is amended by striking “semiannu-
5 ally report” and inserting “report, not less often than an-
6 nually.”

7 **TITLE II—CONTRACTING PRO-**
8 **GRAM FOR CERTAIN SMALL**
9 **BUSINESS CONCERNS**

10 **PART A—CIVILIAN AGENCIES PROGRAM**

11 **SEC. 201. PROCUREMENT PROCEDURES.**

12 Section 8(c) of the Small Business Act (15 U.S.C.
13 637(c)) is amended to read as follows:

14 “(c) PROCUREMENT PROCEDURES.—

15 “(1) IN GENERAL.—For the purpose of attain-
16 ing an agency’s goal for the participation of small
17 business concerns owned and controlled by socially
18 and economically disadvantaged individuals pursuant
19 to section 15(g)(1), the head of a participating exec-
20 utive agency may enter into contracts using—

21 “(A) less than full and open competition,
22 by restricting the competition for such awards
23 to small business concerns owned and controlled
24 by socially and economically disadvantaged indi-
25 viduals as defined in subsection (d)(3)(C); and

1 “(B) a price evaluation preference, of not
2 to exceed 10 percent, when evaluating an offer
3 received from such a small business concern as
4 the result of an unrestricted solicitation.

5 “(2) DEFINITION.—For the purposes of this
6 subsection, the term ‘participating executive agency’
7 means a Federal agency, as defined in section 3(b),
8 in the executive branch of the Federal Government,
9 other than the Department of Defense.”.

10 **SEC. 202. IMPLEMENTATION THROUGH THE FEDERAL AC-**
11 **QUISITION REGULATION.**

12 (a) IN GENERAL.—The Federal Acquisition Regula-
13 tion shall be amended to provide uniform implementation
14 by each executive agency choosing to participate in the
15 program authorized in section 8(c) of the Small Business
16 Act (as amended by section 201).

17 (b) MATTERS TO BE ADDRESSED.—The provisions
18 of the Federal Acquisition Regulation prescribed pursuant
19 to subsection (a) shall include—

20 (1) conditions for the use of advance payments;

21 (2) provisions for contract payment terms that
22 provide for—

23 (A) accelerated payment for work per-
24 formed during the period for contract perform-
25 ance; and

1 (B) full payment for work performed;

2 (3) guidance on how contracting officers may
3 use, in solicitations for various classes of products or
4 services, a price evaluation preference pursuant to
5 section 8(c)(1)(B) of the Small Business Act (as
6 amended by section 201) to provide a reasonable ad-
7 vantage to small business concerns owned and con-
8 trolled by socially and economically disadvantaged
9 individuals without effectively eliminating any par-
10 ticipation of other small business concerns; and

11 (4)(A) procedures for a person to request the
12 head of a Federal agency to determine whether the
13 use of competitions restricted to small business con-
14 cerns owned and controlled by socially and economi-
15 cally disadvantaged individuals at a contracting ac-
16 tivity of such agency has caused a particular indus-
17 try category to bear a disproportionate share of the
18 contracts awarded to attain the goal established for
19 that contracting activity; and

20 (B) guidance for limiting the use of such re-
21 stricted competitions in the case of any contracting
22 activity and class of contracts determined in accord-
23 ance with such procedures to have caused a particu-
24 lar industry category to bear a disproportionate

1 share of the contracts awarded to attain the goal es-
2 tablished for that contracting activity.

3 **SEC. 203. SUNSET.**

4 The amendments made by section 201 shall cease to
5 be effective on October 1, 2000.

6 **PART B—ELIGIBILITY DETERMINATIONS**

7 **REGARDING STATUS**

8 **SEC. 211. IMPROVED STATUS PROTEST SYSTEM.**

9 Section 7(j)(10)(J) of the Small Business Act (15
10 U.S.C. 636(j)(10)(J)) is amended by striking clause (ii)
11 and inserting the following new clauses:

12 “(ii) A protest may be brought regarding a self-cer-
13 tification by a business concern regarding its status as a
14 small business concern owned and controlled by socially
15 and economically disadvantaged individuals by—

16 “(I) another person with a direct economic in-
17 terest in the award of the contract or subcontract
18 under which such business has allegedly made the
19 false certification regarding its status as a small
20 business concern owned and controlled by socially
21 and economically disadvantaged individuals;

22 “(II) a prime contractor receiving specific and
23 credible information that an actual or prospective
24 subcontractor or supplier has falsely certified its sta-
25 tus as a small business concern owned and con-

1 trolled by socially and economically disadvantaged
2 individuals;

3 “(III) a contracting officer receiving a self-cer-
4 tification regarding an actual or prospective contrac-
5 tor’s status, which such officer reasonably believes to
6 be false; or

7 “(IV) the Associate Deputy Administrator for
8 Minority Enterprise Development and Government
9 Contracting of the Small Business Administration
10 (or any successor position).

11 “(iii) The Office of Hearings and Appeals shall hear
12 appeals regarding the status of a concern as a small busi-
13 ness concern owned and controlled by socially and eco-
14 nomically disadvantaged individuals for purposes of any
15 program or activity conducted under section 8(d) or any
16 other Federal law that refers to such section for a defini-
17 tion of program eligibility.

18 “(iv) A decision issued pursuant to clause (iii) shall—

19 “(I) be made available to all parties to the pro-
20 ceeding;

21 “(II) be published in full text; and

22 “(III) include findings of fact and conclusions
23 of law, with specific reasons supporting such find-
24 ings and conclusions, on each material issue of fact

1 and law of decisional significance regarding the dis-
2 position of the protest.

3 “(v) A decision issued pursuant to clause (iii) shall
4 be considered a final agency action, and shall be subject
5 to judicial review under section 553 of title 5, United
6 States Code.

7 “(vi) If a firm engages in a pattern of misrepresenta-
8 tions regarding the status of the firm in violation of sec-
9 tion 16(d)(1), the Administration or the aggrieved execu-
10 tive agency shall initiate an action to impose an appro-
11 priate penalty under section 16(d)(2).”.

12 **SEC. 212. CONFORMING AMENDMENT.**

13 Section 7(j)(11)(F) of the Small Business Act (15
14 U.S.C. 636(j)(11)(F)) is amended by—

15 (1) striking clause (vii); and

16 (2) redesignating clause (viii) as clause (vii).

17 **TITLE III—EXPANDING SUB-**
18 **CONTRACTING OPPORTUNI-**
19 **TIES**

20 **SEC. 301. EVALUATING SUBCONTRACT PARTICIPATION IN**
21 **AWARDING CONTRACTS.**

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

24 (1) in paragraph (4), by striking subparagraphs

25 (A) through (D) and inserting the following:

1 “(4)(A) Each solicitation for the award of a contract
2 (or subcontract) with an anticipated value of \$1,000,000,
3 in the case of a contract for construction (including repair,
4 alteration, or demolition of existing construction) or
5 \$500,000, in the case of a contract for all other types of
6 services or supplies, that can reasonably be expected to
7 offer opportunities for subcontracting, shall—

8 “(i) in the case of a Federal contract to be com-
9 petitively awarded, include solicitation provisions de-
10 scribed in subparagraph (B);

11 “(ii) in the case of a Federal contract to be
12 noncompetitively awarded, require submission and
13 acceptance of a subcontracting plan pursuant to
14 subparagraph (C); and

15 “(iii) in the case of a subcontract award, re-
16 quire submission and acceptance of a subcontracting
17 plan pursuant to subparagraph (D).

18 “(B) With respect to subcontract participation by
19 small business concerns and small business concerns
20 owned and controlled by socially and economically dis-
21 advantaged individuals, the solicitation shall—

22 “(i) specify minimum percentages for sub-
23 contract participation for an offer to be considered
24 responsive whenever practicable;

1 “(ii) assign a weight of not less than the nu-
2 merical equivalent of 5 percent of the total of all
3 evaluation factors to a contract award evaluation
4 factor that recognizes incrementally higher sub-
5 contract participation rates in excess of the mini-
6 mum percentages;

7 “(iii) require the successful offeror to submit a
8 subcontracting plan that incorporates the informa-
9 tion described in paragraph (6); and

10 “(iv) assign a significant weight in any evalua-
11 tion of past performance by the offerors in attaining
12 subcontract participation goals.

13 “(C)(i) Each small business concern apparent suc-
14 cessful offeror shall negotiate—

15 “(I) a goal for the participation of small busi-
16 ness concerns and for the participation of small
17 business concerns owned and controlled by socially
18 and economically disadvantaged individuals; and

19 “(II) a plan for the attainment of the goals that
20 incorporates the information prescribed in paragraph
21 (6).

22 “(ii) The goals and plan shall reflect the maximum
23 practicable opportunity for participation of small business
24 concerns in the performance of the contract, considering
25 the matters described in subparagraph (F)(iii). If, within

1 the time limits prescribed in the Federal acquisition regu-
2 lations, the apparent successful offeror fails to negotiate
3 such a subcontracting plan, such offeror shall be ineligible
4 for contract award.

5 “(D) An apparent subcontract awardee shall nego-
6 tiate with the prime contractor (or higher-tier subcontrac-
7 tor) a goal for the participation of small business concerns
8 and for the participation of small business concerns owned
9 and controlled by socially and economically disadvantaged
10 individuals, and a plan for the attainment of those goals
11 which incorporates the information prescribed in para-
12 graph (6). Such goals and plan shall reflect the maximum
13 practicable opportunity for participation of such small
14 business concerns in the performance of the contract, con-
15 sidering the matters described in subparagraph (F)(iii).”;

16 (2) by striking paragraph (5) and inserting the
17 following:

18 “(5) [Reserved].”; and

19 (3) in paragraph (6)—

20 (A) by redesignating subparagraphs (B)
21 through (F) as subparagraphs (C) through (G),
22 respectively; and

23 (B) by inserting the following new sub-
24 paragraph (B):

1 “(B)(i) a listing of the small business sub-
2 contractors (including suppliers) who have actual or
3 contingent awards for participation in the perform-
4 ance of the contract, identifying the work to be per-
5 formed and the anticipated award value of the sub-
6 contracts; and

7 “(ii) assurances that the listing of small busi-
8 ness subcontractors described in clause (i) will be
9 regularly revised to identify firms that have been re-
10 moved from or substituted for previously listed
11 firms, and annotated to reflect the reasons for any
12 removal or substitution;”.

13 **SEC. 302. SUBCONTRACTING GOALS FOR CERTAIN SMALL**
14 **BUSINESS CONCERNS.**

15 Section 8(d)(7) of the Small Business Act (15 U.S.C.
16 637(d)(7)) is amended to read as follows:

17 “(7)(A) Except as provided in subparagraph (B),
18 paragraphs (4), (5), and (6) shall not apply to offerors
19 who are small business concerns.

20 “(B) A small business concern owned and controlled
21 by socially and economically disadvantaged individuals
22 shall be required to negotiate a subcontracting plan for
23 the use of emerging small business concerns owned and
24 controlled by socially and economically disadvantaged indi-
25 viduals, if—

1 “(i) the prime contract was awarded pursuant
2 to—

3 “(I) subsection (a) or (c) of section 8;

4 “(II) section 2323 of title 10, United
5 States Code; or

6 “(III) any law that authorizes the award of
7 a Federal contract as the result of a competi-
8 tion restricted to small business concerns owned
9 and controlled by socially and economically dis-
10 advantaged individuals as defined in section
11 8(d)(3)(C);

12 “(ii) the anticipated total value of the contract
13 exceeds \$20,000,000; and

14 “(iii) subcontracting opportunities are ex-
15 pected.”.

16 **SEC. 303. SMALL BUSINESS PARTICIPATION GOALS.**

17 Section 15(g)(1) of the Small Business Act (15
18 U.S.C. 644(g)(1)) is amended by striking “20 percent”
19 and inserting “25 percent”.

20 **SEC. 304. IMPROVED NOTICE OF SUBCONTRACTING OPPOR-**
21 **TUNITIES.**

22 (a) USE OF THE COMMERCE BUSINESS DAILY AU-
23 THORIZED.—Section 8 of the Small Business Act (15
24 U.S.C. 637) is amended by adding at the end the following
25 new subsection:

1 “(k) NOTICES OF SUBCONTRACTING OPPORTUNI-
2 TIES.—

3 “(1) IN GENERAL.—Notices of subcontracting
4 opportunities may be submitted for publication in
5 the Commerce Business Daily by—

6 “(A) a business concern awarded a con-
7 tract by an executive agency subject to sub-
8 section (e)(1)(C); and

9 “(B) a business concern which is a sub-
10 contractor or supplier (at any tier) to a contrac-
11 tor required to have a subcontracting plan pur-
12 suant to subsection (d) having a subcontracting
13 opportunity in excess of \$100,000.

14 “(2) CONTENTS OF NOTICE.—The notice of a
15 subcontracting opportunity shall include—

16 “(A) a description of the business oppor-
17 tunity that is comparable to the description
18 specified in paragraphs (1), (2), (3), and (4) of
19 subsection (f); and

20 “(B) the due date for the receipt of of-
21 fers.”.

22 (b) REGULATIONS REQUIRED.—The Federal Acquisi-
23 tion Regulation shall be amended to provide uniform im-
24 plementation of the amendments made by this section.

1 (c) CONFORMING AMENDMENT.—Section 8(e)(1)(C)
2 of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is
3 amended by striking “\$25,000” each place it appears and
4 inserting “\$100,000”.

5 **TITLE IV—REPEALS AND**
6 **TECHNICAL AMENDMENTS**

7 **PART A—REPEALS**

8 **SEC. 401. LOAN PROGRAM SUPERSEDED BY SECTION 7(a)**
9 **LOAN PROGRAM.**

10 (a) IN GENERAL.—Section 7(i) of the Small Business
11 Act (15 U.S.C. 636(i)) is amended to read as follows:

12 “(i) [Reserved].”

13 (b) CONFORMING AMENDMENTS.—The Small Busi-
14 ness Act (15 U.S.C. 601 et seq.) is amended—

15 (1) in section 2(d)(1), by striking “sections 7(i)
16 and 7(j)” and inserting “section 7(j)”;

17 (2) in section 4(c)(2), by striking “7(i),”;

18 (3) in section 5(e)(3), by striking “sections
19 7(a)(4)(C) and 7(i)(1)” and inserting “section
20 7(a)(4)(C)”;

21 (4) in section 7(j), by striking “sections 7(i),
22 7(j)(10), and 8(a)” each place it appears and insert-
23 ing “paragraph (10) and section 8(a)”;

1 (5) in section 7(k), by striking “sections 7(i),
2 7(j)(10), and 8(a)” and inserting “subsection (j)(10)
3 and section 8(a)”.

4 **SEC. 402. SUPERSEDED LOAN PROGRAM RELATING TO EN-**
5 **ERGY.**

6 (a) IN GENERAL.—Section 7(*l*) of the Small Business
7 Act (15 U.S.C. 636(*l*)) is amended to read as follows:

8 “(*l*) [Reserved].”.

9 (b) CONFORMING AMENDMENTS.—Section 4(c)(2) of
10 the Small Business Act (15 U.S.C. 601 et seq.) is amend-
11 ed by striking “7(*l*).”.

12 **SEC. 403. EMPLOYEE TRAINING PROGRAM OF LIMITED**
13 **SCOPE.**

14 Section 15(j)(13)(E) of the Small Business Act (15
15 U.S.C. 644(j)(13)(E)) is amended to read as follows:

16 “(E) [Reserved].”.

17 **SEC. 404. EXPIRED PROVISION.**

18 Section 8(a)(2) of the Small Business Act (15 U.S.C.
19 637(a)(2)) is amended to read as follows:

20 “(2) [Reserved].”.

21 **SEC. 405. EXPIRED DIRECTION TO THE ADMINISTRATION.**

22 Section 303(f) of the Business Opportunity Develop-
23 ment Reform Act of 1988 (15 U.S.C. 637 note) is re-
24 pealed.

1 **PART B—TECHNICAL AMENDMENTS**

2 **SEC. 411. TECHNICAL AMENDMENTS.**

3 The Small Business Act (15 U.S.C. 631 et seq.) is
4 amended—

5 (1) in section 8(d)(10)(C) (15 U.S.C.
6 637(d)(10)(C)), by striking “in the case contrac-
7 tors” and inserting “in the case of contractors”;

8 (2) in section 10—

9 (A) in subsection (a), by striking “the Sen-
10 ate Select Committee on Small Business”; and

11 (B) in subsection (b), by striking “to the
12 Senate Select Committee on Small Business,
13 and to the Committee on Small Business of the
14 House of Representatives” and inserting “to
15 the Committees on Small Business of the Sen-
16 ate and House of Representatives”; and

17 (3) in section 15(g)(1)—

18 (A) in the first sentence, by striking “The
19 President” and inserting “(A) The President”;

20 (B) by striking the second and third sen-
21 tences and inserting the following:

22 “(B) The Governmentwide goals established pursuant
23 to subparagraph (A) shall be—

24 “(i) for small business concerns, 20 percent of
25 the total prime contracts for the fiscal year; and

1 “(ii) for small business concerns owned and
2 controlled by socially and economically disadvan-
3 taged individuals, 8 percent of the total value of all
4 prime contracts and subcontracts for the fiscal
5 year.”;

6 (C) in the fourth sentence, by striking
7 “Notwithstanding the Government-wide goal”
8 and inserting the following:

9 “(C) Notwithstanding the Governmentwide goal”;
10 and

11 (D) in the fifth sentence, by striking “The
12 Administration” and inserting the following:
13 “(D) The Administration”.

14 **TITLE V—DEFINITIONS**

15 **SEC. 501. HISTORICALLY UNDERUTILIZED BUSINESSES.**

16 (a) DEFINITION.—Section 8(a)(4)(A) of the Small
17 Business Act (15 U.S.C. 637(a)(4)(A)) is amended by
18 striking “socially and economically disadvantaged small
19 business concern” and inserting “historically underutilized
20 business”.

21 (b) TECHNICAL AMENDMENT.—Section 9(j)(2)(F) of
22 the Small Business Act (15 U.S.C. 638(j)(2)(F)) is
23 amended by striking “socially and economically disadvan-
24 taged small business concerns, as defined in section
25 8(a)(A)” and inserting “small business concerns owned

1 and controlled by socially and economically disadvantaged
2 individuals”.

3 **SEC. 502. EMERGING SMALL BUSINESS CONCERN.**

4 (a) IN GENERAL.—Section 3 of the Small Business
5 Act (15 U.S.C. 631) is amended by adding at the end the
6 following new subsection:

7 “(q) EMERGING SMALL BUSINESS CONCERN.—For
8 purposes of sections 8 and 15, the term ‘emerging small
9 business concern’ means a small business concern the size
10 of which is less than or equal to 25 percent of the numeri-
11 cal size standard for—

12 “(1) in the case of a contracting opportunity
13 being awarded by the Government, the standard in-
14 dustrial classification code assigned by a contracting
15 officer; or

16 “(2) in all other cases, the standard industrial
17 classification that encompasses the principal line of
18 business of the business concern.”.

19 (b) DELAYED APPLICABILITY TO THE SMALL BUSI-
20 NESS COMPETITIVENESS DEMONSTRATION PROGRAM.—
21 For the purposes of the Small Business Competitiveness
22 Demonstration Program, the amendment made by sub-
23 section (a) shall not supersede the definition of “emerging
24 small business concern” provided in section 718(b) of the

1 Small Business Competitiveness Demonstration Program
2 Act of 1988.

3 **TITLE VI—REGULATORY IMPLE-**
4 **MENTATION AND EFFECTIVE**
5 **DATES**

6 **PART A—ASSURING TIMELY REGULATORY**
7 **IMPLEMENTATION**

8 **SEC. 601. DEADLINES FOR ISSUANCE OF REGULATIONS.**

9 (a) PROPOSED REGULATIONS.—Proposed amend-
10 ments to the Federal Acquisition Regulation or proposed
11 Small Business Administration regulations shall be pub-
12 lished not later than 120 days after the date of enactment
13 of this Act for the purpose of obtaining public comment
14 pursuant to either section 22 of the Office of Federal Pro-
15 curement Policy Act or chapter 5 of title 5, United States
16 Code, as appropriate. The public shall be afforded not less
17 than 60 days to submit comments.

18 (b) FINAL REGULATIONS.—Final regulations shall be
19 published and become effective not later than 270 days
20 after the date of enactment of this Act.

21 **SEC. 602. REGULATORY IMPLEMENTATION OF PRIOR LEG-**
22 **ISLATION.**

23 (a) PROPOSED REGULATIONS.—Proposed amend-
24 ments to the Federal Acquisition Regulation or the Small
25 Business Administration regulations pertaining to the

1 statutory provisions listed in subsection (c) shall be pub-
2 lished not later than 30 days after the date of enactment
3 of this Act for the purpose of obtaining public comment
4 pursuant to either section 22 of the Office of Federal Pro-
5 curement Policy Act or chapter 5 of title 5, United States
6 Code, as appropriate. The public shall be afforded not less
7 than 60 days to submit comments.

8 (b) FINAL REGULATIONS.—Final regulations imple-
9 menting the amendments made by this Act shall be pub-
10 lished and shall take effect not later than 120 days after
11 the date of enactment of this Act.

12 (c) DELAYED REGULATIONS.—

13 (1) Section 203 of the Small Business Adminis-
14 tration Reauthorization and Amendments Act of
15 1990 (15 U.S.C. 637 note; 104 Stat. 2818).

16 (2) Section 221 of the Small Business Credit
17 and Business Opportunity Enhancement Act of
18 1992 (15 U.S.C. 636 note; 106 Stat. 999).

19 (3) Section 222 of the Small Business Credit
20 and Business Opportunity Enhancement Act of
21 1992 (15 U.S.C. 632 note; 106 Stat. 999).

1 **PART B—EFFECTIVE DATES**

2 **SEC. 611. EFFECTIVE DATES.**

3 (a) EFFECTIVE DATE OF ACT.—Except as provided
4 in subsection (b), this Act shall take effect on the date
5 of the enactment of this Act.

6 (b) AMENDMENTS REQUIRING IMPLEMENTING REG-
7 ULATIONS.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this Act which
10 require the issuance of regulations shall take effect
11 on the date on which final implementing regulations
12 are prescribed in accordance with section 601.

13 (2) EXCEPTIONS.—The amendments made by
14 sections 101, 102, 111, 112, 114, 115, 122, 133,
15 134, 135, 136, 138, 141, 142, 143, 161, 162, and
16 211 shall take effect on the date of enactment of
17 this Act.



S 2478 CDS—2

S 2478 CDS—3

S 2478 CDS—4

S 2478 CDS—5

S 2478 CDS—6