

108TH CONGRESS
1ST SESSION

H. R. 2802

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

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 Re-
6 vitalization 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.

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.

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
 8 read as follows:

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

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

12 Section 103 of the Small Business Investment Act
 13 of 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
4 paragraph:

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 “1.52 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
16 new subparagraphs:

17 “(A) IN GENERAL.—The outstanding le-
18 verage made available to a licensee under sec-
19 tion 301(e) shall not exceed 300 percent of pri-
20 vate capital, up to a maximum of
21 \$115,000,000, except that the maximum shall
22 be \$150,000,000 if the licensee certifies in writ-
23 ing that more than 50 percent of its aggregate
24 dollar amount of financings are in small manu-
25 facturers.

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 cer-
10 tify in writing that more than 50 percent
11 of their aggregate dollar amount of
12 financings are in small manufacturers. The
13 Administrator shall have 10 business days
14 to approve or disapprove an application
15 under the preceding sentence. Approval or
16 disapproval is final agency action for pur-
17 poses of chapter 7 of title 5, United States
18 Code.

19 “(ii) Not later than 120 days after
20 the enactment of this subparagraph, the
21 Administrator shall prescribe regulations
22 providing standards and conditions for in-
23 creases in leverage, including the standards
24 for determining common control of licens-
25 ees.

1 “(iii) Until regulations are prescribed
2 under clause (ii), the Administrator shall
3 approve the application of each commonly
4 controlled licensee under the definition of
5 common control in section 107.50 of title
6 13, Code of Federal Regulations, as in ef-
7 fect on January 1, 2003.”.

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

9 Section 303(b) of the Small Business Investment Act
10 of 1958 (15 U.S.C. 683(b)) is amended by striking para-
11 graph (4) and all that follows through the end of the sen-
12 tence beginning “For purposes of” after that paragraph.

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

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

17 “(d) INVESTMENTS IN SMALLER ENTERPRISES.—As
18 a condition of approval of an application for leverage, the
19 Administrator shall require a licensee to certify in writing
20 that not less than 25 percent of the licensee’s aggregate
21 dollar amount of financings will be provided to smaller en-
22 terprises.”.

1 **SEC. 107. ACTIONS OF ADMINISTRATOR WITH RESPECT TO**
2 **CAPITAL IMPAIRMENT.**

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

5 (1) by striking “and” at the end of paragraph
6 (1);

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

9 (3) by adding at the end the following new
10 paragraphs:

11 “(3) shall not, for reasons of capital impair-
12 ment, restrict the operations of the licensee or direct
13 the use of the licensee’s capital to any purpose other
14 than the purposes for which the license was granted;
15 and

16 “(4) notwithstanding paragraph (3), may take
17 action to restrict the operations of, or liquidate a li-
18 censee for failure to comply with any other provision
19 of the law or regulation promulgated pursuant to
20 this Act.”.

21 **SEC. 108. CONDITIONS FOR DISTRIBUTION.**

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

25 “(9) Subject to subparagraphs (A), (B), and
26 (C), after making distributions under paragraph (8),

1 a company with outstanding participating securities
2 may distribute the balance of income to its investors,
3 if there are no accumulated and unpaid prioritized
4 payments.

5 “(A) Amounts received by the Administra-
6 tion under this paragraph and paragraph 8
7 shall be applied first as prepayment of the prin-
8 cipal amount of the outstanding participating
9 securities or debentures of the company at the
10 time of such distribution and then to the alloca-
11 tion under paragraph (11).

12 “(B) Distributions under this paragraph
13 shall be made to private investors and to the
14 Administration in the ratio of private capital to
15 leverage as of the day before the distribution
16 until the outstanding participating securities or
17 debentures of the company are paid in full,
18 after which any remaining distributions under
19 this paragraph shall be made to private inves-
20 tors and to the Administration in the ratio that
21 is provided for the allocation of profits in para-
22 graph (11).

23 “(C) The Administrator shall prescribe
24 such regulations as are required to assure that
25 management fees for the company are not un-

1 reasonably reduced due to a reduction in com-
2 bined capital as a result of distributions made
3 under this paragraph.”.

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

5 Section 306(a) of the Small Business Investment Act
6 of 1958 (15 U.S.C. 686(a)) is amended by inserting “(and
7 not including any obligations or securities issued under
8 section 7(a) of the Small Business Act or title V of this
9 Act)” after “under the provisions of this title”.

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

11 Section 308(c) of the Small Business Investment Act
12 of 1958 (15 U.S.C. 687) is amended by adding at the end
13 the following: “Any rules or regulations issued under this
14 Act, other than those relating to agency management or
15 personnel, shall be issued pursuant to section 553(b) of
16 title 5, United States Code.”.

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

18 (a) IN GENERAL.—Section 351(3)(A)(ii)(I) of the
19 Small Business Investment Act of 1958 (15 U.S.C.
20 689(3)(A)(ii)(I)) is amended by striking “50 percent” and
21 all that follows through the end and inserting “the median
22 family income in that tract does not exceed 80 percent
23 of the greater of statewide median family income or the
24 metropolitan area median family income; or”.

1 (b) APPLICATION OF AMENDED DEFINITION.—The
2 definition of low-income geographic area in section 351(3)
3 of the Small Business Investment Act of 1958 (15 U.S.C.
4 689(3)), as amended by subsection (a), shall apply to pri-
5 vate capital raised under section 354(d)(1) of the Small
6 Business Investment Act of 1958 (15 U.S.C. 689e(d)(1))
7 before, on, or after the effective date of the amendment
8 made by subsection (a).

9 **SEC. 112. UNMET EQUITY INVESTMENT NEEDS OF CERTAIN**
10 **SMALL MANUFACTURERS.**

11 Section 352(2) of the Small Business Investment Act
12 of 1958 (15 U.S.C. 689a(2)) is amended by inserting after
13 “small enterprises” the following: “and small manufactur-
14 ers”.

15 **SEC. 113. PARTICIPATION AGREEMENT REQUIREMENT.**

16 Section 353(1) of the Small Business Investment Act
17 of 1958 (15 U.S.C. 689b(1)) is amended by inserting after
18 “section 352” the following: “(with at least one such
19 agreement to be with a company engaged primarily in de-
20 velopment of and investment in small manufacturers)”.

21 **SEC. 114. FINAL APPROVAL REQUIREMENT.**

22 Section 354(d) of the Small Business Investment Act
23 of 1958 (15 U.S.C. 689e(d)) is amended, in the matter
24 before paragraph (1), by striking “a period of time not
25 to exceed”.

1 **SEC. 115. CONDITIONALLY APPROVED COMPANIES.**

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

5 “(6) GRANTS TO CONDITIONALLY APPROVED
6 COMPANIES.—Upon the request of a company condi-
7 tionally-approved under section 354(c), the Adminis-
8 trator shall provide up to \$50,000 in grant assist-
9 ance for establishment of an operational assistance
10 program under this title.

11 “(7) REPAYMENT.—If a company receives a
12 grant under paragraph (6) and does not enter into
13 a participation agreement for final approval, the
14 company shall repay the amount of the grant to the
15 Administrator.

16 “(8) DEDUCTION.—If a company receives a
17 grant under paragraph (6) and receives final ap-
18 proval under section 354(e), the Administrator shall
19 deduct the amount of the grant under that para-
20 graph from the total grant amount that the com-
21 pany receives for operational assistance.”.

22 **SEC. 116. APPLICATIONS FOR NEW MARKETS VENTURE**
23 **CAPITAL COMPANIES.**

24 Not later than 60 days after the date of the enact-
25 ment of this section, the Administrator shall prescribe
26 standard documents for final New Markets Venture Cap-

1 ital Company approval application under section 354(e) of
2 the Small Business Investment Act of 1958 (15 U.S.C.
3 689c(e)). The Administrator shall assure that the stand-
4 ard documents shall be designed to substantially reduce
5 the cost burden of the application process on the compa-
6 nies involved.

7 **SEC. 117. AUTHORIZATION OF APPROPRIATIONS.**

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

10 (1) in the matter before paragraph (1) by strik-
11 ing “fiscal years 2001 through 2006” and inserting
12 “fiscal years 2004 and 2005”;

13 (2) in paragraph (1), by striking
14 “\$150,000,000” and inserting “\$75,000,000”; and

15 (3) in paragraph (2), by striking
16 “\$30,000,000” and inserting “\$15,000,000”.

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

18 (a) REPEAL.—Sections 401, 402, and 404 of the
19 Small Business Investment Act of 1958 (15 U.S.C. 692,
20 693, and 694-1) are hereby repealed.

21 (b) APPLICATION TO OUTSTANDING GUARANTEES.—

22 The repeals made by subsection (a) shall not affect the
23 rights, powers, duties, or obligations of the Administrator
24 or any other person with respect to any guarantee made
25 under section 401 or 404 of the Small Business Invest-

1 ment Act of 1958 on or before the date of the enactment
2 of this Act.

3 **SEC. 119. AMENDMENT OF CONGRESSIONAL FINDINGS RE-**
4 **LATING TO STATE DEVELOPMENT COMPA-**
5 **NIES.**

6 Section 501(a) of the Small Business Investment Act
7 of 1958 (15 U.S.C. 695(a)) is amended by striking “pur-
8 pose” and all that follows through “areas” and inserting
9 the following: “purposes of this title are to foster economic
10 development and create or preserve job opportunities in
11 both urban and rural areas, and to enhance the ability
12 of America’s small manufacturers to expand”.

13 **SEC. 120. QUALIFICATION OF STATE DEVELOPMENT COM-**
14 **PANIES.**

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

17 (1) in paragraph (2), by inserting after “area,”
18 the following: “increasing the productive capacity of
19 small manufacturers,”;

20 (2) in paragraph (3) by striking subparagraph
21 (D) and inserting the following:

22 “(D) development in a community with a
23 population of less than 50,000 that is not lo-
24 cated within a Standard Metropolitan Statis-
25 tical Area,”; and

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

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

4 Section 501 of the Small Business Investment Act
5 of 1958 (15 U.S.C. 695) is amended by adding at the end
6 the following new subsection:

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

12 “(2) Paragraph (1) does not apply to a project for
13 which eligibility is based on the objectives set forth in
14 paragraph (2) or (3) of subsection (d), if the development
15 company’s portfolio of outstanding debentures creates or
16 retains one job for every \$50,000 guaranteed by the Ad-
17 ministration.

18 “(3) For projects in Alaska, Hawaii, State-designated
19 urban or rural jobs and enterprise zones, empowerment
20 zones and enterprise communities, labor surplus areas, as
21 determined by the Secretary of Labor, and for other areas
22 designated by the Administrator, the development com-
23 pany’s portfolio may average not more than \$75,000 per
24 job created or retained.

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

3 “(5) Under regulations prescribed by the Adminis-
4 trator, the Administrator may waive any requirement of
5 this subsection (other than paragraph (4)). Such regula-
6 tions shall be issued after notice and comment and shall
7 be codified in the Code of Federal Regulations.”.

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

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

11 (1) by striking “\$1,000,000” and inserting
12 “\$2,000,000”;

13 (2) by striking “\$1,300,000” and inserting
14 “\$2,500,000”; and

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

22 **SEC. 123. APPROVAL REQUIREMENT.**

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

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

8 **SEC. 124. EFFECTIVE DATE FOR TERMINATION OF CERTAIN**
9 **FEES.**

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

13 **SEC. 125. ACCREDITED LENDERS PROGRAM.**

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

16 (1) in subsection (b)(1), by inserting “and”
17 after the semicolon at the end;

18 (2) in subsection (b), by striking paragraphs
19 (2) through (6) and inserting the following:

20 “(2) has a loan default rate, as determined by
21 the Bureau of Premier Certified Lenders Program
22 Oversight, that is—

23 “(A) less than the national average;

24 “(B) one percent higher than the national
25 average, if at least 20 percent of the develop-

1 ment company’s portfolio is for projects in
2 areas referred to in section 501(e)(3); or

3 “(C) two percent higher than the national
4 average, if at least 30 percent of the develop-
5 ment company’s portfolio is for projects of
6 small manufacturers.”;

7 (3) by striking subsection (c); and

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

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

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

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

16 “(a) ESTABLISHMENT.—The Administrator may es-
17 tablish a Premier Certified Lenders Program for qualified
18 State and local development companies that meet the re-
19 quirements of subsection (b).

20 “(b) REQUIREMENTS.—

21 “(1) APPLICATION.—To be eligible to partici-
22 pate in the Premier Certified Lenders Program es-
23 tablished under subsection (a), a qualified State and
24 local development company shall prepare and submit
25 to the Administrator an application at such time, in

1 such manner, and containing such information as
2 the Administrator may require.

3 “(2) DESIGNATION.—The Administrator may
4 designate a qualified State and local development
5 company as a premier certified lender—

6 “(A) if the company is an active qualified
7 State and local development company in good
8 standing and has been an active participant in
9 the accredited lenders program during the en-
10 tire 12-month period preceding the date on
11 which the company submits an application
12 under paragraph (1), except that the Adminis-
13 trator may waive this requirement if the com-
14 pany is qualified to participate in the accredited
15 lenders program;

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

17 “(i) submitting to the Administrator
18 adequately analyzed debenture guarantee
19 application packages; and

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

22 “(C) if the company agrees to assume and
23 to reimburse the Administration for 10 percent
24 of any loss sustained by the Administration as
25 a result of default by the company in the pay-

1 ment of principal or interest on a debenture
2 issued by such company and guaranteed by the
3 Administrator under this section (15 percent in
4 the case of any such loss attributable to a de-
5 benture issued by the company during any pe-
6 riod for which an election is in effect under sub-
7 section (c)(7) for such company); and

8 “(D) the Administrator determines, with
9 respect to the company, that the loss reserve es-
10 tablished in accordance with subsection (c) is
11 sufficient for the company to meet its obliga-
12 tions to protect the Federal Government from
13 risk of loss.

14 “(3) APPLICABILITY OF CRITERIA AFTER DES-
15 IGNATION.—The Administrator may revoke the des-
16 ignation of a qualified State and local development
17 company as a premier certified lender under this
18 section at any time, if the Administrator determines
19 that the qualified State and local development com-
20 pany does not meet any requirement described in
21 subparagraphs (A) through (D) of paragraph (2).

22 “(c) LOSS RESERVE.—

23 “(1) ESTABLISHMENT.—A company designated
24 as a premier certified lender shall establish a loss re-

1 serve for financing approved pursuant to this sec-
2 tion.

3 “(2) AMOUNT.—The amount of each loss re-
4 serve established under paragraph (1) shall be 10
5 percent of the amount of the company’s exposure, as
6 determined under subsection (b)(2)(C).

7 “(3) ASSETS.—Each loss reserve established
8 under paragraph (1) shall be comprised of—

9 “(A) segregated funds on deposit in an ac-
10 count or accounts with a federally insured de-
11 pository institution or institutions selected by
12 the company, subject to a collateral assignment
13 in favor of, and in a format acceptable to, the
14 Administrator;

15 “(B) irrevocable letter or letters of credit,
16 with a collateral assignment in favor of, and a
17 commercially reasonable format acceptable to,
18 the Administrator; or

19 “(C) any combination of the assets de-
20 scribed in subparagraphs (A) and (B).

21 “(4) CONTRIBUTIONS.—The company shall
22 make contributions to the loss reserve, either cash or
23 letters of credit as provided above, in the following
24 amounts and at the following intervals:

1 “(A) 50 percent when a debenture is
2 closed.

3 “(B) 25 percent additional not later than
4 1 year after a debenture is closed.

5 “(C) 25 percent additional not later than
6 2 years after a debenture is closed.

7 “(5) REPLENISHMENT.—If a loss has been sus-
8 tained by the Administration, any portion of the loss
9 reserve, and other funds provided by the premier
10 company as necessary, may be used to reimburse the
11 Administrator for the premier company’s 10 percent
12 share of the loss as provided in subsection (b)(2)(C).
13 If the company utilizes the reserve, within 30 days
14 it shall replace an equivalent amount of funds.

15 “(6) DISBURSEMENTS.—The Administrator
16 shall allow the qualified State and local development
17 company to withdraw from the loss reserve such
18 amounts as are in excess of 1 percent of the aggre-
19 gate outstanding balances of debentures to which
20 such loss reserve relates. The preceding sentence
21 shall not apply with respect to any debenture before
22 100 percent of the contribution described in para-
23 graph (4) with respect to such debenture has been
24 made.

25 “(7) ALTERNATIVE LOSS RESERVE.—

1 “(A) ELECTION.—With respect to any eli-
2 gible calendar quarter, a qualified high loss re-
3 serve premier certified lender may elect to have
4 the requirements of this paragraph apply in lieu
5 of the requirements of paragraphs (2) and (4)
6 for that quarter.

7 “(B) CONTRIBUTIONS.—

8 “(i) ORDINARY RULES INAPPLI-
9 CABLE.—Except as provided under clause
10 (ii) and paragraph (5), a qualified high
11 loss reserve premier certified lender that
12 makes the election described in subpara-
13 graph (A) with respect to a calendar quar-
14 ter shall not be required to make contribu-
15 tions to its loss reserve during that quar-
16 ter.

17 “(ii) BASED ON LOSS.—A qualified
18 high loss reserve premier certified lender
19 that makes the election described in sub-
20 paragraph (A) with respect to a calendar
21 quarter shall, before the last day of that
22 quarter, make such contributions to its
23 loss reserve as are necessary to ensure that
24 the amount of the loss reserve of the lend-
25 er—

1 “(I) is not less than \$100,000;
2 and

3 “(II) is sufficient, as determined
4 by a qualified independent auditor, for
5 the lender to meet its obligations to
6 protect the Government from risk of
7 loss.

8 “(iii) CERTIFICATION.—Before the
9 end of a calendar quarter for which an
10 election is in effect under subparagraph
11 (A), the head of the premier certified lend-
12 er shall submit to the Administrator a cer-
13 tification that the loss reserve of the lender
14 is sufficient to meet the lender’s obligation
15 to protect the Government from risk of
16 loss. The certification shall be submitted in
17 such form and manner as the Adminis-
18 trator may require and shall be signed by
19 the head of the lender and by the auditor
20 making the determination under clause
21 (ii)(II).

22 “(C) DISBURSEMENTS.—

23 “(i) ORDINARY RULE INAPPLI-
24 CABLE.—Paragraph (6) shall not apply
25 with respect to any qualified high loss re-

1 serve premier certified lender for any cal-
2 endar quarter for which an election is in
3 effect under subparagraph (A).

4 “(ii) EXCESS FUNDS.—At the end of
5 each calendar quarter for which an election
6 is in effect under subparagraph (A), the
7 Administrator shall allow the qualified high
8 loss reserve premier certified lender to
9 withdraw from its loss reserve the excess
10 of—

11 “(I) the amount of the loss re-
12 serve, over

13 “(II) the greater of \$100,000 or
14 the amount which is determined under
15 subparagraph (B)(ii) to be sufficient
16 to meet the lender’s obligation to pro-
17 tect the Government from risk of loss.

18 “(D) RECONTRIBUTION.—If the require-
19 ments of this paragraph apply to a qualified
20 high loss reserve premier certified lender for a
21 calendar quarter and cease to apply to that
22 lender for any subsequent calendar quarter, the
23 lender shall make a contribution to its loss re-
24 serve in such amount as the Administrator may
25 require, except that the amount shall not exceed

1 the amount which would result in the total
2 amount in the loss reserve being equal to the
3 amount which would have been in the loss re-
4 serve had this paragraph never applied to the
5 lender. The Administrator may require that the
6 contribution be made as a single payment or as
7 a series of payments.

8 “(E) RISK MANAGEMENT.—If a qualified
9 high loss reserve premier certified lender fails
10 to meet the requirement of subparagraph
11 (F)(iii) during any period for which an election
12 is in effect under subparagraph (A) and the
13 failure continues for 180 days, the requirements
14 of paragraphs (2), (4), and (6) shall apply to
15 the lender as of the end of the 180-day period
16 and the lender shall make the contribution de-
17 scribed in subparagraph (D). The Adminis-
18 trator may waive the requirements of this sub-
19 paragraph.

20 “(F) QUALIFIED HIGH LOSS RESERVE
21 PREMIER CERTIFIED LENDER.—The term
22 ‘qualified high loss reserve premier certified
23 lender’ means, with respect to a calendar year,
24 a premier certified lender so designated by the
25 Administrator for that year. The Administrator

1 shall not designate a company under the pre-
2 ceding sentence unless the Administrator deter-
3 mines that—

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

6 “(ii) the company has established and
7 is utilizing an appropriate and effective
8 process for analyzing the risk of loss asso-
9 ciated with its portfolio of Premier Cer-
10 tified Lenders Program loans and for
11 grading each Premier Certified Lenders
12 Program loan made by the company on the
13 basis of the risk of loss associated with
14 such loan; and

15 “(iii) the company meets or exceeds 4
16 or more of the specified risk management
17 benchmarks as of the most recent assess-
18 ment by the Administration or the Admin-
19 istrator has issued a waiver with respect to
20 the requirement of this clause.

21 “(G) SPECIFIED RISK MANAGEMENT
22 BENCHMARKS.—For purposes of this para-
23 graph, the term ‘specified risk management
24 benchmarks’ means the following rates, as de-
25 termined by the Administrator:

1 “(i) Currency rate.

2 “(ii) Delinquency rate.

3 “(iii) Default rate.

4 “(iv) Liquidation rate.

5 “(v) Loss rate.

6 “(H) QUALIFIED INDEPENDENT AUDI-
7 TOR.—For purpose of this paragraph, the term
8 ‘qualified independent auditor’ means an audi-
9 tor who—

10 “(i) is compensated by the qualified
11 high loss reserve premier certified lender;

12 “(ii) is independent of the lender; and

13 “(iii) has been approved by the Ad-
14 ministrator during the preceding year.

15 “(I) PREMIER CERTIFIED LENDERS PRO-
16 GRAM LOAN.—For purposes of this paragraph,
17 the term ‘Premier Certified Lenders Program
18 loan’ means a loan guaranteed under this sec-
19 tion.

20 “(J) ELIGIBLE CALENDAR QUARTER.—For
21 purposes of this paragraph, the term ‘eligible
22 calendar quarter’ means—

23 “(i) the first calendar quarter that be-
24 gins after the end of the 90-day period be-

1 ginning with the date of the enactment of
2 this paragraph; and

3 “(ii) the 7 succeeding calendar quar-
4 ters.

5 “(K) REGULATIONS.—Not later than 60
6 days after the date of the enactment of this
7 paragraph, the Administrator shall publish in
8 the Federal Register and transmit to the Con-
9 gress regulations to carry out this paragraph.
10 Such regulations shall include provisions relat-
11 ing to—

12 “(i) the approval of auditors under
13 subparagraph (H); and

14 “(ii) the designation of qualified high
15 loss reserve premier certified lenders under
16 subparagraph (F), including the deter-
17 mination of whether a process for ana-
18 lyzing risk of loss is appropriate and effec-
19 tive for purposes of subparagraph (F)(ii).

20 “(8) BUREAU OF PREMIER CERTIFIED LEND-
21 ERS PROGRAM OVERSIGHT.—

22 “(A) ESTABLISHMENT.—There is hereby
23 established in the Small Business Administra-
24 tion a bureau to be known as the Bureau of
25 Premier Certified Lenders Program Oversight.

1 “(B) PURPOSE.—The Bureau shall carry
2 out such functions of the Administration under
3 this subsection as the Administrator may des-
4 ignate. The functions of the Bureau under the
5 preceding sentence may not be delegated to a
6 deputy director or any other employee assigned
7 to a district office or regional office established
8 by the Administrator under section 4 of the
9 Small Business Act (15 U.S.C. 633).

10 “(C) DEADLINE.—Not later than 90 days
11 after the date of the enactment of this para-
12 graph—

13 “(i) the Administrator shall ensure
14 that the Bureau is prepared to carry out
15 the functions designated under subpara-
16 graph (B), and

17 “(ii) the Inspector General of the Ad-
18 ministration shall report to the Congress
19 on the preparedness of the Bureau to carry
20 out such functions.

21 “(D) If the Administrator does not comply
22 with subparagraph (C)(i), the certifications re-
23 quired under this section shall be deemed ap-
24 proved until the date of compliance. Certifi-

1 cations so deemed approved shall continue in ef-
2 fect notwithstanding any later compliance.

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

4 “(1) NOTICE.—If, upon default in repayment,
5 the Administrator acquires a loan guaranteed under
6 this section and identifies such loan for inclusion in
7 a bulk asset sale of defaulted or repurchased loans
8 or other financings, it shall give prior notice thereof
9 to any qualified State and local development com-
10 pany which has a contingent liability under this sec-
11 tion. The notice shall be given to the company as
12 soon as possible after the financing is identified, but
13 not less than 90 days before the date the Adminis-
14 trator first makes any records on such financing
15 available for examination by prospective purchasers
16 prior to its offering in a package of loans for bulk
17 sale.

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

21 “(A) provides prospective purchasers with
22 the opportunity to examine the Administrator’s
23 records with respect to such loan; and

24 “(B) provides the notice required by para-
25 graph (1).

1 “(e) LOAN APPROVAL AUTHORITY.—

2 “(1) IN GENERAL.—Notwithstanding section
3 503(b)(6), and subject to such terms and conditions
4 as the Administrator may establish, the Adminis-
5 trator may permit a company designated as a pre-
6 mier certified lender under this section to approve,
7 authorize, close, service, foreclose, litigate (except
8 that the Administrator may monitor the conduct of
9 any such litigation to which a premier certified lend-
10 er is a party), and liquidate loans that are funded
11 with the proceeds of a debenture issued by such
12 company and may authorize the guarantee of such
13 debenture.

14 “(2) SCOPE OF REVIEW.—The approval of a
15 loan by a premier certified lender shall be subject to
16 final approval as to eligibility of any guarantee by
17 the Administrator pursuant to section 503(a), but
18 such final approval shall not include review of deci-
19 sions by the lender involving creditworthiness, loan
20 closing, or compliance with legal requirements im-
21 posed by law or regulation.

22 “(f) REVIEW.—After the issuance and sale of deben-
23 tures under this section, the Administrator, at intervals
24 not greater than 12 months, shall review the financings
25 made by each premier certified lender. The review shall

1 include the lender’s credit decisions and general compli-
2 ance with the eligibility requirements for each financing
3 approved under the program authorized under this sec-
4 tion. The Administrator shall consider the findings of the
5 review in carrying out its responsibilities under subsection
6 (g), but such review shall not affect any outstanding de-
7 benture guarantee.

8 “(g) **SUSPENSION OR REVOCATION.**—The designa-
9 tion of a qualified State and local development company
10 as a premier certified lender may be suspended or revoked
11 if the Administrator determines that the company—

12 “(1) has not continued to meet the criteria for
13 eligibility under subsection (b);

14 “(2) has not established or maintained the loss
15 reserve required under subsection (c);

16 “(3) is failing to adhere to the Administrator’s
17 rules and regulations; or

18 “(4) is violating any other applicable provision
19 of law.

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

23 “(i) **PROGRAM GOALS.**—Each qualified State and
24 local development company participating in the program
25 under this section shall establish a goal of processing a

1 minimum of not less than 50 percent of the loan applica-
2 tions for assistance under section 504 pursuant to the pro-
3 gram authorized under this section.

4 “(j) REPORT.—The Administrator shall annually re-
5 port to the Committee on Small Business of the House
6 of Representatives and the Committee on Small Business
7 and Entrepreneurship of the Senate on the implementa-
8 tion of this section. Each report shall include—

9 “(1) the number of qualified State and local de-
10 velopment companies designated as premier certified
11 lenders;

12 “(2) the debenture guarantee volume of such
13 companies;

14 “(3) a comparison of the loss rate for premier
15 certified lenders to the loss rate for accredited and
16 other lenders, specifically comparing default rates
17 and recovery rates on liquidations; and

18 “(4) such other information as the Adminis-
19 trator deems appropriate.”.

20 (b) EFFECTIVE DATE.—Section 508(c)(6) of the
21 Small Business Act (as amended by subsection (a)) shall
22 apply to withdrawals after the end the 90-day period be-
23 ginning on the date of the enactment of this Act.

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

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

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

7 (2) by striking subsection (b) and all that fol-
8 lows through the end and inserting the following new
9 subsections:

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

12 “(1) A qualified State or local development
13 company shall be eligible for the delegation of au-
14 thority under subsection (a) if such company elects
15 to accept such delegation during the 90-day period
16 beginning on the date of the enactment of this sub-
17 section.

18 “(2) One year after the date of the initial elec-
19 tion, and annually thereafter by a date specified by
20 the Administrator, a qualified State or local develop-
21 ment company may make a new election to accept
22 the delegation under subsection (a).

23 “(3) An election under this subsection shall
24 apply to all loans in the portfolio involved. An elec-
25 tion made in a subsequent year does not terminate

1 any foreclosure or liquidation under a previous elec-
2 tion.

3 “(c) SCOPE OF DELEGATED AUTHORITY.—

4 “(1) Each qualified State or local development
5 company that makes an election under subsection
6 (b) shall perform all functions related to liquidation
7 and foreclosure without obtaining prior approval of
8 the Administrator.

9 “(2) Not later than 5 calendar days after exer-
10 cising delegated authority with respect to a specific
11 loan, the qualified State or local development com-
12 pany shall report to the Administrator the actions
13 that the company proposes to take with respect to
14 the loan.

15 “(3) The Administrator may prohibit an action
16 proposed under paragraph (2) by so notifying the
17 company in writing. The notification shall state the
18 reasons for the prohibition, including a detailed ex-
19 planation of how the proposed actions—

20 “(A) will have a serious adverse effect on
21 management of the Administration’s activities
22 under this title; or

23 “(B) will affect the legal rights of the Ad-
24 ministration or other agencies or instrumental-
25 ities of the United States.

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

4 “(d) PURCHASE OF INDEBTEDNESS.—A qualified
5 State or local development company may not commit the
6 Administration to the purchase of additional indebtedness
7 secured by property that is the subject of a defaulted loan
8 without the written approval of the Administrator. The
9 Administrator shall have 7 calendar days in which to act
10 on a request for approval for such an additional purchase.
11 Action by the Administrator under this subsection shall
12 have no other effect on the delegation of authority exer-
13 cised by the qualified State or local development company.

14 “(e) FORECLOSURE AND LIQUIDATION BY ADMINIS-
15 TRATOR.—

16 “(1) The Administrator shall issue contracts to
17 foreclose or liquidate loans made during any year for
18 which a qualified State or local development com-
19 pany did not make an election under subsection (b).

20 “(2) In awarding contracts under this sub-
21 section, the Administrator shall not consolidate con-
22 tract requirements that relate to more than one
23 qualified State or local development company unless
24 the Administrator determines that such consolida-
25 tion will achieve—

1 “(A) a reduction in cost of not less than
2 10 percent; or

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

5 “(3) In awarding contracts under this section,
6 the Administrator shall consider the experience and
7 expertise of the offeror regarding conducting similar
8 foreclosure and liquidation of indebtedness, the
9 bankruptcy laws of the United States, valuation of
10 property, and successful litigation.

11 “(4) Reimbursement to contractors under this
12 subsection shall be based on recovery of their costs
13 (including salaries, expenses, and overhead) and a
14 contingent fee, with respect to each loan which is
15 subject to the contract, as follows:

16 “(A) in the case of recovery of at least 50
17 percent of outstanding amount of such loan, a
18 contingent fee equal to 5 percent of the recovery;
19 and

20 “(B) in the case of recovery of at least 75
21 percent of such amount, a contingent fee equal
22 to 10 percent of the recovery.

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

2 Title V of the Small Business Investment Act of 1958
3 (15 U.S.C. 695 et seq.) is amended by adding at the end
4 the following new sections:

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

6 “(a) IN GENERAL.—Not later than 120 days after
7 the date of the enactment of this section, the Adminis-
8 trator shall prescribe—

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

12 “(2) for all other loans made under section 502,
13 a short form application form that reduces the
14 amount of information needed to process the loan by
15 30 percent from the size of the loan application in
16 effect on January 1, 2003.

17 “(b) USE OF DEVELOPMENT COMPANY FORMS.—If
18 the Administrator does not comply with paragraph (1) or
19 (2) of subsection (a), a qualified State or local develop-
20 ment company may use its own forms until the Adminis-
21 trator prescribes the form involved.

22 **“SEC. 512. CENTRALIZED DEVELOPMENT COMPANY LOAN**
23 **PROCESSING.**

24 “(a) ESTABLISHMENT.—

25 “(1) Not later than 180 days after the date of
26 the enactment of this section, the Administration

1 shall, using already appropriated funds and fees
2 paid by qualified State and local development com-
3 panies, establish two centers for approving loans
4 under section 502, except as otherwise provided in
5 section 508.

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

10 “(3) The Administration is authorized to locate
11 the centers with its existing LowDoc Loan Applica-
12 tion Centers in Hazard, KY and Sacramento, CA,
13 but employees who review applications for loans
14 under section 502 shall not review applications for
15 loan guarantees under section 7 of the Small Busi-
16 ness Act (15 U.S.C. 636).

17 “(4) If the Administration does not establish
18 the centers required by paragraph (1), the qualified
19 State and local development companies shall have
20 the authority to approve or deny applications with-
21 out the consent of the Administration.

22 “(b) TIMING.—

23 “(1)(A) From the date on which a loan applica-
24 tion is received at a center established under sub-

1 section (a), the Administration shall have 5 business
2 days to approve or deny the application.

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

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

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

1 approve or deny a loan if the Administration does
2 not make a decision within 20 business days.

3 “(c) APPEAL OF DENIAL.—

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

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

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

19 **“SEC. 513. REPORTS.**

20 “The Administrator shall report on the performance
21 of the loans made under this title on a semi-annual basis
22 to the Committee on Small Business of the House of Rep-
23 resentatives and the Committee on Small Business and
24 Entrepreneurship of the Senate. Such report shall include
25 the currency and default rates.”.

1 **SEC. 129. REGULATIONS TO CARRY OUT AMENDMENTS TO**
2 **LOAN PROGRAM.**

3 (a) **ISSUANCE.**—The Administrator shall, not later
4 than 90 days after the date of the enactment of this Act,
5 prescribe such regulations as are necessary to carry out
6 the provisions of this Act that relate to title V of the Small
7 Business Investment Act of 1958 and shall provide a min-
8 imum of 30 days notice and comment with respect to such
9 regulations.

10 (b) **TEMPORARY PROHIBITION ON OTHER RULE-**
11 **MAKING.**—During the period beginning on the date of the
12 enactment of this Act and ending on the date that is 1
13 year after the date on which the centralized loan proc-
14 essing centers described in section 512 of the Small Busi-
15 ness Investment Act of 1958 begin operations, the Admin-
16 istration shall not begin any rulemaking to modify the pro-
17 gram established by title V of such Act unless such rule-
18 making is necessary to carry out the provisions of this Act
19 described in subsection (a).

20 **TITLE II—SMALL BUSINESS ACT**
21 **AMENDMENTS AND RELATED**
22 **PROVISIONS.**

23 **SEC. 201. SHORT TITLE.**

24 This title may be cited as the “Small Business
25 Amendments Act of 2003”.

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

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

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

5 “(a) AID, COUNSEL, ASSISTANCE, ETC., TO SMALL
6 BUSINESS CONCERNS.—The essence of the American eco-
7 nomic system of private enterprise is free competition. The
8 preservation and expansion of such competition is basic
9 not only to the economic well-being but to the security of
10 this Nation. Such security and well-being cannot be real-
11 ized unless the actual and potential capacity of small busi-
12 ness, including small manufacturers, is encouraged and
13 developed. It is the declared policy of the Congress that
14 the Government should aid, counsel, assist, and protect,
15 insofar as is possible, the interests of small business con-
16 cerns, including small manufacturers, in order to preserve
17 free competitive enterprise, to insure that a fair proportion
18 of the total purchases and contracts or subcontracts for
19 manufactured goods, and property and services for the
20 Government (including but not limited to contracts or sub-
21 contracts for maintenance, repair, and construction) be
22 placed with small business concerns, to insure that a fair
23 proportion of the total sales of Government property be
24 made to such concerns, and to maintain and strengthen
25 the overall economy of the Nation.

1 “(b) ASSISTANCE TO COMPETE IN INTERNATIONAL
2 MARKETS.—

3 “(1) It is the declared policy of the Congress
4 that the Federal Government, through the Small
5 Business Administration, acting in cooperation with
6 the Department of Commerce and other relevant
7 State and Federal agencies, should aid and assist
8 small business concerns and small manufacturers to
9 increase their ability to compete in international
10 markets by—

11 “(A) enhancing their ability to export;

12 “(B) facilitating technology transfers;

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

15 “(D) increasing the access of small busi-
16 ness concerns to long-term capital for the pur-
17 chase of new plant and equipment used in the
18 production of goods and services involved in
19 international trade;

20 “(E) disseminating information concerning
21 State, Federal, and private programs and initia-
22 tives to enhance the ability of small business
23 concerns to compete in international markets;

24 “(F) ensuring that the interests of small
25 business concerns are adequately represented in

1 bilateral and multilateral trade negotiations;
2 and

3 “(G) improving the economic health of
4 small manufacturers through reduction in un-
5 necessary regulation and improvements in the
6 procurement process that will enhance the abil-
7 ity of small manufacturers to compete against
8 foreign manufacturers.

9 “(2) The Congress recognizes that the Depart-
10 ment of Commerce is the principal Federal agency
11 for trade development, export promotion, and manu-
12 facturing assistance, and that the Department of
13 Commerce and the Small Business Administration
14 work together to advance joint interests. It is the
15 purpose of this Act to enhance, not alter, their re-
16 spective roles.

17 “(c) AID FOR AGRICULTURALLY RELATED INDUS-
18 TRIES; FINANCIAL ASSISTANCE.—It is the declared policy
19 of the Congress that the Government, through the Small
20 Business Administration, should provide aid and assist-
21 ance, including the financial assistance authorized by this
22 Act, to small business concerns which are engaged in the
23 production of food and fiber, ranching, and raising of live-
24 stock, aquaculture, and all other farming and agricultural
25 related industries.

1 “(d) USE OF ASSISTANCE PROGRAMS TO ESTABLISH,
2 PRESERVE, AND STRENGTHEN SMALL BUSINESS CON-
3 CERNS.—

4 “(1) The assistance programs authorized by
5 sections 7(i) and 8(a) should be utilized to assist in
6 the establishment, preservation, and strengthening
7 of small business concerns and the improvement of
8 the managerial skills employed in such concerns,
9 with special attention to small business concerns—

10 “(A) located in urban or rural areas with
11 high proportions of unemployed or low-income
12 individuals; and

13 “(B) owned by low-income individuals.

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

16 “(A) that ownership and control of produc-
17 tive capital is concentrated in the economy of
18 the United States and certain groups, therefore,
19 own and control little productive capital;

20 “(B) that certain groups in the United
21 States own and control little productive capital
22 because they have limited opportunities for
23 small business ownership;

24 “(C) that the broadening of small business
25 ownership among groups that presently own

1 and control little productive capital is essential
2 to provide for the well-being of this Nation by
3 promoting their increased participation in the
4 free enterprise system of the United States;

5 “(D) that such development of business
6 ownership among groups that presently own
7 and control little productive capital will be
8 greatly facilitated through the creation of a
9 small business ownership development program,
10 which shall provide services, including, but not
11 limited to, financial, management, and technical
12 assistance;

13 “(E) that the power to let Federal con-
14 tracts pursuant to section 8(a) can be an effec-
15 tive procurement assistance tool for develop-
16 ment of business ownership, including owner-
17 ship of small manufacturers, among groups
18 that own and control little productive capital;
19 and

20 “(F) that the procurement authority under
21 section 8(a) shall be used only as a tool for de-
22 veloping business ownership among groups that
23 own and control little productive capital.

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

1 “(A) foster business ownership and devel-
2 opment by individuals in groups that own and
3 control little productive capital; and

4 “(B) promote the competitive viability of
5 such firms in the marketplace by creating a
6 small business and capital ownership develop-
7 ment program to provide such available finan-
8 cial, technical, and management assistance as
9 may be necessary.

10 “(e) PARTICIPATION IN FREE ENTERPRISE SYSTEM
11 BY SOCIALLY AND ECONOMICALLY DISADVANTAGED PER-
12 SONS.—

13 “(1) With with respect to the business develop-
14 ment programs carried out by the Administrator, the
15 Congress finds—

16 “(A) that the opportunity for full partici-
17 pation in our free enterprise system by socially
18 and economically disadvantaged individuals is
19 essential if we are to obtain social and economic
20 equality for such individuals and improve the
21 functioning of our national economy;

22 “(B) that many such individuals are so-
23 cially disadvantaged because of their identifica-
24 tion as members of certain groups that have
25 suffered the effects of discriminatory practices

1 or similar invidious circumstances over which
2 they have no control;

3 “(C) that such groups include, but are not
4 limited to, Black Americans, Hispanic Ameri-
5 cans, Native Americans, Asian Pacific Ameri-
6 cans, Native Hawaiian Organizations, and other
7 minorities;

8 “(D) that it is in the national interest to
9 expeditiously ameliorate the conditions of so-
10 cially and economically disadvantaged groups;

11 “(E) that such conditions can be improved
12 by providing the maximum practicable oppor-
13 tunity for the development of small business
14 concerns and small manufacturers owned by
15 members of socially and economically disadvan-
16 taged groups;

17 “(F) that such development can be materi-
18 ally advanced through the procurement by the
19 United States of articles, equipment, supplies,
20 services, materials, and construction work from
21 small business concerns and small manufactur-
22 ers; and

23 “(G) that such procurements also benefit
24 the United States by encouraging the expansion
25 of suppliers for such procurements, thereby en-

1 couraging competition among such suppliers
2 and promoting economy in such procurements.

3 “(2) It is therefore the purpose of section 8(a)
4 to—

5 “(A) promote the business development of
6 small business concerns and small manufactur-
7 ers owned and controlled by socially and eco-
8 nomically disadvantaged individuals so that
9 such concerns can compete on an equal basis in
10 the American economy;

11 “(B) promote the competitive viability of
12 such concerns in the marketplace by providing
13 such available contract, financial, technical, and
14 management assistance as may be necessary;
15 and

16 “(C) clarify and expand the program for
17 the procurement by the United States of arti-
18 cles, supplies, services, materials, and construc-
19 tion work from small business concerns and
20 small manufacturers owned by socially and eco-
21 nomically disadvantaged individuals.

22 “(f) ASSISTANCE TO DISASTER VICTIMS UNDER DIS-
23 ASTER LOAN PROGRAM.—In administering the disaster
24 loan program authorized by section 7, the Administrator
25 should—

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

3 “(2) provide information relevant to loan proc-
4 essing and loan closing;

5 “(3) promptly disburse loan proceeds; and

6 “(4) give the disaster program a high priority
7 in allocating funds for administrative expenses.

8 “(g) ASSISTANCE TO WOMEN OWNED BUSINESS.—

9 “(1) With respect to the programs and activi-
10 ties authorized by this Act, the Congress finds
11 that—

12 “(A) women owned business has become a
13 major contributor to the American economy by
14 providing goods and services, revenues, and
15 jobs;

16 “(B) over the past two decades there have
17 been substantial gains in the social and eco-
18 nomic status of women as they have sought eco-
19 nomic equality and independence;

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

23 “(D) such discrimination takes many overt
24 and subtle forms adversely affecting the ability

1 to raise or secure capital, to acquire managerial
2 talents, and to capture market opportunities;

3 “(E) it is in the national interest to exped-
4 itiously remove discriminatory barriers to the
5 creation and development of small business con-
6 cerns owned and controlled by women;

7 “(F) the removal of such barriers is essen-
8 tial to provide a fair opportunity for full partici-
9 pation in the free enterprise system by women
10 and to further increase the economic vitality of
11 the Nation;

12 “(G) increased numbers of small business
13 concerns owned and controlled by women will
14 directly benefit the United States Government
15 by expanding the potential number of suppliers
16 of goods and services to the Government; and

17 “(H) programs and activities designed to
18 assist small business concerns owned and con-
19 trolled by women must be implemented in such
20 a way as to remove such discriminatory barriers
21 while not adversely affecting the rights of so-
22 cially and economically disadvantaged individ-
23 uals.

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

4 “(A) vigorously promote the legitimate in-
5 terests of small business concerns owned and
6 controlled by women;

7 “(B) remove, insofar as possible, the dis-
8 crimatory barriers that are encountered by
9 women in accessing capital and other factors of
10 production; and

11 “(C) require that the Government engage
12 in a systematic and sustained effort to identify,
13 define and analyze those discriminatory barriers
14 facing women and that such effort directly in-
15 volve the participation of women business own-
16 ers in the partnership of the public and private
17 sectors.

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

20 “(1) comply with congressional intent to foster
21 the participation of small business concerns as prime
22 contractors, subcontractors, and suppliers;

23 “(2) structure its contracting requirements to
24 facilitate competition by and among small business

1 concerns, taking all reasonable steps to eliminate ob-
2 stacles to their participation; and

3 “(3) avoid unnecessary and unjustified bundling
4 of contract requirements that precludes small busi-
5 ness participation in procurements as prime contrac-
6 tors.

7 “(i) SMALL MANUFACTURERS.—

8 “(1) With respect to the programs and activi-
9 ties authorized by this Act, the Congress finds
10 that—

11 “(A) the manufacturing sector is a critical
12 element of the Nation’s economic security be-
13 cause it provides high-paying jobs that support
14 other sectors of the economy dominated by
15 small business;

16 “(B) America’s small manufacturers face
17 substantial competition from large manufactur-
18 ers that source components and equipment
19 from business concerns located in other coun-
20 tries with lower wage rates, fewer regulatory re-
21 strictions, and beneficial currency policies;

22 “(C) it is in the national interest to expedi-
23 tiously grow America’s small manufacturers;
24 and

1 “(D) such growth can be achieved through
2 better access to capital, improved technical as-
3 sistance, and increased procurement of manu-
4 factured goods by the United States and Amer-
5 ica’s universities.

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

9 “(A) vigorously promote the legitimate in-
10 terests of small manufacturers;

11 “(B) remove, insofar as possible, barriers
12 that are encountered by small manufacturers in
13 accessing capital, obtaining necessary technical
14 assistance, and selling goods to the United
15 States and America’s universities;

16 “(C) require the Administrator to engage
17 in a systematic and sustained effort to identify,
18 define, and analyze the barriers to growth fac-
19 ing America’s small manufacturers, recommend
20 changes in policy that will reduce those bar-
21 riers, and promote the involvement of America’s
22 small manufacturers in the partnership of the
23 public and private sectors.”.

1 **SEC. 203. DEFINITIONS.**

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

4 **“SEC. 3. DEFINITIONS.**

5 **“(a) SMALL BUSINESS CONCERNS.—**

6 **“(1) IN GENERAL.—**For the purposes of this
7 Act, a small-business concern, including but not lim-
8 ited to enterprises that are engaged in the business
9 of production of food and fiber, ranching and raising
10 of livestock, aquaculture, and all other farming and
11 agricultural related industries, shall be deemed to be
12 one which is independently owned and operated and
13 which is not dominant in its field of operation.

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

15 **“(A) IN GENERAL.—**In addition to the cri-
16 teria specified in paragraph (1), the Adminis-
17 trator may specify detailed definitions or stand-
18 ards by which a business concern may be deter-
19 mined to be a small business concern for the
20 purposes of this Act or any other Act.

21 **“(B) ADDITIONAL CRITERIA.—**The stand-
22 ards described in paragraph (1) may utilize
23 number of employees, dollar volume of business,
24 net worth, net income, a combination thereof,
25 or other appropriate factors.

1 “(C) REQUIREMENTS.—Unless specifically
2 authorized by statute, no Federal department
3 or agency may prescribe a size standard for cat-
4 egorizing a business concern as a small business
5 concern, unless such proposed size standard—

6 “(i) is proposed after an opportunity
7 for public notice and comment;

8 “(ii) provides for determining—

9 “(I) the size of a manufacturing
10 concern as measured by the manufac-
11 turing concern’s average employment
12 based upon employment during each
13 of the manufacturing concern’s pay
14 periods for the preceding 12 months;

15 “(II) the size of a business con-
16 cern providing services on the basis of
17 the annual average gross receipts of
18 the business concern over a period of
19 not less than 3 years;

20 “(III) the size of other business
21 concerns on the basis of data over a
22 period of not less than 3 years; or

23 “(IV) other appropriate factors;
24 and

1 “(iii) is approved by the Adminis-
2 trator.

3 “(D) INDUSTRY VARIATION.—When estab-
4 lishing or approving any size standard pursuant
5 to this paragraph, the Administrator shall en-
6 sure that the size standard varies from industry
7 to industry to the extent necessary to reflect the
8 differing characteristics of the various indus-
9 tries and consider other factors deemed to be
10 relevant by the Administrator.

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

16 “(4) RECERTIFICATIONS.—

17 “(A) TIMING RESTRICTION.—For purposes
18 of determining if a business concern that has
19 been awarded a contracting opportunity as a
20 small business concern is still a small business
21 concern, the Administrator shall not require
22 such concern to be recertified as a small busi-
23 ness concern more frequently than each 5 years.

24 “(B) GROWTH THRESHOLD.—In the case
25 of any recertification described in subparagraph

1 (A) of a business concern, such concern shall
2 not fail to be treated as a small business con-
3 cern for purposes of contracting opportunities
4 awarded before the date of such recertification
5 solely because such concern exceeds—

6 “(i) the annual receipts standard ap-
7 plicable to such concern by 20 percent or
8 less of such standard; or

9 “(ii) the number of employees stand-
10 ard applicable to such concern by 5 per-
11 cent or less of such standard.

12 “(b) AGENCY.—For purposes of this Act, any ref-
13 erence to an agency or department of the United States,
14 and the term ‘Federal agency’, shall have the meaning
15 given the term ‘agency’ by section 551(1) of title 5, United
16 States Code, but does not include the United States Postal
17 Service or the General Accounting Office.

18 “(c) QUALIFIED EMPLOYEE TRUSTS.—For purposes
19 of this Act:

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

22 “(A) which forms part of an employee
23 stock ownership plan (as defined in section
24 4975(e)(7) of the Internal Revenue Code of
25 1986)—

1 “(i) which is maintained by such con-
2 cern; and

3 “(ii) which provides that each partici-
4 pant in the plan is entitled to direct the
5 plan as to the manner in which voting
6 rights under qualifying employer securities
7 (as defined in section 4975(e)(8) of such
8 Code) which are allocated to the account of
9 such participant are to be exercised with
10 respect to a corporate matter which (by
11 law or charter) must be decided by a ma-
12 jority vote of outstanding common shares
13 voted; and

14 “(B) in the case of any loan guarantee
15 under section 7(a), the trustee of which enters
16 into an agreement with the Administrator
17 which is binding on the trust and on such small
18 business concern and which provides that—

19 “(i) the loan guaranteed under section
20 7(a) shall be used solely for the purchase
21 of qualifying employer securities of such
22 concern;

23 “(ii) all funds acquired by the concern
24 in such purchase shall be used by such

1 concern solely for the purposes for which
2 such loan was guaranteed;

3 “(iii) such concern will provide such
4 funds as may be necessary for the timely
5 repayment of such loan, and the property
6 of such concern shall be available as secu-
7 rity for repayment of such loan; and

8 “(iv) all qualifying employer securities
9 acquired by such trust in such purchase
10 shall be allocated to the accounts of par-
11 ticipants in such plan who are entitled to
12 share in such allocation, and each partici-
13 pant has a nonforfeitable right, not later
14 than the date such loan is repaid, to all
15 such qualifying employer securities which
16 are so allocated to the participant’s ac-
17 count.

18 “(2) Under regulations which may be pre-
19 scribed by the Administrator, a trust may be treated
20 as a qualified employee trust with respect to a small
21 business concern if—

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

25 “(B) such concern maintains a plan—

1 “(i) which is an employee benefit plan
2 which is designed to invest primarily in
3 qualifying employer securities (as defined
4 in section 4975(e)(8) of the Internal Rev-
5 enue Code of 1986);

6 “(ii) which provides that each partici-
7 pant in the plan is entitled to direct the
8 plan as to the manner in which voting
9 rights under qualifying employer securities
10 which are allocated to the account of such
11 participant are to be exercised with respect
12 to a corporate matter which (by law or
13 charter) must be decided by a majority
14 vote of the outstanding common shares
15 voted;

16 “(iii) which provides that each partici-
17 pant who is entitled to distribution from
18 the plan has a right, in the case of quali-
19 fying employer securities which are not
20 readily tradable on an established market,
21 to require that the concern repurchase
22 such securities under a fair valuation for-
23 mula; and

24 “(iv) which meets such other require-
25 ments (similar to requirements applicable

1 to employee stock ownership plans as de-
2 fined in section 4975(e)(7) of such Code)
3 as the Administrator may prescribe; and

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

8 “(d) QUALIFIED INDIAN TRIBE.—For purposes of
9 this Act, the term ‘qualified Indian tribe’ means an Indian
10 tribe as defined in section 4(e) of the Indian Self-Deter-
11 mination and Education Assistance Act, which owns and
12 controls 100 percent of a small business concern, except
13 as otherwise provided in section 8.

14 “(e) STATE; UNITED STATES.—For purposes of this
15 Act, the terms ‘State’ and ‘United States’ include each
16 of the several States, the District of Columbia, the Com-
17 monwealth of Puerto Rico, the United States Virgin Is-
18 lands, Guam, American Samoa, and the Commonwealth
19 of the Northern Mariana Islands.

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

24 “(g) SMALL BUSINESS DEVELOPMENT CENTER.—
25 For purposes of this Act, the term ‘small business develop-

1 ment center’ means any office that provides any portion
2 of the services described in section 21 under such section.

3 “(h) CREDIT ELSEWHERE.—For purposes of this
4 Act, the term ‘credit elsewhere’ means the availability of
5 credit from non-Federal sources on reasonable terms and
6 conditions taking into consideration the prevailing rates
7 and terms in the community in or near where the concern
8 transacts business, or the homeowner resides, for similar
9 purposes and periods of time.

10 “(i) HOMEOWNERS.—For purposes of this Act, the
11 term ‘homeowners’ includes owners and lessees of residen-
12 tial property and also includes personal property.

13 “(j) SMALL AGRICULTURAL COOPERATIVE.—For
14 purposes of this Act, the term ‘small agricultural coopera-
15 tive’ means an association (corporate or otherwise) acting
16 pursuant to the provisions of the Agricultural Marketing
17 Act (12 U.S.C. 1141j), whose size does not exceed the size
18 standard established by the Administrator for other simi-
19 lar agricultural small business concerns. In determining
20 such size, the Administrator shall regard the association
21 as a business concern and shall not include the income
22 or employees of any member shareholder of such coopera-
23 tive.

24 “(k) DISASTER.—For purposes of this Act, the term
25 ‘disaster’ means a sudden event which causes severe dam-

1 age including floods, hurricanes, tornadoes, earthquakes,
2 fires, explosions, volcanoes, windstorms, landslides or
3 mudslides, tidal waves, riots, civil disorders, acts of ter-
4 rorism, or other catastrophes.

5 “(l) AGRICULTURAL ENTERPRISES.—For purposes of
6 this Act, the term ‘agricultural enterprises’ means those
7 businesses engaged in the production of food and fiber,
8 ranching, and raising of livestock, aquaculture, and all
9 other farming and agricultural related industries.

10 “(m) SIMPLIFIED ACQUISITION THRESHOLD.—For
11 purposes of this Act, the term ‘simplified acquisition
12 threshold’ has the meaning given such term in section
13 4(11) of the Office of Federal Procurement Policy Act (41
14 U.S.C. 403(11)).

15 “(n) SMALL BUSINESS CONCERN OWNED AND CON-
16 TROLLED BY WOMEN.—For purposes of this Act, the
17 term ‘small business concern owned and controlled by
18 women’ means any small business concern if—

19 “(1) at least 51 percent of the small business
20 concern is owned by one or more women or, in the
21 case of any publicly owned business, at least 51 per-
22 cent of the stock of which is owned by one or more
23 women; and

1 “(2) the management and daily business oper-
2 ations of the business are controlled by one or more
3 women.

4 “(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-
5 QUIREMENTS AND RELATED TERMS.—For purposes of
6 this Act:

7 “(1) BUNDLED CONTRACT.—The term ‘bundled
8 contract’ means a contract that is entered into to
9 meet requirements that are consolidated in a bun-
10 dling of contract requirements without regard to its
11 designation by the procuring agency or whether a
12 study of the effects of the solicitation on civilian or
13 military personnel has been made.

14 “(2) BUNDLING OF CONTRACT REQUIRE-
15 MENTS.—The term ‘bundling of contract require-
16 ments’ means the use of any bundling methodology
17 to satisfy 2 or more requirements for goods or serv-
18 ices, including construction services, that have pre-
19 viously been provided to, or performed for, the Fed-
20 eral agency under 2 or more separate contracts
21 lower in cost than the total cost of the contract or
22 order for which the offers are solicited that is likely
23 to be unsuitable for award to a small business con-
24 cern due to—

1 “(A) the diversity, size, or specialized na-
2 ture of the elements of the performance speci-
3 fied;

4 “(B) the aggregate dollar value of the an-
5 ticipated award;

6 “(C) the geographical dispersion of the
7 contract performance sites; or

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

10 “(3) BUNDLING METHODOLOGY.—The term
11 ‘bundling methodology’ means—

12 “(A) a solicitation to obtain offers for a
13 single contract or a multiple award contract;

14 “(B) a solicitation of offers for the
15 issuance of a task or a delivery order under an
16 existing single or multiple award contract; or

17 “(C) the creation of any new procurement
18 requirement that permits a consolidation of
19 contract requirements.

20 “(4) SEPARATE SMALLER CONTRACT.—The
21 term ‘separate smaller contract’, with respect to a
22 bundling of contract requirements, means a contract
23 that has been performed by 1 or more small busi-
24 ness concerns or was suitable for award to 1 or more
25 small business concerns.

1 “(p) DEFINITIONS RELATING TO HUBZONES.—For
2 purposes of this Act:

3 “(1) HISTORICALLY UNDERUTILIZED BUSINESS
4 ZONE.—The term ‘historically underutilized business
5 zone’ means any area located within 1 or more—

6 “(A) qualified census tracts;

7 “(B) qualified nonmetropolitan counties;

8 “(C) lands within the external boundaries
9 of an Indian reservation; or

10 “(D) redesignated areas.

11 “(2) HUBZONE.—The term ‘HUBZone’ means
12 a historically underutilized business zone.

13 “(3) HUBZONE SMALL BUSINESS CONCERN.—
14 The term ‘HUBZone small business concern’
15 means—

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

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

20 “(i) an Alaska Native Corporation
21 owned and controlled by Natives (as deter-
22 mined pursuant to section 29(e)(1) of the
23 Alaska Native Claims Settlement Act (43
24 U.S.C. 1626(e)(1))); or

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

12 “(C) a small business concern—

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

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

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

24 “(i) wholly owned by a community de-
25 velopment corporation that has received fi-

1 nancial assistance under part 1 of sub-
2 chapter A of the Community Economic De-
3 velopment Act of 1981 (42 U.S.C. 9805 et
4 seq.); or

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

9 “(4) QUALIFIED AREAS.—

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

14 “(B) QUALIFIED NONMETROPOLITAN
15 COUNTY.—The term ‘qualified nonmetropolitan
16 county’ means any county—

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

24 “(ii) in which—

1 “(I) the median household in-
2 come is less than 80 percent of the
3 nonmetropolitan State median house-
4 hold income, based on the most recent
5 data available from the Bureau of the
6 Census of the Department of Com-
7 merce; or

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

14 “(C) REDESIGNATED AREA.—The term
15 ‘redesignated 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
19 that a census tract or a nonmetropolitan county
20 may be a ‘redesignated area’ only for the 3-year
21 period following the date on which the census
22 tract or nonmetropolitan county ceased to be so
23 qualified.

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
4 concern 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 the Administration by regulation)
10 that—

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

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

19 “(II) pursuant to paragraph
20 (3)(C), and not fewer than 35 percent
21 of its employees engaged in per-
22 forming a contract awarded to the
23 small business concern on the basis of
24 a preference provided under section
25 31(b) reside within any Indian res-

1 ervation governed by one or more of
2 the tribal government owners, or re-
3 side within any HUBZone adjoining
4 any such Indian reservation;

5 “(ii) the small business concern will
6 attempt to maintain the applicable employ-
7 ment percentage under clause (i) during
8 the performance of any contract awarded
9 to the small business concern on the basis
10 of a preference provided under section
11 31(b); and

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

18 “(I) in the case of a contract for
19 services (except construction), not less
20 than 50 percent of the cost of con-
21 tract performance incurred for per-
22 sonnel will be expended for its employ-
23 ees or for employees of other
24 HUBZone small business concerns;

1 “(II) in the case of a contract for
2 procurement of supplies (other than
3 procurement from a regular dealer in
4 such supplies), not less than 50 per-
5 cent of the cost of manufacturing the
6 supplies (not including the cost of ma-
7 terials) will be incurred in connection
8 with the performance of the contract
9 in a HUBZone by 1 or more
10 HUBZone small business concerns;

11 “(III) it is a small business con-
12 cern, the majority of which is owned
13 and controlled by one or more individ-
14 uals determined by the Administrator
15 to be economically disadvantaged in
16 accordance with section 8(a)(6); and

17 “(IV) it has received a site visit
18 from a district counsel to verify its eli-
19 gibility before first responding to a so-
20 licitation from a Federal agency for
21 goods or services under section 31 and
22 again before first responding to a so-
23 licitation from a Federal agency for
24 goods or services under section 31

1 after any change in the primary loca-
2 tion of the concern.

3 “(B) SITE VISITS BY DISTRICT COUN-
4 SEL.—A district counsel, not later than 5 days
5 after conducting any site visit described in sub-
6 paragraph (A)(iii)(IV), shall make a certifi-
7 cation regarding the status of the concern as a
8 qualified HUBZone small business concern.

9 “(C) PROVISION OF FALSE INFORMA-
10 TION.—Such term shall not include any small
11 business concern if any certification made or in-
12 formation provided by such concern under sub-
13 paragraph (A) has been, in accordance with the
14 procedures established under section 31(c)(1)—

15 “(i) successfully challenged by an in-
16 terested party; or

17 “(ii) otherwise determined by the Ad-
18 ministrator to be materially false.

19 “(D) PERCENTAGE ADJUSTMENTS.—The
20 Administrator may utilize a percentage other
21 than the percentage specified in subclause (I)
22 or (II) of subparagraph (A)(iii), if the Adminis-
23 trator determines that such action is necessary
24 to reflect conventional industry practices among
25 small business concerns that are below the nu-

1 merical size standard for businesses in that in-
2 dustry category.

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

14 “(6) NATIVE AMERICAN SMALL BUSINESS CON-
15 CERNS.—

16 “(A) ALASKA NATIVE CORPORATION.—The
17 term ‘Alaska Native Corporation’ has the same
18 meaning as the term ‘Native Corporation’ in
19 section 3 of the Alaska Native Claims Settle-
20 ment Act (43 U.S.C. 1602).

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

1 “(C) INDIAN RESERVATION.—The term
2 ‘Indian reservation’—

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

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

15 “(II) lands taken into trust or
16 acquired by an Indian tribe after De-
17 cember 21, 2000, if such lands are
18 not located within the external bound-
19 aries of an Indian reservation or
20 former reservation or are not contig-
21 uous to the lands held in trust or re-
22 stricted status on that date of the en-
23 actment; and

24 “(ii) in the State of Oklahoma, means
25 lands that—

1 “(I) are within the jurisdictional
2 areas of an Oklahoma Indian tribe (as
3 determined by the Secretary of the In-
4 terior); and

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

10 “(q) DEFINITIONS RELATING TO VETERANS.—For
11 purposes of this Act:

12 “(1) SERVICE-DISABLED VETERAN.—The term
13 ‘service-disabled veteran’ means a veteran with a
14 disability that is service-connected (as defined in sec-
15 tion 101(16) of title 38, United States Code).

16 “(2) SMALL BUSINESS CONCERN OWNED AND
17 CONTROLLED BY SERVICE-DISABLED VETERANS.—
18 The term ‘small business concern owned and con-
19 trolled by service-disabled veterans’ means a small
20 business concern—

21 “(A) not less than 51 percent of which is
22 owned by one or more service-disabled veterans
23 or, in the case of any publicly owned business,
24 not less than 51 percent of the stock of which

1 is owned by one or more service-disabled vet-
2 erans; and

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

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

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

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

21 “(4) VETERAN.—The term ‘veteran’ has the
22 meaning given the term in section 101(2) of title 38,
23 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
5 classified in sector 31, 32, or 33 of the North Amer-
6 ican Industrial Classification System; and

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

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

15 “(t) NON-FEDERALLY REGULATED SBA LEND-
16 ERS.—For purposes of this Act, the term ‘Non-Federally
17 regulated 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.—
25 For purposes of this Act, the term ‘procurement center

1 representative' means an employee of the Administration
2 whose sole responsibility is to perform the functions re-
3 ferred to in section 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 re-
8 ferred to in section 8(d).

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

16 **SEC. 204. SMALL BUSINESS ADMINISTRATION.**

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

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

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

1 or department of the Federal Government. The principal
2 office of the Administration shall be located in the District
3 of Columbia.

4 “(b) APPOINTMENT OF ADMINISTRATOR AND DEP-
5 UTY ADMINISTRATOR.—

6 “(1) ADMINISTRATOR.—The management of
7 the Administration shall be vested in an Adminis-
8 trator who shall be appointed from civilian life by
9 the President, by and with the advice and consent
10 of the Senate, and who shall be a person of out-
11 standing qualifications known to be familiar and
12 sympathetic with the needs and problems of small
13 business concerns. The Administrator shall not en-
14 gage in any other business, vocation, or employment
15 other than that of serving as Administrator.

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

21 “(c) POWERS OF THE ADMINISTRATOR.—

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

1 “(2) SUE AND BE SUED.—The Administrator
2 may sue and be sued in any court of record of a
3 State having general jurisdiction, or in any United
4 States district court, and jurisdiction is conferred
5 upon such district court to determine such con-
6 troversies without regard to the amount in con-
7 troversy; but no attachment, garnishment, or other
8 similar process, mesne or final, shall be issued
9 against the Administrator or his property.

10 “(3) RULES AND REGULATIONS.—The Adminis-
11 trator may make such rules and regulations as he
12 deems necessary to carry out this Act. Any such
13 rules or regulations, other than those relating to
14 agency management or personnel, shall be issued
15 pursuant to section 553(b) of title 5, United States
16 Code.

17 “(4) FACILITIES AND STAFF OF FEDERAL
18 AGENCIES.—Upon request of the Administrator, the
19 head of any Federal department or agency may pro-
20 vide, on a reimbursable or nonreimbursable basis, in-
21 formation, services, facilities (including any field
22 service thereof), or any of the personnel of that de-
23 partment or agency to the Administrator to assist in
24 carrying out this Act and the Small Business Invest-
25 ment Act of 1958.

1 “(5) INVESTIGATIONS; SUBPOENAS.—

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

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

18 “(C) SUBPOENAS.—For the purpose of any
19 investigation, the Administrator may administer
20 oaths and affirmations, subpoena witnesses,
21 compel their attendance, take evidence, and re-
22 quire the production of any books, papers, and
23 documents which are relevant to the inquiry.
24 Such attendance of witnesses and the produc-

1 tion of any such records may be required from
2 any place in the United States.

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

23 “(6) GIFTS.—

24 “(A) IN GENERAL.—The Administrator
25 may solicit, accept, hold, administer, and utilize

1 gifts, devises, bequests, and temporary use of
2 property, both real and personal, and donations
3 of personal services for the purpose of aiding or
4 facilitating the Administrator in providing
5 training to persons, employees, small business
6 concerns and small manufacturers, and tech-
7 nical assistance to small business concerns and
8 small manufacturers.

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

19 “(C) CONFLICTS OF INTEREST.—No em-
20 ployee of the Administration may accept or so-
21 licit any gift, bequest, devise, or donation of
22 personal services if such acceptance or sollicita-
23 tion would, in the opinion of the General Coun-
24 sel, create a conflict of interest.

1 “(D) ACCEPTANCE OF SERVICES AND FACILI-
2 TIES FOR DISASTER LOAN PROGRAM.—The Adminis-
3 trator may accept the services and facilities of Fed-
4 eral, State, and local agencies and groups, both pub-
5 lic and private, and utilize such gratuitous services
6 and facilities as may, from time to time, be nec-
7 essary, to further the objectives of section 7(b).
8 Paragraph (6)(B) shall not apply to any services or
9 facilities accepted under this subparagraph.

10 “(7) CO-SPONSORSHIP OF EVENTS.—

11 “(A) AUTHORIZATION.—The Adminis-
12 trator, after consultation with the General
13 Counsel, may permit any eligible donor of any
14 gift, bequest, devise, or donation of personal
15 services to be a named cosponsor of any event
16 conducted by the Administrator or any publica-
17 tion of the Administrator.

18 “(B) ELIGIBLE DONOR.—For purposes of
19 this paragraph, the term ‘eligible donor’ means,
20 with respect to any event or publication, any
21 donor if such donor provides, directly or in-
22 kind, at least 50 percent of the cost of such
23 event or publication. provided further that any
24 such co-sponsorship must be approved by an

1 Associate Administrator, after consultation with
2 the General Counsel.

3 “(C) LIMITED DELEGATION.—The Admin-
4 istrator may not delegate the authority de-
5 scribed in subparagraph (A) except to the Dep-
6 uty Administrator or any Associate Adminis-
7 trator.

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

15 “(d) OTHER PROVISIONS.—

16 “(1) REQUIREMENTS FOR ASSISTANCE.—No
17 loan shall be made or equipment, facilities, or serv-
18 ices furnished by the Administrator under this Act
19 to any business concern unless the owners, partners,
20 or officers of such business concern—

21 “(A) certify to the Administrator the
22 names of any attorneys, agents, or other per-
23 sons engaged by or on behalf of such business
24 enterprise for the purpose of expediting applica-
25 tions made to the Administrator for assistance

1 of any sort, and the fees paid or to be paid to
2 any such persons;

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

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

21 “(2) AUTHORITY RELATING TO TRANSFER OF
22 FUNCTIONS.—The President may transfer to the Ad-
23 ministrator any functions, powers, and duties of any
24 department or agency which relate primarily to
25 small business problems. In connection with any

1 such transfer, the President may provide for appro-
2 priate transfers of records, property, necessary per-
3 sonnel, and unexpended balances of appropriations
4 and other funds available to the department or agen-
5 cy from which the transfer is made.

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

12 “(4) NON-DUPLICATION.—The Administrator
13 shall not duplicate the work or activity of any other
14 department or agency of the Federal Government.
15 Nothing contained in this Act shall be construed to
16 authorize any such duplication unless such work or
17 activity is expressly provided for in this Act. If loan
18 applications are being refused or loans denied by
19 such other department or agency responsible for
20 such work or activity due to administrative with-
21 holding from obligation or withholding from appor-
22 tionment, or due to administratively declared mora-
23 torium, then, for purposes of this section, no dupli-
24 cation shall be 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
4 made by the Administration on safety deposit boxes
5 used by the Administration for the safeguarding of
6 instruments held as security for loans or for the
7 safeguarding of other documents.

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

21 “(B) small manufacturers.

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

1 trator or the official to which the funds are made
2 available receives notification that the individual is
3 not lawfully 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
7 or other person engaged in the production or dis-
8 tribution of any product or service that has been de-
9 termined to be obscene by a court of competent ju-
10 risdiction.

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 Presi-
16 dent information on the economic condition and
17 the expansion or contraction of the small busi-
18 ness 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 establish-
2 ments and the types of such establish-
3 ments such as sole proprietorships, cor-
4 porations, and partnerships;

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 Coun-
23 sel for Advocacy, publish annually a report giv-
24 ing a comparative analysis and interpretation of
25 the historical trends of the small business sector

1 as reflected by the data acquired pursuant to
2 subparagraph (A).”.

3 (b) RELATED REPEALS.—

4 (1) Section 12 of the Small Business Act (15
5 U.S.C. 641) is amended to read as follows:

6 **“SEC. 12. [RESERVED.]”.**

7 (2) Section 13 of the Small Business Act (15
8 U.S.C. 642) is amended to read as follows:

9 **“SEC. 13. [RESERVED.]”.**

10 (3) Section 14 of the Small Business Act (15
11 U.S.C. 643) is amended to read as follows:

12 **“SEC. 14. [RESERVED.]”.**

13 (4) Section 18 of the Small Business Act (15
14 U.S.C. 647) is amended to read as follows:

15 **“SEC. 18. [RESERVED.]”.**

16 **SEC. 205. FINANCIAL MANAGEMENT.**

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

19 **“SEC. 5. FINANCIAL MANAGEMENT.**

20 **“(a) ACCOUNTS.—**

21 **“(1) IN GENERAL.—**All repayments of loans,
22 debentures, payments of interest and other receipts
23 arising out of transactions heretofore or hereafter
24 entered into by the Administrator shall be deposited

1 into appropriate accounts and funds as determined
2 by the Administrator.

3 “(2) REPORT AND BUDGET.—The Adminis-
4 trator shall submit to the Committees on Appropria-
5 tions, the Committee on Small Business and Entre-
6 preneurship of the Senate, and the Committee on
7 Small Business of the House of Representatives, as
8 soon as possible after the beginning of each calendar
9 quarter a full and complete report on the status of
10 each of the accounts and funds referred to in para-
11 graph (1). Business-type budgets for each of the ac-
12 counts and funds referred to in paragraph (1) shall
13 be prepared, transmitted to the Committees on Ap-
14 propriations, the Committee on Small Business and
15 Entrepreneurship of the Senate, and the Committee
16 on Small Business of the House of Representatives,
17 and considered, and enacted in the manner pre-
18 scribed by for wholly owned Government corpora-
19 tions under sections 9103 and 9104 of title 31,
20 United States Code.

21 “(4) ISSUANCE OF NOTES.—

22 “(A) ISSUANCE.—The Administrator may
23 issue notes to the Secretary of the Treasury for
24 the purpose of obtaining funds necessary for
25 discharging obligations under the accounts and

1 funds referred to in paragraph (1) and for au-
2 thorized expenditures out of the accounts and
3 funds.

4 “(B) FORM.—The notes authorized by this
5 paragraph shall be in such form and denomina-
6 tions and have such maturities and be subject
7 to such terms and conditions as may be pre-
8 scribed by the Administrator with the approval
9 of the Secretary of the Treasury.

10 “(C) INTEREST RATE.—Such notes shall
11 bear interest at a rate fixed by the Secretary of
12 the Treasury, taking into consideration the cur-
13 rent average market yield of outstanding mar-
14 ketable obligations of the United States having
15 maturities comparable to the notes issued by
16 the Administration under this paragraph.

17 “(D) PURCHASE BY TREASURY.—The Sec-
18 retary of the Treasury shall purchase any notes
19 of the Administration issued under paragraph
20 (1). For purposes of purchasing such notes, the
21 Secretary of the Treasury may use as a public
22 debt transaction the proceeds from the sale of
23 any securities issued under chapter 31 of title
24 31, United States Code. The purposes for which
25 such securities may be issued under such chap-

1 ter are extended to include the purchase of
2 notes issued by the Administrator under para-
3 graph (1). All redemptions, purchases, and
4 sales by the Secretary of the Treasury of such
5 notes shall be treated as public debt trans-
6 actions of the United States.

7 “(5) PAYMENTS TO TREASURY.—

8 “(A) EXCESS FUNDS.—Moneys in any ac-
9 count or fund referred to in paragraph (1)
10 which are not needed for current operations
11 shall remain in such account or fund and shall
12 be available solely to carry out the provisions
13 and purposes of programs operated from such
14 account or fund pursuant to law as provided in
15 appropriations Acts.

16 “(B) ACTUAL INTEREST.—Following the
17 close of each fiscal year, the Administrator shall
18 pay into the miscellaneous receipts of the
19 United States Treasury the actual interest that
20 the Administrator collects during that fiscal
21 year on all financings made under this Act.

22 “(C) OTHER INTEREST.—Except on those
23 loan disbursements on which interest is paid
24 under subparagraph (B), the Administration
25 shall pay into miscellaneous receipts of the

1 Treasury, following the close of each fiscal year,
2 interest received by the Administration on fi-
3 nancing functions performed under this Act and
4 titles III and V of the Small Business Invest-
5 ment Act of 1958 if the capital used to perform
6 such functions originated from appropriated
7 funds. Such payments shall be treated by the
8 Department of the Treasury as interest income,
9 not as retirement of indebtedness.

10 “(6) CONTRIBUTIONS TO EMPLOYEES COM-
11 PENSATION FUND.—The Administrator shall con-
12 tribute to the employee’s compensation fund, on the
13 basis of annual billings as determined by the Sec-
14 retary of Labor, for the benefit payments made from
15 such fund on account of employees engaged in car-
16 rying out functions financed by the accounts and
17 funds referred to in paragraph (1). The annual bil-
18 lings shall also include a statement of the fair por-
19 tion of the cost of the administration of such funds,
20 which shall be paid by the Administrator into the
21 Treasury as miscellaneous receipts.

22 “(7) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated, in any fis-
24 cal year, such sums as may be necessary for losses
25 and interest subsidies incurred by the accounts and

1 funds referred to in paragraph (1) and not pre-
2 viously reimbursed. All borrowing authority con-
3 tained in this subsection shall be effective only to
4 such extent or in such amounts as are provided in
5 advance in appropriation Acts.

6 “(b) FINANCIAL MANAGEMENT POWERS.—

7 “(1) SALE OF FINANCINGS, ETC.—The Admin-
8 istrator, under regulations prescribed by him, may
9 assign or sell at public or private sale, or otherwise
10 dispose of for cash or credit, in his discretion and
11 upon such terms and conditions and for such consid-
12 eration as he shall determine to be reasonable, any
13 evidence of debt, contract, claim, personal property,
14 or security assigned to or held by him in connection
15 with the payment of loans granted under this Act,
16 and to collect or compromise all obligations assigned
17 to or held by him and all legal or equitable rights
18 accruing to him in connection with the payment of
19 such loans until such time as such obligations may
20 be referred to the Attorney General for suit or col-
21 lection.

22 “(2) USE OF FEDERAL RESERVE DEPOSI-
23 TORIES.—All moneys of the Administrator not oth-
24 erwise employed may be deposited with the Treasury
25 of the United States subject to check by authority

1 of the Administrator. The Federal Reserve banks
2 are authorized and directed to act as depositaries,
3 custodians, and fiscal agents for the Administrator
4 in the general performance of its powers conferred
5 by this Act. Any banks insured by the Federal De-
6 posit Insurance Corporation, when designated by the
7 Secretary of the Treasury, shall act as custodians
8 and financial agents for the Administrator. Each
9 Federal Reserve bank, when designated by the Ad-
10 ministrator as fiscal agent for the Administrator,
11 shall be entitled to be reimbursed for all expenses in-
12 curred as such fiscal agent.

13 “(3) REAL PROPERTY.—

14 “(A) CONVEYANCE.—The Administrator
15 may convey and execute in the name of the Ad-
16 ministration deeds of conveyance, deeds of re-
17 lease, assignments and satisfactions of mort-
18 gages, and any other written instrument relat-
19 ing to real property or any interest therein ac-
20 quired by the Administrator pursuant to the
21 provisions of this Act. Such authority may be
22 exercised by the Administrator or by any officer
23 or agent appointed by him without the execu-
24 tion of any express delegation of power or
25 power of attorney.

1 “(B) OTHER AUTHORITY.—The Adminis-
2 trator may deal with, complete, renovate, im-
3 prove, modernize, insure, or rent, or sell for
4 cash or credit upon such terms and conditions
5 and for such consideration as the Administrator
6 shall determine to be reasonable, any real prop-
7 erty conveyed to or otherwise acquired by him
8 in connection with the payment of loans grant-
9 ed under this Act.

10 “(4) COLLECTIONS.—The Administrator may
11 pursue to final collection, by way of compromise or
12 otherwise, all claims against third parties assigned
13 to the Administrator in connection with loans made
14 by him, including by obtaining deficiency judgments
15 or otherwise in the case of mortgages assigned to
16 the Administrator.

17 “(5) ACQUISITION OF PROPERTY.—The Admin-
18 istrator may acquire, in any lawful manner, any
19 property (real, personal, or mixed, tangible or intan-
20 gible), whenever deemed necessary or appropriate to
21 the conduct of the activities authorized in subsection
22 (a) or (b) of section 7.

23 “(6) POWER OF ATTORNEY.—Nothing in this
24 section shall prevent the Administrator from dele-
25 gating any authority provided under this section by

1 power of attorney to any officer or agent he may ap-
2 point.

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

4 “(1) IN GENERAL.—The guaranteed portion of
5 any loan made pursuant to this Act may be sold by
6 the lender, and by any subsequent holder, consistent
7 with regulations on such sales as the Administrator
8 shall establish, subject to the following limitations:

9 “(A) Prior to the approval of the sale, or
10 upon any subsequent sale, of any loan guaran-
11 teed by the Administrator, if the lender certifies
12 that such loan has been properly closed and
13 that the lender has substantially complied with
14 the provisions of the guarantee agreement and
15 the regulations of the Administrator, the Ad-
16 ministrator shall review and approve only mate-
17 rials not previously approved.

18 “(B) All fees due the Administrator on a
19 guaranteed loan shall have been paid in full
20 prior to any sale.

21 “(C) Each loan, except each loan made
22 under section 7(a)(14), shall have been fully
23 disbursed to the borrower prior to any sale.

24 “(2) TREATMENT IN SECONDARY MARKET.—

25 After a loan is sold in the secondary market, the

1 lender shall remain obligated under its guarantee
2 agreement with the Administrator, and shall con-
3 tinue to service the loan in a manner consistent with
4 the terms and conditions of such agreement.

5 “(3) PROCEDURES.—The Administrator shall
6 develop such procedures as are necessary for:

7 “(A) The facilitation, administration, and
8 promotion of secondary market operations.

9 “(B) Assessing the increase of small busi-
10 ness access to capital at reasonable rates and
11 terms as a result of secondary market oper-
12 ations.

13 “(4) CERTAIN REGULATIONS REQUIRED.—The
14 unguaranteed portion of any loan made under sec-
15 tion 7(a) shall not be sold unless a final regulation
16 promulgated by the Administrator is in effect that
17 applies uniformly to both depository institutions and
18 other lenders and sets forth the terms and condi-
19 tions under which such sales can be permitted, in-
20 cluding maintenance of appropriate reserve require-
21 ments and other safeguards to protect the safety
22 and soundness of the program.

23 “(5) PREPAYMENTS.—Nothing in this sub-
24 section or subsection (d) shall be interpreted to im-
25 pede or extinguish the right of the borrower or the

1 successor in interest to such borrower to prepay (in
2 whole or in part) any loan made pursuant to section
3 7(a), the guaranteed portion of which may be in-
4 cluded in such trust or pool, or to impede or extin-
5 guish the rights of any party pursuant to subsection
6 (f)(3).

7 “(d) ISSUANCE OF TRUST CERTIFICATES.—

8 “(1) IN GENERAL.—The Administrator may
9 issue trust certificates representing ownership of all
10 or a fractional part of the guaranteed portion of one
11 or more loans which have been guaranteed by the
12 Administration under this Act, or under section 502
13 of the Small Business Investment Act of 1958. Such
14 trust certificates shall be based on and backed by a
15 trust or pool approved by the Administrator and
16 composed solely of the entire guaranteed portion of
17 such loans.

18 “(2) GUARANTEE.—

19 “(A) AUTHORIZATION.—The Adminis-
20 trator is authorized, upon such terms and con-
21 ditions as are deemed appropriate, to guarantee
22 the timely payment of the principal of and in-
23 terest on trust certificates issued by the Admin-
24 istrator or its agent for purposes of this sub-
25 section. Such guarantee shall be limited to the

1 extent of principal and interest on the guaran-
2 teed portions of loans which compose the trust
3 or pool. The full faith and credit of the United
4 States is pledged to the payment of all amounts
5 which may be required to be paid under any
6 guarantee of such trust certificates issued by
7 the Administrator or its agent pursuant to this
8 subsection.

9 “(B) PREPAYMENT.—In the event that a
10 loan in such trust or pool is prepaid, either vol-
11 untarily or in the event of default, the guar-
12 antee of timely payment of principal and inter-
13 est on the trust certificates shall be reduced in
14 proportion to the amount of principal and inter-
15 est such prepaid loan represents in the trust or
16 pool.

17 “(C) INTEREST; REDEMPTION.—Interest
18 on prepaid or defaulted loans shall accrue and
19 be guaranteed by the Administrator only
20 through the date of payment on the guarantee.
21 During the term of the trust certificate, it may
22 be called for redemption due to prepayment or
23 default of all loans constituting the pool.

24 “(3) FEES.—

1 “(A) IN GENERAL.—The Administrator
2 may collect a fee for any loan guarantee sold
3 into the secondary market under subsection (c)
4 in an amount equal to not more than 50 per-
5 cent of the portion of the sale price that exceeds
6 110 percent of the outstanding principal
7 amount of the portion of the loan guaranteed
8 by the Administrator.

9 “(B) COLLECTION.—Any such fee imposed
10 by the Administrator shall be collected by the
11 Administrator or by the agent which carries out
12 on behalf of the Administrator the central reg-
13 istration functions required by subsection (e)
14 and shall be paid to the Administrator and used
15 solely to reduce the subsidy on loans guaran-
16 teed under section 7(a). Any such fee shall not
17 be charged to the borrower whose loan is guar-
18 anteed. Nothing in this paragraph shall pre-
19 clude any agent of the Administrator from col-
20 lecting a fee approved by the Administrator for
21 the functions described in subsection (e).

22 “(C) LATE FEES.—The Administrator is
23 authorized to impose and collect, either directly
24 or through a fiscal and transfer agent, a rea-
25 sonable penalty on late payments of the fee au-

1 thorized under subparagraph (A) in an amount
2 not to exceed 5 percent of such fee per month
3 plus interest.

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

8 “(5) LAWS SUPERSEDED.—No federal, state, or
9 local law, shall preclude or limit the exercise by the
10 Administrator of its ownership rights in the portions
11 of loans constituting the trust or pool against which
12 the trust certificates are issued.

13 “(e) CENTRAL REGISTRY OF LOANS AND TRUST
14 CERTIFICATES.—

15 “(1) ESTABLISHMENT.—Upon the adoption of
16 final rules and regulations, the Administrator
17 shall—

18 “(A) provide for a central registration of
19 all loans and trust certificates sold pursuant to
20 subsections (c) and (d);

21 “(B) contract with an agent to carry out
22 on behalf of the Administrator the central reg-
23 istration functions of this subsection and the
24 issuance of trust certificates to facilitate pool-
25 ing;

1 “(C) prior to any sale, require the seller to
2 disclose to a purchaser of the guaranteed por-
3 tion of a loan guaranteed under this Act, and
4 to the purchaser of a trust certificate issued
5 pursuant to subsection (d), information on the
6 terms, conditions, and yield of such instrument;
7 and

8 “(D) have the authority to regulate bro-
9 kers and dealers in guaranteed loans and trust
10 certificates sold pursuant to subsections (c) and
11 (d).

12 “(2) BONDING REQUIREMENT.—The agent re-
13 ferred to in paragraph (1)(B) shall provide a fidelity
14 bond or insurance in such amounts as the Adminis-
15 trator determines to be necessary to fully protect the
16 interest of the Government.

17 “(3) SELLER.—For purposes of this subsection,
18 the term ‘seller’, with respect to the sale of any loan,
19 does not include the entity which made the loan or
20 any individual or entity which sells three or fewer
21 guaranteed loans per year.

22 “(4) BOOK-ENTRY SYSTEM.—Nothing in this
23 subsection shall prohibit the utilization of a book-
24 entry or other electronic form of registration for
25 trust certificates. The Administrator may, with the

1 consent of the Secretary of the Treasury, use the
2 book-entry system of the Federal Reserve System.

3 “(5) AGENT FEES.—The Administrator may
4 compensate an agent described in paragraph (1)(B)
5 through transaction and servicing fees charged to
6 program users and through interest earnings on pay-
7 ments under the agent’s control.

8 “(f) OTHER SPECIAL RULES AND AUTHORITIES RE-
9 LATED TO LOAN PROGRAMS.—

10 “(1) IN GENERAL.—The Administrator may
11 take any and all actions (including the procurement
12 of the services of attorneys by contract in any office
13 where an attorney or attorneys are not or cannot be
14 economically employed full time to render such serv-
15 ices) when he determines such actions are necessary
16 or desirable in making, servicing, compromising,
17 modifying, liquidating, or otherwise dealing with or
18 realizing on loans made under the provisions of this
19 Act. With respect to deferred participation loans, the
20 Administrator may, in the discretion of and pursu-
21 ant to regulations promulgated by the Adminis-
22 trator, authorize participating lending institutions to
23 take actions relating to loan servicing on behalf of
24 the Administrator, including determining eligibility

1 and creditworthiness and loan monitoring, collection,
2 and liquidation.

3 “(2) FEES.—The Administrator may impose,
4 retain, and use only those fees which are specifically
5 authorized by law or which are in effect on Sep-
6 tember 30, 1994, and in the amounts and at the
7 rates in effect on such date, except that the Admin-
8 istrator may, subject to approval in appropriations
9 Acts, impose, retain, and utilize, additional fees—

10 “(A) not to exceed \$100 for each loan
11 servicing action (other than a loan assumption)
12 requested after disbursement of the loan, in-
13 cluding any substitution of collateral, release or
14 substitution of a guarantor, reamortization, or
15 similar action;

16 “(B) not to exceed \$300 for loan assump-
17 tions;

18 “(C) not to exceed 1 percent of the amount
19 of requested financings under title III of the
20 Small Business Investment Act of 1958 for
21 which the applicant requests a commitment
22 from the Administration for funding during the
23 following year; and

24 “(D) to recover the direct, incremental cost
25 involved in the production and dissemination of

1 compilations of information produced by the
2 Administrator under the authority of this Act
3 and the Small Business Investment Act of
4 1958; and

5 “(E) collect, retain and utilize, subject to
6 approval in appropriations Acts, any amounts
7 collected by fiscal transfer agents and not used
8 by such agent as payment of the cost of loan
9 pooling or debenture servicing operations, ex-
10 cept that amounts collected under this sub-
11 section shall be utilized solely to facilitate the
12 administration of the program that generated
13 the excess amounts.

14 “(3) POWER TO UNDERTAKE AND SUSPEND
15 LOANS.—

16 “(A) IN GENERAL.—Subject to the re-
17 quirements and conditions contained in this
18 paragraph, upon application by a small business
19 concern which is the recipient of a loan made
20 under this Act, the Administrator may under-
21 take the small business concern’s obligation to
22 make the required payments under such loan or
23 may suspend such obligation if the loan was a
24 direct loan made by the Administrator. While
25 such payments are being made by the Adminis-

1 trator pursuant to the undertaking of such obli-
2 gation or while such obligation is suspended, no
3 such payment with respect to the loan may be
4 required from the small business concern.

5 “(B) REQUIREMENTS.—The Administrator
6 may undertake or suspend for a period of not
7 to exceed 5 years any small business concern’s
8 obligation under this paragraph only if—

9 “(i) without such undertaking or sus-
10 pension of the obligation, the small busi-
11 ness concern would, in the sole discretion
12 of the Administrator, become insolvent or
13 remain insolvent;

14 “(ii) with the undertaking or suspen-
15 sion of the obligation, the small business
16 concern would, in the sole discretion of the
17 Administrator, become or remain a viable
18 small business concern; and

19 “(iii) the small business concern exe-
20 cutes an agreement in writing satisfactory
21 to the Administration as provided by sub-
22 paragraph (D) and takes such actions as
23 are required under subparagraph (E).

24 “(C) EXTENSION OF MATURITY.—Notwith-
25 standing the provisions of sections 7(a)(9) and

1 7(i)(1), the Administrator may extend the ma-
2 turity of any loan on which the Administrator
3 undertakes or suspends the obligation pursuant
4 to this paragraph for a corresponding period of
5 time.

6 “(D) AGREEMENT.—Prior to the under-
7 taking or suspension by the Administrator of
8 any small business concern’s obligation under
9 this subsection, the Administrator, consistent
10 with the purposes sought to be achieved under
11 this paragraph, shall require the small business
12 concern to agree in writing to repay to it the
13 aggregate amount of the payments which were
14 required under the loan during the period for
15 which such obligation was undertaken or sus-
16 pended, either—

17 “(i) by periodic payments not less in
18 amount or less frequently falling due than
19 those which were due under the loan dur-
20 ing such period;

21 “(ii) pursuant to a repayment sched-
22 ule agreed upon by the Administrator and
23 the small business concern; or

24 “(iii) by a combination of the pay-
25 ments described in clauses (i) and (ii).

1 “(E) SECURITY; OTHER ACTIONS.—The
2 Administrator shall, prior to the undertaking or
3 suspension of the obligation, take such action,
4 and require the small business concern to take
5 such action as the Administrator deems appro-
6 priate in the circumstances, including the provi-
7 sion of such security as the Administrator
8 deems necessary or appropriate to insure that
9 the rights and interests of the lender (Adminis-
10 tration or participant) will be safeguarded ade-
11 quately during and after the period in which
12 such obligation is so undertaken or suspended.

13 “(F) REQUIRED PAYMENTS.—For pur-
14 poses of this paragraph, the term ‘required pay-
15 ments’ means, with respect to any loan, pay-
16 ments of principal and interest under the loan.

17 “(4) INTEREST RATE ON DEFERRED PARTICI-
18 PATION SHARE.—Upon purchase by the Adminis-
19 trator of any deferred participation entered into
20 under section 7, the Administrator may continue to
21 charge a rate of interest not to exceed that initially
22 charged by the participating institution on the
23 amount so purchased for the remaining term of the
24 indebtedness.

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

10 “(g) RISK MANAGEMENT DATABASE.—

11 “(1) ESTABLISHMENT.—The Administrator
12 shall maintain, within the management system for
13 the loan programs authorized by subsections (a) and
14 (b) of section 7 and title V of the Small Business
15 Investment Act of 1958, a management information
16 system that will generate a database capable of pro-
17 viding timely and accurate information in order to
18 identify loan underwriting, collections, recovery, and
19 liquidation problems.

20 “(2) CONTENTS.—In addition to such other in-
21 formation as the Administrator considers appro-
22 priate, the database established under this sub-
23 section shall, with respect to each loan program de-
24 scribed in paragraph (1), include information relat-
25 ing to—

1 “(A) the identity of the institution making
2 the guaranteed loan or issuing the debenture;

3 “(B) the identity of the borrower;

4 “(C) the total dollar amount of the loan or
5 debenture;

6 “(D) the total dollar amount of govern-
7 ment exposure in each loan;

8 “(E) the district of the Administration in
9 which the borrower has its principal office;

10 “(F) the principal line of business of the
11 borrower, as identified by North American In-
12 dustrial Classification System Code;

13 “(G) the delinquency rate for each pro-
14 gram (including number of instances and days
15 overdue);

16 “(H) the number and amount of repur-
17 chases, losses, and recoveries in each program;

18 “(I) the number of deferrals or
19 forbearances in each program (including days
20 and number of instances);

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

24 “(K) underwriting characteristics of each
25 loan that has entered into default, including

1 term, amount and type of collateral, loan-to-
2 value and other actual and projected ratios, line
3 of business, credit history, and type of loan.”.

4 (b) RELATED REPEAL.—Section 17 of the Small
5 Business Act (15 U.S.C. 646) is amended to read as fol-
6 lows:

7 **“SEC. 17. [RESERVED.]”.**

8 **SEC. 206. ORGANIZATION AND STAFF.**

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

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

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

13 **“(1) OFFICES.—**Except as otherwise provided
14 in this Act, the Administrator may create subsidiary
15 offices in the Administration to carry out this Act
16 and the Small Business Investment Act of 1958.

17 **“(2) EMPLOYEES.—**The Administrator may, in
18 accordance with applicable provisions of title 5,
19 United States Code, select, employ, appoint, and fix
20 the compensation of such officers, employees, attor-
21 neys, and agents as shall be necessary to carry out
22 this Act and the Small Business Investment Act of
23 1958.

1 “(b) ASSOCIATE ADMINISTRATORS.—The Adminis-
2 trator shall only appoint the following associate Adminis-
3 trators:

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

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

12 “(3) The Associate Administrator for Enter-
13 prise Outreach and Training, who shall have a min-
14 imum of five years experience in community-based
15 outreach programs.

16 “(4) The Associate Administrator for Adminis-
17 tration and Management, who shall act as the Chief
18 Operating Officer for the Administration and who
19 shall oversee the activities of the regional adminis-
20 trators.

21 “(c) ESTABLISHMENT OF CERTAIN OFFICES.—There
22 are in the Administration the following offices:

23 “(1) The Office of Minority Small Business and
24 Capital Ownership Development, which shall be ad-

1 ministered by the assistant administrator appointed
2 under subsection (d)(1).

3 “(2) The Office of Veterans Business, which
4 shall be administered by the assistant administrator
5 appointed under subsection (d)(2).

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

9 “(4) The Office of Investment, which shall be
10 administered by the assistant administrator ap-
11 pointed under subsection (d)(4).

12 “(5) The Office of Lender Oversight, which
13 shall be administered by the assistant administrator
14 appointed under subsection (d)(5).

15 “(6) The Office of Congressional and Legisla-
16 tive Affairs, which shall be administered by the as-
17 sistant administrator appointed under subsection
18 (d)(6).

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

22 “(8) The Office of Women’s Business Owner-
23 ship, which shall be administered by the assistant
24 administrator appointed under subsection (d)(8).

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

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

7 “(A) shall have a minimum of 5 years ex-
8 perience within the Administration in assisting
9 minority small businesses before being ap-
10 pointed under this paragraph;

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

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

15 “(D) shall report to the Associate Adminis-
16 trator for Government Contracting and Minor-
17 ity Small Business Opportunities.

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

20 “(A) shall have a minimum of 5 years ex-
21 perience within the Administration or the De-
22 partment of Veterans Affairs (or in combina-
23 tion) in providing entrepreneurial outreach to
24 veterans before being appointed under this
25 paragraph;

1 “(B) shall be responsible for the formula-
2 tion, execution, and promotion of the policies
3 and programs of the Administration that pro-
4 vide assistance to small business concerns
5 owned and controlled by veterans and small
6 business concerns owned and controlled by serv-
7 ice-disabled veterans;

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

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

14 “(E) shall report to the Associate Adminis-
15 trator for Enterprise Outreach and Training.

16 “(3) The Assistant Administrator for Small
17 Business Development Centers who—

18 “(A) shall have a minimum of 5 years ex-
19 perience in entrepreneurial outreach to small
20 businesses or as an educator in a business pro-
21 gram in an institution of higher learning (or in
22 combination), before being appointed under this
23 paragraph;

24 “(B) shall carry out section 21;

1 “(C) shall be a career employee and may
2 be an appointee in the Senior Executive Service;
3 and

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

6 “(4) The Assistant Administrator for Invest-
7 ment who—

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

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

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

15 “(5) The Assistant Administrator for Lender
16 Oversight who—

17 “(A) shall have a minimum of 5 years ex-
18 perience in oversight of lending institutions be-
19 fore being appointed under this paragraph;

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

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

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

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

5 “(A) shall have a minimum of 5 years ex-
6 perience as an employee reimbursed pursuant to
7 the Senators’ Clerk Hire Allowance Account es-
8 tablished under section 1 of Public Law 100–
9 137 (2 U.S.C. 58c) or the Members’ Represen-
10 tational Allowance established under section
11 101 of the House of Representatives Adminis-
12 trative Reform Technical Corrections Act (2
13 U.S.C. 57b) or as an employee of a committee
14 of the House or Senate (or in combination) be-
15 fore being appointed under this paragraph; and

16 “(B) shall report directly to the Adminis-
17 trator.

18 “(7) The Assistant Administrator for Inter-
19 national Trade who—

20 “(A) shall have a minimum of 5 years ex-
21 perience in international trade matters;

22 “(B) shall carry out section 22;

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

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

3 “(8) The Assistant Administrator for Women’s
4 Business Ownership who—

5 “(A) shall carry out section 29;

6 “(B) may be an appointee in the Senior
7 Executive Service;

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

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

12 “(E) serve as the vice chairperson of the
13 Interagency Committee on Women’s Business
14 Enterprise; and

15 “(F) serve as liaison for the National
16 Women’s Business Council.

17 “(e) GENERAL COUNSEL.—The Administrator shall
18 appoint a General Counsel.

19 “(f) REGIONAL OFFICES.—There are 10 regional of-
20 fices each of which shall be administered by a regional
21 administrator. Such offices shall have the same jurisdic-
22 tions as the 10 Federal regions or such regions as are
23 created by statute or by regulation of the Administrator
24 of the General Services Administration.

25 “(g) DISTRICT OFFICES.—

1 “(1) ESTABLISHMENT.—The Administrator
2 may establish district offices throughout the United
3 States to provide services under this Act and the
4 Small Business Investment Act of 1958.

5 “(2) CLOSURE.—Except as provided in para-
6 graph (3), the Administrator may close or combine
7 district offices as the Administrator determines ap-
8 propriate.

9 “(3) MINIMUM NUMBER.—Each State shall
10 have at least one district office, except that one dis-
11 trict office may serve Guam, American Samoa, and
12 the Commonwealth of the Northern Mariana Is-
13 lands.

14 “(4) DISTRICT DIRECTORS.—

15 “(A) IN GENERAL.—Each district office
16 shall have a director appointed by the Adminis-
17 trator whose salary shall not exceed the rate in
18 effect for step 10 of GS-15 of the General
19 Schedule. Each district director shall assist the
20 Administrator in carrying out the programs es-
21 tablished by this Act and the Small Business
22 Investment Act of 1958.

23 “(B) APPEAL OF DECISIONS.—The Admin-
24 istrator shall issue regulations providing proce-
25 dures for the appeal of any decision made by

1 any district director. Such regulations shall be
2 codified in the Code of Federal Regulations.

3 “(C) REVIEW AND REMOVAL.—The Ad-
4 ministrator shall remove and replace any dis-
5 trict director if such district director has failed,
6 with respect to any year, to meet goals devel-
7 oped by the Administrator for increasing—

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

10 “(ii) the number of participants in the
11 programs established pursuant to section
12 8;

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

17 “(iv) the amount of dollar financings
18 for small businesses under the Small Busi-
19 ness Investment Act of 1958.

20 “(D) REASSIGNMENT.—Any district direc-
21 tor who is removed under subparagraph (C)
22 shall be reassigned by the Administrator as a
23 procurement center representative or a commer-
24 cial marketing representative, as determined by
25 the Administrator in consultation with the re-

1 gional administrator. Any such reassignment
2 shall, for the first year after reassignment, be
3 at the same grade and salary.

4 “(5) DISTRICT COUNSEL.—Each district office
5 shall have a district counsel. Each district counsel
6 shall—

7 “(A) be assigned by, and report to, the
8 General Counsel;

9 “(B) provide legal assistance to the district
10 director and employees in the district office;
11 and

12 “(C) carry out the required review of
13 HUBZone firms specified in section 3.

14 “(6) BUSINESS OPPORTUNITY SPECIALISTS.—
15 Each district office shall have a business opportunity
16 specialist who shall assist the district director and
17 Assistant Administrator for Minority Small Business
18 and Capital Ownership Development. The majority
19 of the hours worked by the business opportunity spe-
20 cialist shall be devoted to the programs established
21 by section 8(a), unless the district director dem-
22 onstrates to the Assistant Administrator for Minor-
23 ity Small Business and Capital Ownership Develop-
24 ment that there are an insufficient number of firms

1 certified pursuant to section 8(a) to require the em-
2 ployee to devote such hours to such programs.

3 “(7) PROCUREMENT CENTER REPRESENTA-
4 TIVES.—The Associate Administrator for Govern-
5 ment Contracting and Minority Small Business,
6 after consultation with the regional administrators
7 and district directors, shall assign such procurement
8 center representatives to district offices as the Asso-
9 ciate Administrator determines to be appropriate.
10 Any procurement center representative assigned to a
11 district office or procuring agency activity shall re-
12 port to the district director. The Associate Adminis-
13 trator shall assign at least one procurement center
14 representative in each State.

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

24 “(h) GENERAL PERSONNEL AUTHORITY.—

1 “(1) EXPERTS AND CONSULTANTS.—The Ad-
2 ministrators may procure, for purposes of carrying
3 out this Act and the Small Business Investment Act
4 of 1958, temporary and intermittent services under
5 section 3109(b) of title 5, United States Code.

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

1 “(3) NOTARY PUBLIC EXPENSES.—The Admin-
2 istrator may pay the costs of any employee to qual-
3 ify as a notary public.

4 “(4) DELEGATIONS.—Except as otherwise pro-
5 vided in this Act or the Small Business Investment
6 Act of 1958, the Administrator may delegate a func-
7 tion or responsibility to any employee of the Admin-
8 istration. The Administrator shall provide by regula-
9 tion codified in the Code of Federal Regulations the
10 procedures for determining which delegations are to
11 be codified in the Code of Federal Regulations. With
12 respect to any delegations not promulgated by regu-
13 lation, the Administrator shall collect and collate
14 such delegations and place them in a prominent lo-
15 cation on the website maintained for the Administra-
16 tion.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) So much of section 22 of the Small Busi-
19 ness Act (15 U.S.C. 649) as precedes subsection (b)
20 is amended to read as follows:

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

22 “(a) DUTIES OF ASSISTANT ADMINISTRATOR.—Ex-
23 cept as otherwise provided in this section, the powers, du-
24 ties, and responsibilities described in this section shall be

1 carried out by the Assistant Administrator for Inter-
2 national Trade.”.

3 (2) Subsection (b) of section 22 of the Small
4 Business Act (15 U.S.C. 649) is amended by strik-
5 ing “The Office” the first place it appears and in-
6 serting “The Office of International Trade”.

7 (c) RELATED REPEAL.—Section 32 of the Small
8 Business Act (15 U.S.C. 657b) is amended to read as fol-
9 lows:

10 **“SEC. 32. [RESERVED.]”.**

11 (d) TRANSITION RULES.—

12 (1) EXCEPTION TO SALARY LIMITATION OF DIS-
13 TRICT DIRECTORS.—The salary limitation specified
14 in section 6(g)(4)(A) of the Small Business Act (as
15 amended by this section) shall not apply with respect
16 to any district director whose salary exceeds such
17 limitation on July 1, 2003.

18 (2) REMOVAL AND REASSIGNMENT OF DEPUTY
19 DISTRICT DIRECTORS.—

20 (A) REMOVAL.—The Administrator may
21 not appoint any individual to serve as a deputy
22 district director. Any individual serving as a
23 deputy district director on the date of the en-
24 actment of this Act shall be removed from such

1 position and reassigned as provided in this
2 paragraph.

3 (B) REASSIGNMENT.—Any individual re-
4 moved from office under subsection (A) shall be
5 reassigned by the Administrator as a procure-
6 ment center representative or a commercial
7 marketing representative, as determined by the
8 Administrator in consultation with the regional
9 administrator. Any such reassignment shall be
10 at not less than the grade and salary which ap-
11 plied to such individual prior to reassignment.

12 **SEC. 207. LOAN PROGRAMS.**

13 (a) SMALL BUSINESS LOAN PROGRAM.—So much of
14 section 7 of the Small Business Act (15 U.S.C. 636) as
15 precedes subsection (b) is amended to read as follows:

16 **“SEC. 7. LOAN PROGRAMS.**

17 “(a) SMALL BUSINESS LOAN PROGRAM.—

18 “(1) LOAN AUTHORITY.—The Administrator
19 may, to the extent and in such amounts as provided
20 in advance in appropriation Acts, make loans for
21 plant acquisition, construction, conversion, or expan-
22 sion, including the acquisition of land, material, sup-
23 plies, equipment, and working capital to any small
24 business concern, including those owned by qualified
25 Indian tribes for purposes of this Act.

1 “(2) METHODS OF PARTICIPATION.—The Ad-
2 ministrators may make such loans either directly or
3 in cooperation with banks or other financial institu-
4 tions through agreements to participate on an imme-
5 diate or deferred (guaranteed) basis, except that no
6 immediate participation may be purchased unless it
7 is shown that a deferred participation is not avail-
8 able and no direct financing may be made unless it
9 is shown that a participation is not available.

10 “(3) NO CREDIT ELSEWHERE.—The Adminis-
11 trator may not make a loan under this subsection if
12 the applicant can obtain credit elsewhere.

13 “(4) CRIMINAL BACKGROUND CHECK.—Before
14 making any loan under this subsection or section
15 502 or 503 of the Small Business Investment Act of
16 1958, the Administrator may verify the applicant’s
17 criminal background, or lack thereof, through the
18 best available means, including, if possible, use of
19 the National Crime Information Center computer
20 system at the Federal Bureau of Investigation.

21 “(5) SOUND AND SECURE REQUIREMENT.—

22 “(A) IN GENERAL.—Except as otherwise
23 provided in this paragraph, any loan made
24 under this subsection shall be of such sound

1 value or so secured as reasonably to assure re-
2 payment.

3 “(B) SPECIAL RULES.—For purposes of
4 subparagraph (A), any reasonable doubt re-
5 garding the likelihood of repayment shall be re-
6 solved in favor of the applicant if the applicant
7 is—

8 “(i) a disabled person (as defined in
9 paragraph (8)); or

10 “(ii) a small manufacturer.

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

22 “(6) LEVEL OF PARTICIPATION IN GUARAN-
23 TEED LOANS.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), in an agreement to partici-

1 pate in a loan on a deferred basis under this
2 subsection (including a loan made under the
3 Preferred Lenders Program), such participation
4 by the Administrator shall be equal to—

5 “(i) 75 percent of the balance of the
6 financing outstanding at the time of dis-
7 bursement of the loan, if such balance ex-
8 ceeds \$150,000; or

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

13 “(B) REDUCED PARTICIPATION UPON RE-
14 QUEST.—

15 “(i) IN GENERAL.—The guarantee
16 percentage specified by subparagraph (A)
17 for any loan under this subsection may be
18 reduced upon the request of the partici-
19 pating lender.

20 “(ii) PROHIBITION.—The Adminis-
21 trator shall not use the guarantee percent-
22 age requested by a participating lender
23 under clause (i) as a criterion for estab-
24 lishing priorities in approving loan guar-
25 antee requests under this subsection.

1 “(C) PARTICIPATION UNDER EXPORT
2 WORKING CAPITAL PROGRAM.—Notwithstanding
3 subparagraph (A), in an agreement to partici-
4 pate in a loan on a deferred basis under the
5 Export Working Capital Program established
6 pursuant to paragraph (14), such participation
7 by the Administrator shall not exceed 90 per-
8 cent.

9 “(7) MAXIMUM LOAN AMOUNTS.—No loan shall
10 be made under this subsection—

11 “(A) if the total amount outstanding and
12 committed (by participation or otherwise) solely
13 for purposes of this subsection to the borrower
14 from the business loan and investment fund es-
15 tablished by this Act would exceed \$1,000,000
16 (or if the gross loan amount would exceed
17 \$2,000,000), except as provided in subpara-
18 graph (B);

19 “(B) if the total amount outstanding and
20 committed (on a deferred basis) solely for the
21 purposes provided in paragraph (16) to the bor-
22 rower from the business loan and investment
23 fund established by this Act would exceed
24 \$2,000,000 of which not more than \$1,200,000
25 may be used for working capital, supplies, or

1 financings under paragraph (14) for export
2 purposes; and

3 “(C) if made either directly or in coopera-
4 tion with banks or other lending institutions
5 through agreements to participate on an imme-
6 diate basis if the amount would exceed
7 \$350,000.

8 “(8) INTEREST RATES.—

9 “(A) MAXIMUM RATE SET BY ADMINIS-
10 TRATOR.—Notwithstanding any State limitation
11 on the rate or amount of interest which may be
12 charged, taken, received, or reserved, the max-
13 imum legal rate of interest on any financing
14 made on a deferred basis pursuant to this sub-
15 section shall not exceed a rate prescribed by the
16 Administrator.

17 “(B) IMMEDIATE AND DIRECT LOANS.—
18 The rate of interest for the Administrator’s
19 share of any direct or immediate participation
20 loan shall not exceed the current average mar-
21 ket yield on outstanding marketable obligations
22 of the United States with remaining periods to
23 maturity comparable to the average maturities
24 of such loans and adjusted to the nearest $\frac{1}{8}$ of
25 1 percent, and an additional amount as deter-

1 mined by the Administrator, but not to exceed
2 1 percent per year;

3 “(C) PREFERRED LENDERS PROGRAM.—
4 The maximum interest rate for a loan guaran-
5 teed under the Preferred Lenders Program con-
6 ducted pursuant to paragraph (31) shall not ex-
7 ceed the maximum interest rate, as determined
8 by the Administrator, applicable to other loans
9 guaranteed under this subsection.

10 “(D) DISABLED PERSONS.—

11 “(i) IN GENERAL.—The maximum in-
12 terest rate for a loan made under this sub-
13 section to a disabled person for the estab-
14 lishment, acquisition or operation of a
15 small business concern shall be 3 percent
16 per year.

17 “(ii) DISABLED PERSON.—For the
18 purposes of this subparagraph, the term
19 ‘disabled person’ means any individual
20 who—

21 “(I) is a service-disabled veteran;

22 or

23 “(II) has a disability (as defined
24 in section 3 of the Americans with
25 Disabilities Act of 1990) which limits

1 such individual's selection of any type
2 of employment for which such indi-
3 vidual would otherwise be qualified or
4 qualifiable.

5 “(9) PREPAYMENT CHARGES.—

6 “(A) IN GENERAL.—A borrower who pre-
7 pays any loan guaranteed under this subsection
8 shall remit to the Administrator a subsidy
9 recoupment fee calculated in accordance with
10 subparagraph (B) if—

11 “(i) the loan is for a term of not less
12 than 15 years;

13 “(ii) the prepayment is voluntary;

14 “(iii) the amount of prepayment in
15 any calendar year is more than 25 percent
16 of the outstanding balance of the loan; and

17 “(iv) the prepayment is made within
18 the first 3 years after disbursement of the
19 loan proceeds.

20 “(B) SUBSIDY RECOUPMENT FEE.—The
21 subsidy recoupment fee charged under subpara-
22 graph (A) shall be—

23 “(i) 5 percent of the amount of pre-
24 payment, if the borrower prepays during
25 the first year after disbursement;

1 “(ii) 3 percent of the amount of pre-
2 payment, if the borrower prepays during
3 the second year after disbursement; and

4 “(iii) 1 percent of the amount of pre-
5 payment, if the borrower prepays during
6 the third year after disbursement.

7 “(10) MAXIMUM TERM.—No loans made under
8 this subsection, including renewals and extensions
9 thereof, may be made for a period or periods exceed-
10 ing 25 years, except that such portion of a loan
11 made for the purpose of acquiring real property or
12 constructing, converting, or expanding facilities may
13 have a maturity of 25 years plus such additional pe-
14 riod as is estimated may be required to complete
15 such construction, conversion, or expansion.

16 “(11) CONSTRUCTION AND REHABILITATION OF
17 REAL PROPERTY.—The Administrator may make a
18 loan under this subsection to finance residential or
19 commercial construction or rehabilitation for sale if
20 such loan is not used primarily for the acquisition of
21 land.

22 “(12) UNEMPLOYED AND LOW-INCOME INDIVID-
23 UALS.—The Administrator may make loans under
24 this subsection to any small business concern, or to
25 any qualified person seeking to establish such a con-

1 cern, if the Administrator determines that such loan
2 will further the policies established in section 2, with
3 particular emphasis on the preservation or establish-
4 ment of small business concerns located in urban or
5 rural areas with high proportions of unemployed or
6 low-income individuals or owned by low-income indi-
7 viduals.

8 “(13) STATE AND LOCAL DEVELOPMENT COM-
9 PANIES.—The Administrator may make loans under
10 this subsection to State and local development com-
11 panies for the purposes of, and subject to the re-
12 strictions in, title V of the Small Business Invest-
13 ment Act of 1958.

14 “(14) EXPORT WORKING CAPITAL PROGRAM.—

15 “(A) IN GENERAL.—The Administrator
16 may provide extensions of credit, standby let-
17 ters of credit, revolving lines of credit for export
18 purposes, and other financing to enable small
19 business concerns, including small business ex-
20 port trading companies and small business ex-
21 port management companies, to develop foreign
22 markets.

23 “(B) INTEREST RATES.—A bank or par-
24 ticipating lending institution may establish the

1 rate of interest on such financings as may be
2 legal and reasonable.

3 “(C) CRITERIA FOR LOANS.—When consid-
4 ering loan or guarantee applications, the Ad-
5 ministrator shall give weight to export-related
6 benefits, including opening new markets for
7 United States goods and services abroad and
8 encouraging the involvement of small busi-
9 nesses, including agricultural concerns, in the
10 export market.

11 “(D) MARKETING.—The Administrator
12 shall aggressively market its export financing
13 program to small businesses.

14 “(15) QUALIFIED EMPLOYEE TRUSTS.—

15 “(A) LOAN GUARANTEES.—The Adminis-
16 trator may guarantee loans under this sub-
17 section to qualified employee trusts with respect
18 to a small business concern for the purpose of
19 purchasing stock of the concern under a plan
20 approved by the Administrator which, when car-
21 ried out, results in the qualified employee trust
22 owning at least 51 percent of the stock of the
23 concern. A qualified employee trust shall be eli-
24 gible for any loan guarantee under this sub-
25 section with respect to a small business concern

1 on the same basis as if such trust were the
2 same legal entity as such concern.

3 “(B) APPROVAL OF PLAN.—The plan re-
4 quiring the Administrator’s approval under sub-
5 paragraph (A) shall be submitted to the Admin-
6 istrator by the trustee of such trust with its ap-
7 plication for the guarantee. Such plan shall in-
8 clude an agreement with the Administrator
9 which is binding on such trust and on the small
10 business concern and which provides that—

11 “(i) not later than the date the loan
12 guaranteed under subparagraph (A) is re-
13 paid (or as soon thereafter as is consistent
14 with the requirements of section 401(a) of
15 the Internal Revenue Code of 1986, at
16 least 51 percent of the total stock of such
17 concern shall be allocated to the accounts
18 of at least 51 percent of the employees of
19 such concern who are entitled to share in
20 such allocation;

21 “(ii) there will be periodic reviews of
22 the role in the management of such con-
23 cern of employees to whose accounts stock
24 is allocated; and

1 “(iii) there will be adequate manage-
2 ment to assure management expertise and
3 continuity.

4 “(C) CERTAIN CHARACTERISTICS OF EM-
5 PLOYEE-OWNERS DISREGARDED.—In deter-
6 mining whether to guarantee any loan under
7 this paragraph, the individual business experi-
8 ence or personal assets of employee-owners shall
9 not be used as criteria, except that the business
10 experience of employee-owners who assume
11 managerial responsibilities may be considered.

12 “(D) CERTAIN CORPORATIONS TREATED
13 AS SMALL BUSINESS CONCERNS.—For purposes
14 of this paragraph, a corporation which is con-
15 trolled by any other person shall be treated as
16 a small business concern if such corporation
17 would, after the plan described in subparagraph
18 (B) is carried out, be treated as a small busi-
19 ness concern.

20 “(16) INTERNATIONAL TRADE.—

21 “(A) IN GENERAL.—If the Administrator
22 determines that a loan guaranteed under this
23 subsection will allow an eligible small business
24 concern in an industry engaged in or adversely
25 affected by international trade to improve its

1 competitive position, the Administrator may
2 make such loan to assist such concern in—

3 “(i) the financing of the acquisition,
4 construction, renovation, modernization,
5 improvement or expansion of productive fa-
6 cilities or equipment to be used in the
7 United States in the production of goods
8 and services involved in international
9 trade; or

10 “(ii) the refinancing of existing in-
11 debtedness which is not structured with
12 reasonable terms and conditions.

13 “(B) SECURITY.—Each loan made under
14 this paragraph shall be secured by a first lien
15 position or first mortgage on the property or
16 equipment financed by the loan or on other as-
17 sets of the concern.

18 “(C) ENGAGED IN OR ADVERSELY AF-
19 FECTED BY INTERNATIONAL TRADE.—For pur-
20 poses of this paragraph, a small business con-
21 cern shall be considered to be engaged in or ad-
22 versely affected by international trade if such
23 concern is determined by the Administrator
24 (under regulations prescribed by the Adminis-
25 trator to be—

1 “(i) in a position to significantly ex-
2 pand existing export markets or develop
3 new export markets; or

4 “(ii) adversely affected by import
5 competition in that it—

6 “(I) is confronting increased di-
7 rect competition with foreign firms in
8 the relevant market; and

9 “(II) can demonstrate injury at-
10 tributable to such competition.

11 “(D) FINDINGS BY INTERNATIONAL TRADE
12 COMMISSION.—For purposes of subparagraph
13 (C)(ii)(II), the Administrator shall accept any
14 finding of injury by the International Trade
15 Commission.

16 “(17) AUTHORIZED LENDING INSTITUTIONS.—
17 The Administrator shall authorize lending institu-
18 tions and other entities in addition to banks to make
19 loans authorized under this subsection.

20 “(18) GUARANTEE FEES.—

21 “(A) IN GENERAL.—With respect to each
22 loan guaranteed under this subsection (other
23 than a loan that is repayable in 1 year or less),
24 the Administration shall collect a guarantee fee,
25 which shall be payable by the participating

1 lender, but which may be collected in advance
2 by the lender from the borrower, as follows:

3 “(i) A guarantee fee equal to 1 per-
4 cent of the deferred participation share of
5 a total loan amount that is not more than
6 \$150,000.

7 “(ii) A guarantee fee equal to 2.5 per-
8 cent of the deferred participation share of
9 a total loan amount that is more than
10 \$150,000, but not more than \$700,000.

11 “(iii) A guarantee fee equal to 3.5
12 percent of the deferred participation share
13 of a total loan amount that is more than
14 \$700,000.

15 “(B) RETENTION OF CERTAIN FEES.—
16 Lenders participating in the programs estab-
17 lished under this subsection may retain not
18 more than 25 percent of a fee collected under
19 subparagraph (A)(i).

20 “(19) CERTIFIED LENDERS PROGRAM.—

21 “(A) IN GENERAL.— There is a Certified
22 Lenders Program for lenders who establish
23 their knowledge of laws and regulations con-
24 cerning the guaranteed loan program and their
25 proficiency in program requirements as set

1 forth in regulations codified in the Code of Fed-
2 eral Regulations.

3 “(B) SUSPENSION AND REVOCATION OF
4 DESIGNATION.—The designation of a lender as
5 a certified lender shall be suspended or revoked
6 at any time that the Administrator determines
7 that the lender is not adhering to established
8 rules and regulations or that the loss experience
9 of the lender is excessive as compared to other
10 lenders, but such suspension or revocation shall
11 not affect any outstanding guarantee.

12 “(C) AUTHORITY TO LIQUIDATE LOANS.—

13 “(i) IN GENERAL.—The Administrator
14 may permit lenders participating in the
15 Certified Lenders Program to liquidate
16 loans made with a guarantee from the Ad-
17 ministrator pursuant to a liquidation plan
18 approved by the Administrator.

19 “(ii) AUTOMATIC APPROVAL.—If the
20 Administrator does not approve or deny a
21 request for approval of a liquidation plan
22 within 10 business days of the date on
23 which the request is made (or with respect
24 to any routine liquidation activity under

1 such a plan, within 5 business days) such
2 request shall be deemed to be approved.

3 “(20) MINORITY BUSINESS DEVELOPMENT PRO-
4 GRAM PARTICIPANTS.—

5 “(A) IN GENERAL.—The Administrator
6 may make loans either directly or in coopera-
7 tion with banks or other financial institutions
8 through agreements to participate on an imme-
9 diate or deferred (guaranteed) basis to small
10 business concerns eligible for assistance under
11 section 8(a). Such assistance may be provided
12 only if the Administrator determines that—

13 “(i) the type and amount of such as-
14 sistance requested by such concern is not
15 otherwise available on reasonable terms
16 from other sources;

17 “(ii) with such assistance such con-
18 cern has a reasonable prospect for oper-
19 ating soundly and profitably within a rea-
20 sonable period of time;

21 “(iii) the proceeds of such assistance
22 will be used within a reasonable time for
23 plant construction, conversion, or expan-
24 sion, including the acquisition of equip-
25 ment, facilities, machinery, supplies, or

1 material or to supply such concern with
2 working capital to be used in the manufac-
3 ture of articles, equipment, supplies, or
4 material for defense or civilian production
5 or as may be necessary to insure a well-
6 balanced national economy; and

7 “(iv) such assistance is of such sound
8 value as reasonably to assure that the
9 terms under which it is provided will not
10 be breached by the small business concern.

11 “(B) MAXIMUM AMOUNT OF LOANS.—No
12 loan shall be made under this paragraph if the
13 total amount outstanding and committed (by
14 participation or otherwise) to the borrower
15 would exceed \$750,000.

16 “(C) MINIMUM PARTICIPATION.—Subject
17 to the limitation of subparagraph (B), in agree-
18 ments to participate in loans on a deferred
19 (guaranteed) basis, participation by the Admin-
20 istrator shall be not less than 85 percent of the
21 balance of the financing outstanding at the time
22 of disbursement.

23 “(D) INTEREST RATE.—The rate of inter-
24 est on financings made on a deferred (guaran-
25 teed) basis shall be legal and reasonable.

1 “(E) METHODS OF PARTICIPATION.—No
2 immediate participation may be purchased
3 under this paragraph unless it is shown that a
4 deferred participation is not available. No direct
5 financing may be made under this paragraph
6 unless it is shown that a participation is un-
7 available. A direct loan or the Administrator’s
8 share of an immediate participation loan made
9 pursuant to this paragraph shall be any secured
10 debt instrument—

11 “(i) that is subordinated by its terms
12 to all other borrowings of the issuer;

13 “(ii) the rate of interest on which
14 shall not exceed the current average mar-
15 ket yield on outstanding marketable obliga-
16 tions of the United States with remaining
17 periods to maturity comparable to the av-
18 erage maturities of such loan and adjusted
19 to the nearest $\frac{1}{8}$ of 1 percent;

20 “(iii) the term of which is not more
21 than 25 years;

22 “(iv) the principal on which is amor-
23 tized at such rate as may be deemed ap-
24 propriate by the Administrator; and

1 “(v) the interest on which is payable
2 not less often than annually.

3 “(21) CLOSURE OF DOD INSTALLATIONS.—

4 “(A) IN GENERAL.—The Administrator
5 may make loans on a guaranteed basis under
6 the authority of this subsection—

7 “(i) to a small business concern that
8 has been (or can reasonably be expected to
9 be) detrimentally affected by—

10 “(I) the closure (or substantial
11 reduction) of a Department of De-
12 fense installation; or

13 “(II) the termination (or sub-
14 stantial reduction) of a Department of
15 Defense program on which such small
16 business was a prime contractor or
17 subcontractor (or supplier) at any
18 tier; or

19 “(ii) to a qualified individual or a vet-
20 eran seeking to establish (or acquire) and
21 operate a small business concern.

22 “(B) REASONABLE DOUBT GIVEN TO AP-
23 PLICANT.—Recognizing that greater risk may
24 be associated with a loan to a small business
25 concern described in subparagraph (A)(i), any

1 reasonable doubts concerning the firm’s pro-
2 posed business plan for transition to non-
3 defense-related markets shall be resolved in
4 favor of the loan applicant when making any
5 determination regarding the sound value of the
6 proposed loan in accordance with paragraph
7 (5).

8 “(C) AUTHORIZATION.—Loans pursuant to
9 this paragraph shall be authorized in such
10 amounts as provided in advance in appropria-
11 tion Acts for the purposes of loans under this
12 paragraph.

13 “(D) QUALIFIED INDIVIDUAL.—For pur-
14 poses of this paragraph a qualified individual
15 is—

16 “(i) a member of the Armed Forces of
17 the United States, honorably discharged
18 from active duty involuntarily or pursuant
19 to a program providing bonuses or other
20 inducements to encourage voluntary sepa-
21 ration or early retirement;

22 “(ii) a civilian employee of the De-
23 partment of Defense involuntarily sepa-
24 rated from Federal service or retired pur-

1 suant to a program offering inducements
2 to encourage early retirement; or

3 “(iii) an employee of a prime con-
4 tractor, subcontractor, or supplier at any
5 tier of a Department of Defense program
6 whose employment is involuntarily termi-
7 nated (or voluntarily terminated pursuant
8 to a program offering inducements to en-
9 courage voluntary separation or early re-
10 tirement) due to the termination (or sub-
11 stantial reduction) of a Department of De-
12 fense program.

13 “(E) JOB CREATION AND COMMUNITY
14 BENEFIT.—In providing assistance under this
15 paragraph, the Administrator shall develop pro-
16 cedures to ensure, to the maximum extent prac-
17 ticable, that such assistance is used for projects
18 that—

19 “(i) have the greatest potential for—

20 “(I) creating new jobs for indi-
21 viduals whose employment is involun-
22 tarily terminated due to reductions in
23 Federal defense expenditures; or

24 “(II) preventing the loss of jobs
25 by employees of small business con-

1 cerns described in subparagraph
2 (A)(i); and
3 “(ii) have substantial potential for
4 stimulating new economic activity in com-
5 munities most affected by reductions in
6 Federal defense expenditures.

7 “(22) LATE FEES.—The Administrator may
8 permit participating lenders to impose and collect a
9 reasonable penalty fee on late payments of loans
10 guaranteed under this subsection in an amount not
11 to exceed 5 percent of the monthly loan payment per
12 month plus interest.

13 “(23) ANNUAL FEE.—

14 “(A) IN GENERAL.—With respect to each
15 loan guaranteed under this subsection, the Ad-
16 ministrator shall, in accordance with such terms
17 and procedures as the Administrator shall es-
18 tablish by regulation, assess and collect an an-
19 nual fee in an amount equal to 0.5 percent of
20 the outstanding balance of the deferred partici-
21 pation share of the loan. With respect to loans
22 approved during the 2-year period beginning on
23 October 1, 2002, the annual fee assessed and
24 collected under the preceding sentence shall be
25 in an amount equal to 0.25 percent of the out-

1 standing balance of the deferred participation
2 share of the loan.

3 “(B) PAYER.—The annual fee assessed
4 under subparagraph (A) shall be payable by the
5 participating lender and shall not be charged to
6 the borrower.

7 “(C) AGENTS.—The Administrator may
8 contract with any agent to carry out, on behalf
9 of the Administrator, the assessment and collec-
10 tion of annual fees referred to in subparagraph
11 (A). Such agent may receive as compensation
12 for services any interest earned on the fees
13 while in such agent’s control and prior to the
14 time when the agent, pursuant to contract, is
15 required to remit the fees to the Administrator.

16 “(24) NOTIFICATION REQUIREMENT.—The Ad-
17 ministrator shall notify the Committee on Small
18 Business of the House of Representatives and the
19 Committee on Small Business and Entrepreneurship
20 of the Senate not later than 15 days before making
21 any significant policy or administrative change af-
22 fecting the operation of the loan program under this
23 subsection, including the establishment of any pilot
24 project pursuant to paragraph (25).

1 “(25) LIMITATION ON CONDUCTING PILOT
2 PROJECTS.—

3 “(A) LIMITATION ON NUMBER.—Not more
4 than 10 percent of the total number of loans
5 guaranteed in any fiscal year under this sub-
6 section may be awarded as part of a pilot pro-
7 gram which is commenced by the Administrator
8 on or after January 1, 1994.

9 “(B) DOLLAR LIMITATIONS.—

10 “(i) IN GENERAL.—In the case of any
11 pilot program established on or after the
12 date of the enactment of this subpara-
13 graph, no loan shall be made under such
14 program if such loan would result in the
15 total amount of loans made during the fis-
16 cal year under all such programs to be in
17 excess of 5 percent of the total amount of
18 loans guaranteed in such fiscal year under
19 this subsection.

20 “(ii) CERTAIN PRE-EXISTING PRO-
21 GRAMS.—In the case of any pilot program
22 established before the date of the enact-
23 ment of this subparagraph, no loan shall
24 be made under such program if such loan
25 would result in the total amount of loans

1 made during the fiscal year under all such
2 programs to be in excess of 15 percent of
3 the total amount of loans guaranteed in
4 such fiscal year under this subsection.

5 “(C) MAXIMUM TERM.—The duration of
6 any pilot program authorized by this paragraph
7 shall not exceed 3 years. For purposes of this
8 subparagraph, a pilot program shall not be
9 treated as a new pilot program solely on the
10 basis of a modification or change in a pilot pro-
11 gram, including the change of its name. With
12 respect to any pilot program in existence on the
13 date of the enactment of this subparagraph,
14 this subparagraph shall apply without regard to
15 any period ending before such date.

16 “(D) REGULATIONS.—With respect to each
17 pilot program under this subsection, the Admin-
18 istrator shall—

19 “(i) promulgate regulations for such
20 program pursuant to section 553(b) of title
21 5, United States Code;

22 “(ii) provide not less than 60 days for
23 notice and comment on such regulations;
24 and

1 “(iii) ensure that such regulations are
2 codified in the Code of Federal Regula-
3 tions.

4 In the case of any pilot program established
5 after the date of the enactment of this subpara-
6 graph, such program shall not go into effect
7 until after the requirements of this subpara-
8 graph are satisfied.

9 “(E) PILOT PROGRAM.—For purposes of
10 this paragraph, the term ‘pilot program’ means
11 any lending program initiative, project, innova-
12 tion, or other activity not specifically authorized
13 by law.

14 “(26) CALCULATION OF SUBSIDY RATE.—All
15 fees, interest, and profits received and retained by
16 the Administrator under this subsection shall be in-
17 cluded in the calculations made by the Director of
18 the Office of Management and Budget to offset the
19 cost (as that term is defined in section 502 of the
20 Federal Credit Reform Act of 1990) to the Adminis-
21 trator of purchasing and guaranteeing loans under
22 this Act.

23 “(27) LOW DOCUMENTATION LOAN PRO-
24 GRAM.—

1 “(A) IN GENERAL.—The Administrator
2 may issue guarantees under this subsection for
3 loans of \$150,000 or less with less documenta-
4 tion than would otherwise be required by the
5 Administrator under this subsection.

6 “(B) REGULATIONS.—Not later than 120
7 days after the date of the enactment of this
8 paragraph, the Administrator shall promulgate
9 regulations to carry out the provisions of this
10 paragraph after the opportunity for notice and
11 comment pursuant to section 553(b) of title 5,
12 United States Code. Such regulations shall be
13 codified in the Code of Federal Regulations.

14 “(28) LEASING.—In addition to such other
15 lease arrangements as may be authorized by the Ad-
16 ministrator, a borrower may permanently lease to
17 one or more tenants not more than 20 percent of
18 any property constructed with the proceeds of a loan
19 guaranteed under this subsection, if the borrower
20 permanently occupies and uses not less than 60 per-
21 cent of the total business space in the property.

22 “(29) REAL ESTATE APPRAISALS.—With re-
23 spect to a loan under this subsection that is secured
24 by commercial real property, an appraisal of such
25 property by a State licensed or certified appraiser—

1 “(A) shall be required by the Adminis-
2 trator in connection with any such loan for
3 more than \$250,000; or

4 “(B) may be required by the Administrator
5 or the lender in connection with any such loan
6 for \$250,000 or less, if such appraisal is nec-
7 essary for appropriate evaluation of credit-
8 worthiness.

9 “(30) OWNERSHIP REQUIREMENTS.—Owner-
10 ship requirements to determine the eligibility of a
11 small business concern that applies for assistance
12 under any credit program under this Act shall be de-
13 termined without regard to any ownership interest of
14 a spouse arising solely from the application of the
15 community property laws of a State for purposes of
16 determining marital interests.

17 “(31) PREFERRED LENDERS PROGRAM.—

18 “(A) IN GENERAL.—There is a Preferred
19 Lenders Program.

20 “(B) PARTICIPATION.—The Administrator
21 may designate a preferred lender under this
22 paragraph only if the lender demonstrates
23 knowledge of the Small Business Act and the
24 regulations promulgated thereunder and estab-

1 lishes to the satisfaction of the Administrator
2 that it—

3 “(i) has the ability to process, close,
4 service, and liquidate loans;

5 “(ii) has the ability to develop and
6 analyze complete loan packages; and

7 “(iii) has a satisfactory performance
8 history of participation in the lending pro-
9 gram established under this subsection as
10 demonstrated by a default rate that does
11 not exceed—

12 “(I) the national average; or

13 “(II) in the case any lender
14 which made at least 20 percent of its
15 loans in Alaska, Hawaii, State-des-
16 ignated enterprise zones, enterprise
17 zones, empowerment zones, enterprise
18 communities, or labor surplus areas
19 as determined by the Department of
20 Labor, or to small manufacturers, the
21 national average plus 2 percentage
22 points.

23 “(C) DELEGATED AUTHORITY.—With re-
24 spect to loans made under this subsection, pre-

1 ferred lenders shall, without prior approval of
2 the Administrator:

3 “(i) Determine creditworthiness and
4 eligibility.

5 “(ii) Make and close loans with a
6 guarantee from the Administrator.

7 “(iii) Monitor loan performance.

8 “(iv) Service and collect the loans.

9 “(v) Foreclose and liquidate loans.

10 “(D) PROHIBITED ACTIVITIES.—A pre-
11 ferred lender shall not take any action that cre-
12 ates an actual or apparent conflict of interest or
13 places the Federal Government’s guarantee at
14 significant risk beyond the risk associated with
15 loan nonperformance.

16 “(E) AREA OF OPERATIONS.—The des-
17 ignation by the Administrator of a lender to
18 participate in the program established pursuant
19 to this paragraph shall authorize the activities
20 described in subparagraph (C) only with respect
21 to small business concerns located in areas
22 served by such office or offices as the Adminis-
23 trator designates with respect to such lender.

24 “(F) DESIGNATION AS NATIONAL PRE-
25 ferred LENDERS.—The Administrator, upon

1 application, may designate a preferred lender as
2 a national preferred lender. A national pre-
3 ferred lender may conduct the activities de-
4 scribed in subparagraph (C) with respect to
5 each area served by an office of the Adminis-
6 trator. The Administrator shall not grant such
7 designation unless the applicant dem-
8 onstrates—

9 “(i) operation as a preferred lender in
10 at least 5 States or within the territory
11 served by at least 10 offices of the Admin-
12 istrator for a period of not less than 3
13 years;

14 “(ii) issuance of a minimum of 50
15 loans per year as a preferred lender;

16 “(iii) centralization of approval, loan
17 servicing and liquidation functions that
18 meet such standards as the Administrator
19 may establish by regulations, which are
20 promulgated after notice and the oppor-
21 tunity for public comment not later than
22 180 days after the date of the enactment
23 of this clause;

1 “(iv) maintenance of uniform written
2 policies and procedures on the issuance of
3 loans guaranteed under this subsection;

4 “(v) maintenance of a portfolio of
5 loans guaranteed under this subsection
6 that do not exceed the national average de-
7 fault, currency, and recovery rates for pre-
8 ferred lenders; and

9 “(vi) receipt of a substantially satis-
10 factory compliance review rating from the
11 Administrator in its most recent audit and
12 examination as a preferred lender and a
13 small business lending company, if applica-
14 ble, or has received a substantially satisfac-
15 tory rating as a result of a follow-up re-
16 view.

17 “(G) CORRECTIVE ACTION.—If a national
18 preferred lender is deficient with respect to any
19 requirement described in subparagraph (F), the
20 Administrator shall notify such lender in writ-
21 ing and shall provide the lender a reasonable
22 period of time to conform to such requirements
23 before taking any corrective action.

24 “(H) SUSPENSION OR REVOCATION.—The
25 Administrator may, depending upon the severity

1 of the failure to comply with the standards set
2 forth in this paragraph, suspend or revoke a
3 lender's status as a preferred lender or a na-
4 tional preferred lender. Any such suspension or
5 revocation shall not affect any outstanding
6 guarantee.

7 “(I) LIMITATION ON DELEGATION.—No
8 authority under this paragraph may be dele-
9 gated to any employee of the Administration
10 who is based in a regional or district office.

11 “(32) SIMPLIFIED FORM FOR SMALL GUARAN-
12 TEES.—The Administrator shall develop and allow
13 participating lenders to solely utilize a uniform and
14 simplified loan form for loans of \$50,000 or less in
15 guarantees to eligible applicants.

16 “(33) SPECIAL RULE ON AFFILIATION.—A busi-
17 ness concern applying for assistance under this sub-
18 section shall be considered small for purposes of this
19 subsection without regard to affiliation with another
20 business concern if the applicant has no legal re-
21 course to have its affiliate repay any of its debt obli-
22 gations.

23 (b) DISASTER LOAN PROGRAM.—Subsection (b) of
24 section 7 of the Small Business Act (15 U.S.C.636) is
25 amended to read as follows:

1 “(b) DISASTER LOAN PROGRAM.—

2 “(1) PHYSICAL LOSS DISASTER LOANS.—

3 “(A) LOAN AUTHORITY.—Except as to ag-
4 ricultural enterprises, the Administrator may,
5 to the extent and in such amounts as provided
6 in advance in appropriation Acts, make such
7 loans (either directly or in cooperation with
8 banks or other lending institutions through
9 agreements to participate on an immediate or
10 deferred (guaranteed) basis) as the Adminis-
11 trator may determine to be necessary or appro-
12 priate to repair, rehabilitate or replace prop-
13 erty, real or personal, damaged or destroyed by
14 or as a result of natural or other disasters.

15 “(B) LOAN AMOUNT.—The amount of any
16 loan made under this paragraph shall be equal
17 to 100 percent of the loss except that the
18 amount of the loan shall be reduced by—

19 “(i) any amount covered by insurance
20 or otherwise; or

21 “(ii) in the case of a loan used to refi-
22 nance a mortgage or other lien, any
23 amount covered by insurance or otherwise.

24 “(C) SPECIAL RULES.—The Administrator
25 shall not—

1 “(i) reduce the loan amount on real
2 estate to below \$100,000 unless the
3 amount of loss calculated under subpara-
4 graph (B) is less than \$100,000;

5 “(ii) reduce the loan amount on per-
6 sonal property, whether held by a home-
7 owner or lessee, to below \$20,000, unless
8 the amount of the loss calculated under
9 subparagraph (B) is less than \$20,000;

10 “(iii) take into account for purposes
11 of subparagraph (B) any sums made avail-
12 able for refinancing pursuant to subpara-
13 graph (D); or

14 “(iv) require collateral for loans of
15 \$10,000 or less.

16 “(D) REFINANCINGS.—Such loans may be
17 used to refinance any mortgage or other lien
18 against a totally destroyed or substantially
19 damaged home or business concern except that
20 the Administrator shall not make any loan or
21 guarantee under this paragraph unless the Ad-
22 ministrators finds—

23 “(i) the applicant is not able to obtain
24 credit elsewhere;

1 “(ii) such property is to be repaired,
2 rehabilitated, or replaced; and

3 “(iii) the amount refinanced shall not
4 exceed the amount of physical loss sus-
5 tained.

6 “(E) INCREASE FOR MITIGATING MEAS-
7 URES.—The Administrator may increase the
8 amount of any loan under this subsection by up
9 to an additional 20 percent if he determines
10 such increase to be necessary or appropriate in
11 order to protect the damaged or destroyed prop-
12 erty from possible future disasters by taking
13 mitigating measures, including construction of
14 retaining walls and sea walls, grading and
15 contouring land, relocating utilities and modi-
16 fying structures.

17 “(2) ECONOMIC INJURY DISASTER LOANS.—

18 “(A) LOAN AUTHORITY.—Except as to ag-
19 ricultural enterprises (other than small agricul-
20 tural cooperatives), the Administrator may, to
21 the extent and in such amounts as provided in
22 advance in appropriation Acts, make such loans
23 (either directly or in cooperation with banks or
24 other lending institutions through agreements
25 to participate on an immediate or deferred

1 (guaranteed) basis as the Administrator may
2 determine to be necessary or appropriate to any
3 small business concern or small agricultural co-
4 operative located in an area affected by a dis-
5 aster (which shall include all of the county in
6 which the disaster occurred and counties contig-
7 uous to the county of the disaster as deter-
8 mined by the President or Administrator), if
9 the Administrator determines that the concern
10 or the cooperative has suffered a substantial
11 economic injury as a result of such disaster and
12 if such disaster constitutes—

13 “(i) a major disaster, as determined
14 by the President under the Disaster Relief
15 and Emergency Assistance Act; or

16 “(ii) a natural disaster, as determined
17 by the Secretary of Agriculture pursuant
18 to the Consolidated Farmers Home Admin-
19 istration Act of 1961 (7 U.S.C. 1961); or

20 “(iii) a disaster, as determined by the
21 Administrator.

22 “(B) STATE CERTIFICATION.—If no dis-
23 aster declaration has been issued under sub-
24 paragraph (A), the Governor of a State in
25 which a disaster has occurred may certify to the

1 Administrator that small business concerns or
2 small agricultural cooperatives have suffered
3 economic injury as a result of such disaster and
4 are in need of financial assistance which is not
5 available on reasonable terms in the disaster
6 stricken area. Upon receipt of such certifi-
7 cation, the Administrator may then make such
8 loans as would have been available under this
9 paragraph if a disaster declaration had been
10 issued.

11 “(C) UNABLE TO OBTAIN CREDIT ELSE-
12 WHERE.—No loan or guarantee shall be ex-
13 tended pursuant to this paragraph unless the
14 Administrator finds that the applicant is not
15 able to obtain credit elsewhere.

16 “(3) ESSENTIAL EMPLOYEES CALLED TO AC-
17 TIVE DUTY.—

18 “(A) DEFINITIONS.—For purposes of this
19 paragraph:

20 “(i) ESSENTIAL EMPLOYEE.—The
21 term ‘essential employee’ means an indi-
22 vidual who is employed by a small business
23 concern and whose managerial or technical
24 expertise is critical to the successful day-

1 to-day operations of that small business
2 concern.

3 “(ii) PERIOD OF MILITARY CON-
4 FFLICT.—The term ‘period of military con-
5 flict’ has the meaning given the term in
6 subsection (n)(1).

7 “(iii) SUBSTANTIAL ECONOMIC IN-
8 JURY.—The term ‘substantial economic in-
9 jury’ means an economic harm to a busi-
10 ness concern that results in the inability of
11 the business concern—

12 “(I) to meet its obligations as
13 they mature;

14 “(II) to pay its ordinary and nec-
15 essary operating expenses; or

16 “(III) to market, produce, or pro-
17 vide a product or service ordinarily
18 marketed, produced, or provided by
19 the business concern.

20 “(B) LOAN AUTHORITY.—The Adminis-
21 trator may make such disaster loans (either di-
22 rectly or in cooperation with banks or other
23 lending institutions through agreements to par-
24 ticipate on an immediate or deferred basis) to
25 assist a small business concern that has suf-

1 ferred or that is likely to suffer substantial eco-
2 nomic injury as the result of an essential em-
3 ployee of such small business concern being or-
4 dered to active military duty during a period of
5 military conflict.

6 “(C) PERIOD OF ELIGIBILITY.—A small
7 business concern described in subparagraph (B)
8 shall be eligible to apply for assistance under
9 this paragraph during the period beginning on
10 the date on which the essential employee is or-
11 dered to active duty and ending on the date
12 that is 90 days after the date on which such es-
13 sential employee is discharged or released from
14 active duty.

15 “(D) INTEREST RATE.—Any loan or guar-
16 antee extended pursuant to this paragraph shall
17 be made at the same interest rate as economic
18 injury disaster loans under paragraph (2).

19 “(E) MAXIMUM LOAN AMOUNT.—No loan
20 may be made under this paragraph, either di-
21 rectly or in cooperation with banks or other
22 lending institutions through agreements to par-
23 ticipate on an immediate or deferred basis, if
24 the total amount outstanding and committed to
25 the borrower under this subsection would ex-

1 ceed \$1,500,000, unless the applicant can es-
2 tablish pursuant to regulations promulgated by
3 the Administrator pursuant to paragraph (9)
4 that this maximum should be waived.

5 “(F) NO DISASTER DECLARATION RE-
6 QUIRED.—For purposes of assistance under this
7 paragraph, no declaration of a disaster area
8 shall be required.

9 “(4) SPECIAL RULE TO DETERMINE SMALL
10 CONCERNS.—For purposes of this subsection, a busi-
11 ness concern and an agricultural cooperative are
12 considered small if the business concern or agricul-
13 tural cooperative has 500 or fewer employees.

14 “(5) MAXIMUM TERM.— Except as provided in
15 paragraph (6), no loan under this subsection, includ-
16 ing renewals and extensions thereof, may be made
17 for a period or periods exceeding 30 years. No loan
18 described in paragraph (11)(D)(iii) shall be made
19 for a period or periods exceeding 3 years.

20 “(6) SUSPENSION OF PAYMENTS.—

21 “(A) IN GENERAL.—The Administrator
22 may consent to a suspension in the payment of
23 principal and interest charges on, and to an ex-
24 tension in the maturity of, the Federal share of

1 any loan under this subsection for a period of
2 not to exceed 5 years, if—

3 “(i) the borrower under such loan is a
4 homeowner or a small business concern;

5 “(ii) the loan was made to enable—

6 “(I) such homeowner to repair or
7 replace his home; or

8 “(II) such concern to repair or
9 replace plant or equipment which was
10 damaged or destroyed as the result of
11 a disaster described in clause (i) or
12 (ii) of paragraph (2)(A); and

13 “(iii) the Administrator determines
14 such action is necessary to avoid severe fi-
15 nancial hardship.

16 “(B) PURCHASE OF NON-FEDERAL
17 SHARE.—During any period in which principal
18 and interest charges are suspended on the Fed-
19 eral share of any loan under this paragraph,
20 the Administrator shall, upon the request of
21 any person, firm, or corporation having a par-
22 ticipation in such loan, purchase such participa-
23 tion, or assume the obligation of the borrower,
24 for the balance of such period, to make prin-
25 cipal and interest payments on the non-Federal

1 share of such loan. No such payments shall be
2 made by the Administrator in behalf of any bor-
3 rower unless—

4 “(i) the Administrator determines
5 that such action is necessary in order to
6 avoid a 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
20 counties designated pursuant to clause (i), (ii), or
21 (iii) of paragraph (2)(A).

22 “(8) CIVIL PENALTY FOR MISUSE OF LOAN.—
23 Whoever wrongfully misapplies the proceeds of a
24 loan obtained under this subsection shall be civilly
25 liable to the Administrator in an amount equal to

1 150 percent of the original principal amount of the
2 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 PARTICIPA-
12 TION.—In agreements to participate in loans on a
13 deferred basis under this subsection, such participa-
14 tion by the Administrator shall not be in excess of
15 90 percent of the balance of the loan outstanding at
16 the time of disbursement.

17 “(11) INTEREST RATE.—The interest rate on
18 the Federal share of any loan made under para-
19 graph (1) or (2) shall not exceed the rate of interest
20 which is in effect at the time of the occurrence of
21 the disaster but shall otherwise be—

22 “(A) in the case of a homeowner unable to
23 secure credit elsewhere, the rate prescribed by
24 the Administration but not more than $\frac{1}{2}$ the
25 rate determined by the Secretary of the Treas-

1 ury taking into consideration the current aver-
2 age market yield on outstanding marketable ob-
3 ligations of the United States with remaining
4 periods to maturity comparable to the average
5 maturities of such loan plus an additional
6 charge of not to exceed 1 percent per year as
7 determined by the Administrator, and adjusted
8 to the nearest $\frac{1}{8}$ of 1 percent, but not to ex-
9 ceed 4 percent per year;

10 “(B) in the case of a homeowner able to
11 secure credit elsewhere, the rate prescribed by
12 the Administration but not more than the rate
13 determined by the Secretary of the Treasury
14 taking into consideration the current average
15 market yield on outstanding marketable obliga-
16 tions of the United States with remaining peri-
17 ods to maturity comparable to the average ma-
18 turities of such loans plus an additional charge
19 of not to exceed 1 percent per year as deter-
20 mined by the Administrator, and adjusted to
21 the nearest $\frac{1}{8}$ of 1 percent, but not to exceed
22 8 percent per year;

23 “(C) in the case of a business or other con-
24 cern, including agricultural cooperatives, unable

1 to obtain credit elsewhere, not to exceed 4 per-
2 cent per year; or

3 “(D) in the case of a business concern able
4 to obtain credit elsewhere, the rate prescribed
5 by the Administration but not to excess of the
6 lowest of—

7 “(i) the rate prevailing in the private
8 market for similar loans,

9 “(ii) the rate prescribed by the Ad-
10 ministration as the maximum interest rate
11 for deferred participation (guaranteed)
12 loans under subsection (a), or

13 “(iii) 8 percent per year.

14 (c) EXTENSION OR RENEWAL.—Subsection (c) of
15 section 7 of the Small Business Act (15 U.S.C. 636) is
16 amended to read as follows:

17 “(c) EXTENSION OR RENEWAL.—

18 “(1) IN GENERAL.—The Administrator may
19 further extend the maturity of or renew any loan
20 made pursuant to this section for additional periods
21 not to exceed 10 years beyond the period stated
22 therein, if such extension or renewal will aid in the
23 orderly liquidation of such loan.

1 “(2) LIMITATION.—No loan made under sub-
2 section (b) shall be extended under this subsection
3 if the loan has a maturity in excess of 20 years.”.

4 (d) MICROLOAN PROGRAM.—Subsection (m) of sec-
5 tion 7 of the Small Business Act (15 U.S.C. 636) is
6 amended to read as follows:

7 “(m) MICROLOAN PROGRAM.—

8 “(1) PURPOSES.—The purposes of the
9 Microloan Program are—

10 “(A) to assist women, low-income, veteran,
11 and minority entrepreneurs and business own-
12 ers, small manufacturers, and other individuals
13 possessing the capability to operate successful
14 business concerns;

15 “(B) to assist small business concerns in
16 those areas suffering from a lack of credit due
17 to economic downturns;

18 “(C) to establish a microloan program to
19 be 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 work-

1 ing capital or the acquisition of materials,
2 supplies, 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
22 on the effectiveness of the microloan pro-
23 gram and the advisability and feasibility of
24 implementing 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
5 supplementing the technical assistance
6 grants provided under this subsection to
7 individuals who are receiving assistance
8 under the State program funded under
9 part A of title IV of the Social Security
10 Act (42 U.S.C. 601 et seq.), or under any
11 comparable State funded means tested pro-
12 gram of assistance for low-income individ-
13 uals, in order to adequately assist those in-
14 dividuals in establishing small businesses
15 and eliminating their dependence on that
16 assistance.

17 “(2) ESTABLISHMENT.—There is a Microloan
18 Program, under which the Administrator may, con-
19 sistent with the requirements of this subsection—

20 “(A) make direct loans to eligible inter-
21 mediaries for the purpose of making short-term,
22 fixed interest rate microloans to startup, newly
23 established, and growing small business con-
24 cerns;

1 “(B) in conjunction with such loans make
2 grants to such intermediaries for the purpose of
3 providing intensive marketing, management,
4 and technical assistance to small business con-
5 cerns that are borrowers under this subsection;
6 and

7 “(C) make grants to nonprofit entities for
8 the purpose of providing marketing, manage-
9 ment, and technical assistance to low-income in-
10 dividuals seeking to start or enlarge their own
11 businesses, if such assistance includes working
12 with the grant recipient to secure loans in
13 amounts not to exceed \$35,000 from private
14 sector lending institutions, with or without a
15 loan guarantee from the nonprofit entity.

16 “(3) ELIGIBILITY FOR PARTICIPATION.—An
17 intermediary shall be eligible to receive loans and
18 grants under subparagraphs (B) and (C) of para-
19 graph (2) if it has at least 1 year of experience mak-
20 ing microloans to startup, newly established, or
21 growing small business concerns and providing, as
22 an integral part of its microloan program, intensive
23 marketing, management, and technical assistance to
24 its borrowers or equivalent experience, as determined
25 by the Administrator provided that the equivalent

1 experience evidences the capability of the inter-
2 mediary to assist microloan borrowers.

3 “(4) INTERMEDIARY APPLICATIONS.—As part
4 of its application for a loan, each intermediary shall
5 submit a description to the Administrator of—

6 “(A) the type of businesses to be assisted;

7 “(B) the size and range of loans to be
8 made;

9 “(C) the geographic area to be served and
10 its economic, poverty, and unemployment char-
11 acteristics;

12 “(D) the status of small business concerns
13 in the area to be served and an analysis of their
14 credit and technical assistance needs;

15 “(E) any marketing, management, and
16 technical assistance to be provided in connec-
17 tion with a loan made under this subsection;

18 “(F) the local economic credit markets, in-
19 cluding the costs associated with obtaining
20 credit locally;

21 “(G) the qualifications of the applicant to
22 carry out the purpose of this subsection; and

23 “(H) any plan to involve other technical
24 assistance providers (such as counselors from
25 the Service Corps of Retired Executives or

1 small business development centers) or private
2 sector lenders in assisting selected business con-
3 cerns.

4 “(5) SELECTION OF INTERMEDIARIES.—In se-
5 lecting intermediaries to participate in the program
6 established under this subsection, the Administrator
7 shall give priority to those applicants that provide
8 loans in amounts averaging not more than \$10,000
9 and to those applicants that primarily serve small
10 manufacturers.

11 “(6) INTERMEDIARY CONTRIBUTION.—As a
12 condition of any loan made to an intermediary under
13 this subsection, the Administrator shall require the
14 intermediary to contribute not less than 15 percent
15 of the loan amount in cash from non-Federal
16 sources.

17 “(7) LOANS TO INTERMEDIARIES.—

18 “(A) LOAN LIMITS.—No loan shall be
19 made under this subsection if the total amount
20 outstanding and committed to one intermediary
21 (excluding outstanding grants) from the busi-
22 ness loan and investment fund established by
23 this Act would, as a result of such loan, exceed
24 \$750,000 in the first year of such
25 intermediary’s participation in the program,

1 and \$3,500,000 in the remaining years of the
2 intermediary's participation in the program.

3 “(B) LOAN DURATION.—Loans made by
4 the Administrator under this subsection shall be
5 for a term of 10 years.

6 “(C) DELAYED PAYMENTS.—The Adminis-
7 trator shall not require repayment of interest or
8 principal of a loan made to an intermediary
9 under this subsection during the first year of
10 the loan.

11 “(D) FEES; COLLATERAL.—Except as oth-
12 erwise provided in this subsection, the Adminis-
13 trator shall not charge any fees or require col-
14 lateral other than an assignment of the notes
15 receivable of the microloans with respect to any
16 loan made to an intermediary under this sub-
17 section.

18 “(E) INTEREST RATES.—

19 “(i) IN GENERAL.—Loans made by
20 the Administrator under this subsection to
21 an intermediary shall bear an interest rate
22 equal to 1.25 percentage points below the
23 rate determined by the Secretary of the
24 Treasury for obligations of the United
25 States with a period of maturity of 5

1 years, adjusted to the nearest $\frac{1}{8}$ of 1 per-
2 cent.

3 “(ii) CERTAIN SMALL LOANS.—Not-
4 withstanding clause (i), loans made by the
5 Administrator to an intermediary that
6 makes loans to small business concerns
7 and entrepreneurs averaging not more
8 than \$10,000, shall bear an interest rate
9 that is 2 percentage points below the rate
10 determined by the Secretary of the Treas-
11 ury for obligations of the United States
12 with a period of maturity of 5 years, ad-
13 justed to the nearest $\frac{1}{8}$ of 1 percent.

14 “(iii) MULTIPLE SITES OR OFFICES.—
15 Clause (ii) shall apply to each separate
16 loan-making site or office of an inter-
17 mediary only if such site or office meets
18 the requirements of that clause.

19 “(iv) RATE BASIS.—The applicable
20 rate of interest under this subparagraph
21 shall—

22 “(I) be applied retroactively for
23 the first year of an intermediary’s
24 participation in the program, based
25 upon the actual lending practices of

1 the intermediary as determined by the
2 Administrator prior to the end of such
3 year; and

4 “(II) be based in the second and
5 subsequent years of an intermediary’s
6 participation in the program, upon the
7 actual lending practices of the inter-
8 mediary during the term of the
9 intermediary’s participation in the
10 program.

11 “(8) LOSS RESERVE OF INTERMEDIARIES.—

12 “(A) IN GENERAL.—The Administrator
13 shall, by regulation to be codified in the Code
14 of Federal Regulations, require each inter-
15 mediary to establish a loan loss reserve fund,
16 and to maintain such reserve fund until all obli-
17 gations owed to the Administrator under this
18 subsection are repaid.

19 “(B) AMOUNT OF RESERVE FUND.—The
20 Administrator shall require the loan loss reserve
21 fund of an intermediary to be maintained at a
22 level equal to 15 percent of the outstanding bal-
23 ance of the notes receivable owed to the inter-
24 mediary.

1 “(C) REDUCTION OF REQUIRED
2 AMOUNT.—Notwithstanding subparagraph (B),
3 the Administrator may reduce the annual loan
4 loss reserve requirement of an intermediary to
5 reflect the actual average loan loss rate for the
6 intermediary during the preceding 5-year pe-
7 riod, except that in no case shall the loan loss
8 reserve be reduced to less than 10 percent of
9 the outstanding balance of the notes receivable
10 owed to the intermediary. The Administrator
11 may reduce the annual loan loss reserve re-
12 quirement of an intermediary under this sub-
13 paragraph only if the intermediary dem-
14 onstrates to the satisfaction of the Adminis-
15 trator that—

16 “(i) the average annual loss rate for
17 the intermediary during the preceding 5-
18 year period is less than 15 percent; and

19 “(ii) no other factors exist that may
20 impair the ability of the intermediary to
21 repay all obligations owed to the Adminis-
22 trator under this subsection.

23 “(D) REVIEW BY ADMINISTRATOR.—After
24 the initial 5 years of an intermediary’s partici-
25 pation in the program authorized by this sub-

1 section, the Administrator shall, at the request
2 of the intermediary, conduct a review of the an-
3 nual loss rate of the intermediary. Any inter-
4 mediary that requests a reduction in its loan
5 loss reserve shall be reviewed based on the most
6 recent 5-year period preceding the request.

7 “(9) LOANS TO SMALL BUSINESS CONCERNS
8 FROM ELIGIBLE INTERMEDIARIES.—

9 “(A) IN GENERAL.—An eligible inter-
10 mediary shall make fixed rate loans to startup,
11 newly established, and growing small business
12 concerns from the funds made available to it
13 under paragraph (7) for working capital and
14 the acquisition of materials, supplies, furniture,
15 fixtures, and equipment.

16 “(B) LOAN AMOUNT.—To the extent prac-
17 ticable, each intermediary that operates a
18 microloan program under this subsection shall
19 maintain a microloan portfolio with an average
20 loan size of not more than \$15,000. An inter-
21 mediary may make a loan under this subsection
22 of more than \$20,000 to a small business con-
23 cern only if such small business concern dem-
24 onstrates that it is unable to obtain credit else-
25 where at comparable interest rates and that it

1 has good prospects for success. In no case shall
2 an intermediary make a loan under this sub-
3 section of more than \$35,000, or have out-
4 standing or committed to any 1 borrower more
5 than \$35,000.

6 “(C) INTEREST LIMIT.—Notwithstanding
7 any State limitation on the rate or amount of
8 interest that may be charged, taken, received,
9 or reserved on a loan, the maximum rate of in-
10 terest to be charged on a microloan funded
11 under this subsection shall not exceed the rate
12 of interest applicable to a loan made to an
13 intermediary by the Administrator—

14 “(i) in the case of a loan of more than
15 \$10,000 made by the intermediary to a
16 small business concern or entrepreneur by
17 more than 7.75 percentage points; and

18 “(ii) in the case of a loan of not more
19 than \$10,000 made by the intermediary to
20 a small business concern or entrepreneur
21 by more than 8.5 percentage points.

22 “(D) REVIEW RESTRICTION.—The Admin-
23 istrator shall not review individual microloans
24 made by intermediaries prior to approval.

1 “(E) ESTABLISHMENT OF CHILD CARE OR
2 TRANSPORTATION BUSINESSES.—In addition to
3 other eligible small businesses concerns, bor-
4 rowers under any program under this sub-
5 section may include individuals who will use the
6 loan proceeds to establish for-profit or nonprofit
7 child care establishments or businesses pro-
8 viding for-profit transportation services.

9 “(10) PROGRAM FUNDING FOR MICROLOANS.—

10 “(A) NUMBER OF PARTICIPANTS.—Under
11 the program authorized by this subsection, the
12 Administrator may fund, on a competitive basis,
13 not more than 300 intermediaries.

14 “(B) MINIMUM ALLOCATION.—Subject to
15 the availability of appropriations, of the total
16 amount of new loan funds made available for
17 award under this subsection in each fiscal year,
18 the Administrator shall make available for
19 award in each State an amount equal to the
20 sum of—

21 “(i) the lesser of—

22 “(I) \$800,000; or

23 “(II) $\frac{1}{55}$ of the total amount of
24 new loan funds made available for

1 award under this subsection for that
2 fiscal year; and

3 “(ii) any additional amount, as deter-
4 mined by the Administrator.

5 “(C) REDISTRIBUTION.—If, at the begin-
6 ning of the third quarter of a fiscal year, the
7 Administrator determines that any portion of
8 the amount made available to carry out this
9 subsection is unlikely to be made available
10 under subparagraph (B) during that fiscal year,
11 the Administrator may make that portion avail-
12 able for award in any one or more States with-
13 out regard to subparagraph (B).

14 “(11) EQUITABLE DISTRIBUTION OF INTER-
15 MEDIARIES.—In approving microloan program appli-
16 cants and providing funding to intermediaries under
17 this subsection, the Administrator shall select and
18 provide funding to such intermediaries as will ensure
19 appropriate availability of loans for small businesses
20 in all industries located throughout each State, par-
21 ticularly those located in urban and in rural areas.

22 “(12) MARKETING, MANAGEMENT AND TECH-
23 NICAL ASSISTANCE GRANTS TO INTERMEDIARIES.—
24 The Administrator may make grants described in

1 paragraph (2)(B) in accordance with the following
2 requirements:

3 “(A) GRANT AMOUNTS.—Except as other-
4 wise provided in subparagraph (C) and subject
5 to subparagraph (B), each intermediary that re-
6 ceives a loan under this subsection shall be eli-
7 gible to receive a grant to provide marketing,
8 management, and technical assistance to small
9 business concerns that are borrowers under this
10 subsection. Except as provided in subparagraph
11 (C), each intermediary meeting the require-
12 ments of subparagraph (B) may receive a grant
13 of not more than 25 percent of the total out-
14 standing balance of loans made to it under this
15 subsection.

16 “(B) CONTRIBUTION.—As a condition of
17 any grant made under subparagraph (A), the
18 Administrator shall require the intermediary to
19 contribute an amount equal to 25 percent of the
20 amount of the grant, obtained solely from non-
21 Federal sources. In addition to cash or other di-
22 rect funding, the contribution may include indi-
23 rect costs or in-kind contributions paid for
24 under non-Federal programs.

1 “(C) ADDITIONAL TECHNICAL ASSISTANCE
2 GRANTS FOR MAKING CERTAIN LOANS.—

3 “(i) IN GENERAL.—Each intermediary
4 that has a portfolio of loans made under
5 this subsection that averages not more
6 than \$10,000 during the period of the
7 intermediary’s participation in the program
8 shall be eligible to receive a grant equal to
9 5 percent of the total outstanding balance
10 of loans made to the intermediary under
11 this subsection, in addition to grants made
12 under subparagraph (A).

13 “(ii) PURPOSES.—A grant awarded
14 under clause (i) may be used to provide
15 marketing, management, and technical as-
16 sistance to small business concerns that
17 are borrowers under this subsection.

18 “(iii) CONTRIBUTION EXCEPTION.—
19 The contribution requirements in subpara-
20 graph (B) do not apply to grants made
21 under this subparagraph.

22 “(D) ELIGIBILITY FOR MULTIPLE SITES
23 OR OFFICES.—The eligibility for a grant de-
24 scribed in subparagraph (A) or (C) shall be de-

1 terminated separately for each loan-making site
2 or office of an intermediary.

3 “(E) ASSISTANCE TO CERTAIN SMALL
4 BUSINESS CONCERNS.—

5 “(i) IN GENERAL.—Each intermediary
6 may expend an amount not to exceed 25
7 percent of the grant funds received under
8 this subsection to provide information and
9 technical assistance to small business con-
10 cerns that are prospective borrowers under
11 this subsection.

12 “(ii) TECHNICAL ASSISTANCE.—An
13 intermediary shall not expend more than
14 25 percent of the funds received under this
15 subsection to enter into third party con-
16 tracts for the provision of technical assist-
17 ance.

18 “(13) PRIVATE SECTOR BORROWING TECH-
19 NICAL ASSISTANCE GRANTS.—Grants described in
20 paragraph (2)(C) shall be subject to the following
21 requirements:

22 “(A) GRANT AMOUNTS.—Subject to the re-
23 quirements of subparagraph (B), the Adminis-
24 trator may make not more than 55 grants an-

1 nually, each in amounts not to exceed \$200,000
2 for the purposes specified in paragraph (2)(C).

3 “(B) CONTRIBUTION.—As a condition of
4 any grant made under subparagraph (A), the
5 Administrator shall require the grant recipient
6 to contribute an amount equal to 20 percent of
7 the amount of the grant, obtained solely from
8 non-Federal sources. In addition to cash or
9 other direct funding, the contribution may in-
10 clude indirect costs or in-kind contributions
11 paid for under non-Federal programs.

12 “(14) GRANTS FOR MANAGEMENT, MARKETING,
13 TECHNICAL ASSISTANCE, AND RELATED SERVICES.—

14 “(A) IN GENERAL.—The Administrator
15 may procure technical assistance for inter-
16 mediaries participating in the Microloan Pro-
17 gram to ensure that such intermediaries have
18 the knowledge, skills, and understanding of
19 microlending practices necessary to operate suc-
20 cessful microloan programs.

21 “(B) ASSISTANCE AMOUNT.—The Admin-
22 istrator shall transfer 7 percent of its annual
23 appropriation for loans and loan guarantees
24 under this subsection to the Administration’s
25 Salaries and Expense Account for the specific

1 purpose of providing 1 or more technical assist-
2 ance grants to experienced microlending organi-
3 zations and national and regional nonprofit or-
4 ganizations that have demonstrated experience
5 in providing training support for microenter-
6 prise development and financing to achieve the
7 purpose set forth in subparagraph (A).

8 “(C) WELFARE-TO-ENTREPRENEURSHIP
9 MICROLOAN INITIATIVE.—Of amounts made
10 available to carry out the welfare-to-entrepre-
11 neurship microloan initiative in any fiscal year,
12 the Administrator may use not more than 5
13 percent to provide technical assistance, either
14 directly or through contractors, to welfare-to-
15 entrepreneurship microloan initiative grantees,
16 to ensure that, as grantees, they have the
17 knowledge, skills, and understanding of micro-
18 lending and welfare-to-entrepreneurship transi-
19 tion, and other related issues, to operate a suc-
20 cessful welfare-to-entrepreneurship microloan
21 initiative.

22 “(15) EVALUATION OF WELFARE-TO-ENTRE-
23 PRENEURSHIP MICROLOAN INITIATIVE.—On Janu-
24 ary 31, 1999, and annually thereafter, the Adminis-
25 trator shall submit to the Committee on Small Busi-

1 ness of the House of Representatives and the Com-
2 mittee on Small Business and Entrepreneurship of
3 the Senate a report on the welfare-to-entrepreneur-
4 ship microloan initiative, including a description of
5 the amounts made available to carry out such initia-
6 tive.

7 “(16) DEFINITIONS.—For purposes of this sub-
8 section—

9 “(A) INTERMEDIARY.—The term ‘inter-
10 mediary’ means—

11 “(i) a private, nonprofit entity;

12 “(ii) a private, nonprofit community
13 development corporation;

14 “(iii) a consortium of private, non-
15 profit organizations or nonprofit commu-
16 nity development corporations;

17 “(iv) a quasi-governmental economic
18 development entity (such as a planning
19 and development district), other than a
20 State, county, municipal government, or
21 any agency thereof, if—

22 “(I) no application is received
23 from an eligible nonprofit organiza-
24 tion; or

1 “(II) the Administrator deter-
2 mines that the needs of a region or
3 geographic area are not adequately
4 served by an existing, eligible non-
5 profit organization that has submitted
6 an application; or

7 “(v) an agency of or nonprofit entity
8 established by a Native American Tribal
9 Government, that seeks to borrow or has
10 borrowed funds from the Administrator to
11 make microloans to small business con-
12 cerns under this subsection.

13 “(B) MICROLOAN.—The term ‘microloan’
14 means a short-term, fixed rate loan of not more
15 than \$35,000, made by an intermediary to a
16 startup, newly established, or growing small
17 business concern.

18 “(C) RURAL AREA.—The term ‘rural area’
19 means any political subdivision or unincor-
20 porated area—

21 “(i) in a nonmetropolitan county (as
22 defined by the Secretary of Agriculture) or
23 its equivalent thereof; or

24 “(ii) in a metropolitan county or its
25 equivalent that has a resident population

1 of less than 20,000 if the Administrator
2 has determined such political subdivision
3 or area to be rural.”.

4 (e) REPEAL OF CERTAIN PROVISIONS OF SECTION 7
5 OF THE SMALL BUSINESS ACT.—Section 7 of the Small
6 Business Act (15 U.S.C. 636) is amended—

7 (1) by striking subsection (d) and inserting the
8 following:

9 “(d) [Reserved].”;

10 (2) by striking subsection (h) and inserting the
11 following:

12 “(h) [Reserved].”;

13 (3) by striking subsection (j) and inserting the
14 following:

15 “(j) [Reserved].”; and

16 (4) by striking subsection (k) and inserting the
17 following:

18 “(k) [Reserved].”.

19 (f) CONTINUATION OF TEMPORARY PREDISASTER
20 MITIGATION PROGRAM.—

21 (1) IN GENERAL.—There is a predisaster miti-
22 gation program under which the Administrator may
23 make, under section 7(b)(1) of the Small Business
24 Act (15 U.S.C. 636(b)(1)) such loans (either directly
25 or in cooperation with banks or other lending insti-

1 tutions through agreements to participate on an im-
2 mediate or deferred (guaranteed) basis), as the Ad-
3 ministrator may determine to be necessary or appro-
4 priate, to enable small businesses to use mitigation
5 techniques in support of a formal mitigation pro-
6 gram established by the Federal Emergency Man-
7 agement Agency, except that no loan or guarantee
8 may be extended to a small business under this
9 paragraph unless the Administrator finds that the
10 small business is otherwise unable to obtain credit
11 for the purposes described in this paragraph.

12 (2) **TERMINATION.**—No loan shall be made
13 under this subsection after September 30, 2004.

14 (g) **EFFECTIVE DATE.**—The amendments made this
15 section shall apply to loans and grants made, and other
16 assistance provided, after the date of the enactment of this
17 Act.

18 **SEC. 208. GOVERNMENT CONTRACT AND BUSINESS DEVEL-**
19 **OPMENT ASSISTANCE FOR SMALL BUSINESS**
20 **CONCERNS, ETC.**

21 (a) **IN GENERAL.**—Section 8 of the Small Business
22 Act (15 U.S.C. 637) is amended by striking subsections
23 (a) and (b) and inserting the following new subsections:

1 “(a) GOVERNMENT CONTRACT AND BUSINESS DE-
2 VELOPMENT ASSISTANCE FOR SMALL BUSINESS CON-
3 CERNS.—

4 “(1) ESTABLISHMENT.—There is within the
5 Administration a program to be carried out by the
6 Administrator to enhance the competitive viability of
7 program participants by providing Government con-
8 tract and business development assistance to pro-
9 gram participants consistent with the requirements
10 of this section.

11 “(2)(A) CONTRACT AUTHORITY.—The Adminis-
12 trator shall, to the extent that Administrator deter-
13 mines it to be necessary or appropriate, enter into
14 any contract with any contracting officer obligating
15 the Administrator to furnish goods or service to the
16 Government.

17 “(B) NEGOTIATION WITH CONTRACTING OFFI-
18 CER.—In any case in which the Administrator cer-
19 tifies to a contracting officer that the Administrator
20 is competent and responsible to perform any pro-
21 curement contract to be let by such officer, such of-
22 ficer may let such procurement contract to the Ad-
23 ministrator upon such terms and conditions as may
24 be agreed upon between the Administrator and such
25 officer.

1 “(C) FAIR MARKET PRICE RESTORATION.—A
2 contracting officer shall not let a contract for goods
3 or services under this paragraph if the amount of
4 such contract exceeds the fair market price of such
5 goods or services.

6 “(D) APPEAL OF CONTRACTING OFFICER DECISION.—(i) Whenever the Administrator and a contracting officer fail to agree, the matter shall be submitted for determination by the Administrator to the head of the agency of the contracting officer.

11 “(ii) Not later than 5 days from the date the Administrator is notified of a contracting officer’s adverse decision, the Administrator may notify the contracting officer of the intent to appeal such adverse decision, and within 15 days of such date the Administrator shall file a written request for a reconsideration of the adverse decision with head of the agency.

19 “(iii) For purposes of this subparagraph, a contracting officer’s adverse decision includes a decision not to make available for award pursuant to this subsection a particular procurement requirement or the failure to agree on the terms and conditions of a contract to be awarded noncompetitively under the authority of this subsection.

1 “(iv) Upon receipt of the notice of intent to ap-
2 peal, the head of the agency shall suspend further
3 action regarding the procurement until a written de-
4 cision on the Administrator’s request for reconsider-
5 ation has been issued by such agency head, unless
6 the head of the agency makes a written determina-
7 tion that urgent and compelling circumstances which
8 significantly affect interests of the United States will
9 not permit waiting for a reconsideration of the ad-
10 verse decision.

11 “(v) If the Administrator’s request for reconsid-
12 eration is denied, the head of the agency shall speci-
13 fy the reasons why the selected firm was determined
14 to be incapable to perform the procurement require-
15 ment, and the findings supporting such determina-
16 tion, which shall be made a part of the contract file
17 for the requirement.

18 “(E) DETERMINATION OF UNSUITABILITY.—If
19 a contracting officer requests the Administrator to
20 make the certification described in subparagraph (B)
21 with respect to any contract that the Administrator
22 determines is not suitable for award under this sub-
23 section, the Administrator shall notify the con-
24 tracting officer of the Administrator’s determination
25 not later than 3 days after the date of such request.

1 “(F) SUBCONTRACTING AUTHORITY.—(i) The
2 Administrator shall, to the extent that the Adminis-
3 trator determines it to be necessary or appropriate,
4 arrange for the performance of such procurement
5 contracts by negotiating or otherwise letting sub-
6 contracts to program participants for such goods or
7 services as may be necessary to enable the Adminis-
8 trator to perform such contracts.

9 “(ii)(I) Except as authorized by subelause (II)
10 or (III), no award shall be made pursuant to this
11 section to other than a small business concern.

12 “(II) In determining the size of a small busi-
13 ness concern owned by a socially and economically
14 disadvantaged Indian tribe (or a wholly owned busi-
15 ness entity of such tribe), each firm’s size shall be
16 independently determined without regard to its af-
17 filiation with the tribe, any entity of the tribal gov-
18 ernment, or any other business enterprise owned by
19 the tribe, unless the Administrator determines that
20 one or more such tribally owned business concerns
21 have obtained, or are likely to obtain, a substantial
22 unfair competitive advantage within an industry cat-
23 egory.

24 “(III) Any joint venture established under the
25 authority of section 602(b) of the Business Oppor-

1 tunity Development Reform Act of 1988 (Public
2 Law 100–656) shall be eligible for award of a con-
3 tract pursuant to this section.

4 “(G) DELEGATION OF CONTRACT ADMINISTRA-
5 TION.—(i) The Administrator and the head of the
6 agency making the procurement shall enter into an
7 agreement under which a subcontract awarded under
8 this subsection shall be administered by the head of
9 the agency making the procurement.

10 “(ii) Notwithstanding clause (i), the Adminis-
11 trator shall negotiate and award any such sub-
12 contract and shall assist the program participant in
13 the settlement of any dispute arising from the per-
14 formance of such subcontract.

15 “(iii) Any agreement entered into by the Ad-
16 ministrator with the head of another agency before
17 the date of the enactment of this clause that allows
18 such agency head to negotiate or award a contract
19 under this subsection shall not apply with respect to
20 any subcontract offered for award after such date.

21 “(H) AWARD AFTER GRADUATION.—The Ad-
22 ministrator shall, to the extent that the Adminis-
23 trator determines it to be necessary or appropriate,
24 make an award to a small business concern which

1 has completed its period of program participation as
2 described in paragraph (21)(F) if—

3 “(i) the contract will be awarded as a re-
4 sult of an offer (including price) submitted in
5 response to a published solicitation relating to
6 a competition conducted pursuant to subpara-
7 graph (H); and

8 “(ii) the prospective contract awardee was
9 a program participant eligible for award of the
10 contract on the date specified for receipt of of-
11 fers contained in the contract solicitation.

12 “(I) AWARD THROUGH COMPETITION.—(i) A
13 subcontract offered for award pursuant to this sub-
14 section shall be awarded on the basis of competition
15 restricted to program participants if—

16 “(I) there is a reasonable expectation that
17 at least 2 program participants will submit of-
18 fers and that award can be made at a fair mar-
19 ket price; and

20 “(II) the estimated anticipated award price
21 of the contract (including options) may exceed
22 \$5,000,000 in the case of a contract oppor-
23 tunity assigned a North American Industrial
24 Classification System code for manufacturing

1 and \$3,000,000 (including options) in the case
2 of all other contract opportunities.

3 “(ii) 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
9 (I), 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
13 performance 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 geo-
23 graphic distribution of sole source contracts awarded
24 pursuant to this subsection.

1 “(3) SURETY BONDS.—Notwithstanding sub-
2 sections (a) and (c) of the first section of the Act
3 entitled “An Act requiring contracts for the con-
4 struction, alteration, and repair of any public build-
5 ing or public work of the United States to be accom-
6 panied by a performance bond protecting the United
7 States and by additional bond for the protection of
8 persons furnishing material and labor for the con-
9 struction, alteration, or repair of said public build-
10 ings or public work,” approved August 24, 1935 (49
11 Stat. 793; 40 U.S.C. 270a), no program participant
12 shall be required to provide any amount of any bond
13 as a condition of receiving any subcontract under
14 this subsection 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 meas-
19 ures as the Administrator considers appropriate
20 for the protection of persons furnishing mate-
21 rials and labor to a program participant receiv-
22 ing 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
3 such bonds as the Administrator may subse-
4 quently require for the successful completion of
5 any program conducted under the authority of
6 this subsection;

7 “(D) the Administrator finds that such
8 program 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
11 subject to the guarantee provisions of title IV
12 of the Small Business Investment Act of 1958;
13 and

14 “(E) the program participant is deter-
15 mined to be a startup concern and such concern
16 has not been participating in any program con-
17 ducted under the authority of this subsection
18 for a period exceeding one year.

19 “(4) SOLE SOURCE CONTRACT NEGOTIATION.—

20 (A) Any program participant selected by the Admin-
21 istrator to perform a contract to be let noncompeti-
22 tively pursuant to this subsection shall, when prac-
23 ticable, participate in any negotiation of the terms
24 and conditions of such contract.

1 “(B) CALCULATION OF FAIR MARKET PRICE.—

2 (i) For purposes of paragraph (2)(C), a fair market
3 price shall be determined by the agency according to
4 clauses (ii) and (iii) and submitted along with the
5 procurement requirement to the Administrator. The
6 submission also shall include any data used by the
7 agency in calculating the fair market price.

8 “(ii) The estimate of a current fair market
9 price for a newprocurement requirement, or a re-
10 quirement that does not have a satisfactory procure-
11 ment history, shall be derived from a price or cost
12 analysis taking into account prevailing market condi-
13 tions, commercial prices for similar goods or serv-
14 ices, and data from other Federal agencies. Such
15 analysis shall consider such cost or pricing data as
16 may be timely submitted by the Administrator.

17 “(iii) The estimate of a current fair market
18 price for a procurement requirement that has a sat-
19 isfactory procurement history shall be based on re-
20 cent award prices adjusted to insure comparability.
21 Such adjustments shall take into account differences
22 in quantities, performance times, plans, specifica-
23 tions, transportation costs, packaging and packing
24 costs, labor and materials costs, overhead costs, and

1 any other additional costs which may be deemed ap-
2 propriate.

3 “(iv) The agency’s estimate of the current fair
4 market price (and any supporting data furnished to
5 the Administrator) shall not be disclosed to any po-
6 tential offeror (other than the Administrator).

7 “(C) A program participant selected by the Ad-
8 ministrator to perform or negotiate a contract to be
9 let pursuant to this subsection may request the Ad-
10 ministrator to protect the agency’s estimate of the
11 fair market price for such contract pursuant to
12 paragraph (2)(A).

13 “(5) SOCIAL DISADVANTAGE.—(A) Socially dis-
14 advantaged individuals are those who have been sub-
15 jected to racial or ethnic prejudice or cultural bias
16 because of their identity as a member of a group
17 without regard to their individual qualities.

18 “(B) Any determination made pursuant to this
19 paragraph shall be made by the Administrator and
20 shall not be delegated.

21 “(6) ECONOMIC DISADVANTAGE.—(A)(i) Eco-
22 nomically disadvantaged individuals are those so-
23 cially disadvantaged individuals whose ability to
24 compete in the free enterprise system has been im-
25 paired due to diminished capital and credit opportu-

1 nities as compared to others in the same business
2 area who are not socially disadvantaged.

3 “(ii) In determining the degree of diminished
4 credit and capital opportunities the Administrator
5 shall consider the assets and net worth of such so-
6 cially disadvantaged individual as it relates to—

7 “(I) the assets and net worth of a business
8 owner who is not socially disadvantaged; and

9 “(II) the capital needs of the primary in-
10 dustry in which the owner of the business is en-
11 gaged.

12 “(iii) In determining the economic disadvantage
13 of an Indian tribe, the Administrator shall consider,
14 where available, information such as the following—

15 “(I) the per capita income of members of
16 the tribe excluding judgment awards,

17 “(II) the percentage of the local Indian
18 population below the poverty level; and

19 “(III) the tribe’s access to capital markets.

20 “(B) For the purpose of this section, an indi-
21 vidual who has been determined by the Adminis-
22 trator to be economically disadvantaged at the time
23 of program entry shall be deemed to be economically
24 disadvantaged for the term of the program.

1 “(C) Whenever the Administrator computes
2 personal net worth for the purpose of program
3 entry, it shall exclude from such computation—

4 “(i) the value of investments that dis-
5 advantaged owners have in their concerns, ex-
6 cept that such value shall be taken into account
7 under this paragraph when comparing such
8 concerns to other concerns in the same business
9 area that are owned by other than socially dis-
10 advantaged persons; and

11 “(ii) the equity that disadvantaged owners
12 have in their primary personal residences.

13 “(D) The Administrator shall not establish a
14 maximum net worth that prohibits program entry
15 that is less than \$750,000.

16 “(7) PROGRAM PARTICIPANT.—

17 “(A) DEFINITION.—For purposes of this
18 section, the term ‘program participant’ means a
19 small business concern which is certified by the
20 Administrator that it meets the requirements of
21 subparagraph (B) and—

22 “(i) which is at least 51 percent un-
23 conditionally owned by—

1 “(I) one or more socially and, at
2 the time of program entry, economi-
3 cally disadvantaged individuals,

4 “(II) an economically disadvan-
5 taged Indian tribe, (or a wholly owned
6 business entity of such tribe), or

7 “(III) an economically disadvan-
8 taged Native Hawaiian organization,
9 or

10 “(ii) in the case of any publicly owned
11 business, at least 51 percent of the stock
12 of which is unconditionally owned by—

13 “(I) one or more socially and, at
14 the time of program entry, economi-
15 cally disadvantaged individuals,

16 “(II) an economically disadvan-
17 taged Indian tribe (or a wholly owned
18 business entity of such tribe), or

19 “(III) an economically disadvan-
20 taged Native Hawaiian organization.

21 “(B) PROGRAM PARTICIPATION ELIGI-
22 BILITY.—A program participant meets the re-
23 quirements of this subparagraph if the manage-
24 ment and daily business operations of such
25 small concern are controlled by one or more—

1 “(i) socially and, at the time of pro-
2 gram entry, economically disadvantaged in-
3 dividuals described in subparagraph
4 (A)(i)(I) or subparagraph (A)(ii)(I),

5 “(ii) members of an economically dis-
6 advantaged Indian tribe described in sub-
7 paragraph (A)(i)(II) or subparagraph
8 (A)(ii)(II), or

9 “(iii) Native Hawaiian organizations
10 described in subparagraph (A)(i)(III) or
11 subparagraph (A)(ii)(III).

12 “(C) NATIVE HAWAIIAN ORGANIZATION.—
13 For purposes of this subsection, the term ‘Na-
14 tive Hawaiian Organization’ means any commu-
15 nity service organization serving Native Hawai-
16 ians in the State of Hawaii which—

17 “(i) is a nonprofit corporation that
18 has filed articles of incorporation with the
19 director (or the designee thereof) of the
20 Hawaii Department of Commerce and
21 Consumer Affairs, or any successor agen-
22 cy,

23 “(ii) is controlled by Native Hawai-
24 ians, and

1 “(iii) whose business activities will
2 principally benefit such Native Hawaiians.

3 “(D) ANNUAL CERTIFICATION.—Each pro-
4 gram participant shall certify to the District
5 Director for the district in which its principal
6 place of business is located, on an annual basis,
7 that it meets the requirements of this para-
8 graph regarding ownership and control by so-
9 cially disadvantaged individuals.

10 “(E) CAPABILITY DETERMINATION.—The
11 term ‘program participant’ shall not include any
12 concern unless the Administrator determines
13 that with contract, financial, technical, and
14 management support the small business concern
15 will be able to perform contracts which may be
16 awarded to such concern under paragraph
17 (2)(F) and has reasonable prospects for success
18 in competing in the private sector.

19 “(F) SPECIAL RULES ON ELIGIBILITY.—(i)
20 Except as provided in clause (iii), no individual
21 who was determined pursuant to this section to
22 be socially and economically disadvantaged be-
23 fore the date of the enactment of this subpara-
24 graph shall be permitted to assert such dis-
25 advantage with respect to any other concern

1 making application for certification after such
2 date.

3 “(ii) Except as provided in clause (iii), any
4 individual upon whom eligibility is based pursu-
5 ant to paragraph (5) shall be permitted to as-
6 sert such eligibility for only one small business
7 concern.

8 “(iii) A socially and economically disadvan-
9 taged Indian tribe may own more than one
10 small business concern eligible for assistance
11 pursuant to this subsection and subsection 8(b)
12 if—

13 “(I) the Indian tribe does not own an-
14 other firm in the same industry which has
15 been determined to be eligible to receive
16 contracts under this program, and

17 “(II) the individuals responsible for
18 the management and daily operations of
19 the concern do not manage more than two
20 program participants.

21 “(iv) No program participant, previously
22 eligible for the award of contracts pursuant to
23 this subsection, shall be subsequently recertified
24 for program participation if its prior participa-

1 tion in the program was concluded for any of
2 the reasons described in paragraph (10).

3 “(v)(I) A program participant eligible for
4 the award of contracts pursuant to this sub-
5 section shall remain eligible for such contracts
6 if there is a transfer of ownership or control of
7 the program participant that does not alter the
8 eligibility of the program participant as deter-
9 mined by paragraphs (5), (6), and (7).

10 “(II) The program participant shall notify
11 the Assistant Administrator for Minority Small
12 Business and Capital Ownership of any such
13 change in control or ownership and provide the
14 Assistant Administrator with sufficient informa-
15 tion to enable the Assistant Administrator to
16 determine that the transfer of ownership and
17 control does not alter eligibility for participation
18 in the program.

19 “(III) In the event of such a alteration of
20 ownership or control, the concern, if not termi-
21 nated or graduated, shall be eligible for a pe-
22 riod of continued participation in the program
23 not to exceed the time limitations prescribed in
24 paragraph (27).

1 “(I) the Indian tribe does not own another
2 firm in the same industry which has been deter-
3 mined to be eligible to receive contracts under
4 this program, and

5 “(II) the individuals responsible for the
6 management and daily operations of the con-
7 cern do not manage more than two program
8 participants.

9 “(C) No program participant, previously eligible
10 for the award of contracts pursuant to this section,
11 shall be subsequently recertified for program partici-
12 pation if its prior participation in the program was
13 concluded for any of the reasons described in para-
14 graph (11).

15 “(8) MANAGEMENT RESTRICTIONS.—(A) The
16 Administrator shall not restrict the amount of
17 money that may be removed from the program par-
18 ticipants by its owners.

19 “(B) The Administrator shall not impose any
20 restrictions on the management of the company ex-
21 cept insofar as such management would violate other
22 eligibility provisions or Federal procurement law.

23 “(C) Notwithstanding this provision, the Ad-
24 ministrator may determine that a program partici-
25 pant is not capable of performing a specific contract

1 and may choose not to award a contract to a pro-
2 gram participant.

3 “(9) EXPANSION INTO OTHER INDUSTRIES.—
4 Limitations established by the Administrator in its
5 regulations and procedures restricting the award of
6 contracts pursuant to this subsection to a limited
7 number of North American Industry Classification
8 System codes in an approved business plan shall not
9 be applied in a manner that inhibits the logical busi-
10 ness progression by a program participant into areas
11 of industrial endeavor where such concern has the
12 potential for success.

13 “(10) OPPORTUNITY FOR HEARING.—(A) Sub-
14 ject to the provisions of subparagraph (E), the Ad-
15 ministrator, prior to taking any action described in
16 subparagraph (B), shall provide the program partici-
17 pant that is the subject of such action, an oppor-
18 tunity for a hearing on the record after providing
19 written notification of an action set forth in para-
20 graph (B), in accordance with chapter 5 of title 5,
21 United States Code.

22 “(B) The actions referred to in subparagraph
23 (A) are—

1 “(i) denial of program admission based
2 upon a negative determination pursuant to
3 paragraph (5), (6), or (7);

4 “(ii) a termination pursuant to paragraph
5 (21)(D);

6 “(iii) a graduation pursuant to paragraph
7 (21)(F); and

8 “(iv) the denial of a request to issue a
9 waiver pursuant to paragraph (20)(B).

10 “(C) The Administrator’s proposed action, in
11 any proceeding conducted under the authority of this
12 paragraph, shall be sustained unless the decision is
13 not supported by substantial evidence in the record.

14 “(D) A decision rendered pursuant to this para-
15 graph shall be considered final agency action for
16 purposes of chapter 7 of title 5, United States Code.

17 “(E) The hearing officer selected to preside
18 over a proceeding conducted under the authority of
19 this paragraph shall decline to accept jurisdiction
20 over any matter that—

21 “(i) does not, on its face, allege facts that,
22 if proven to be true, would warrant reversal or
23 modification of the Administrator’s position;

24 “(ii) is untimely filed;

1 “(iii) is not filed in accordance with the
2 rules of procedure governing such proceedings;
3 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
8 authority of this paragraph shall be completed and
9 a decision rendered, insofar as practicable, within 90
10 days after a written notification of the Adminis-
11 trator taking an action pursuant to subparagraph
12 (B).

13 “(11) OUTREACH EFFORT.—(A) The Adminis-
14 trator shall develop and implement an outreach pro-
15 gram to inform and recruit small business concerns
16 to apply for eligibility for assistance under this sub-
17 section.

18 “(B) Such program shall make a sustained and
19 substantial effort to solicit applications for certifi-
20 cation from small business concerns located in areas
21 of concentrated unemployment or underemployment
22 or within labor surplus areas and within States hav-
23 ing relatively few program participants and from po-
24 tentially eligible program participants in industry
25 categories that have not substantially participated in

1 the award of contracts let under the authority of
2 this subsection.

3 “(12) CONSTRUCTION CONTRACTS.—To the
4 maximum extent practicable, construction sub-
5 contracts awarded by the Administrator pursuant to
6 this subsection shall be awarded within the county
7 or State 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
11 subcontracts pursuant to this subsection to an-
12 nually prepare and submit to the Administrator
13 a capability 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 employee in
18 the district to which the program participant is
19 assigned.

20 “(C) CLASSIFICATION.—The Administrator
21 shall separate such statements by those pro-
22 gram participants primarily dependent upon
23 local contract support and those primarily re-
24 quiring a national marketing effort.

1 “(D) DISSEMINATION.—Statements pri-
2 marily dependent upon local contract support
3 shall be disseminated to appropriate buying ac-
4 tivities in the marketing area of the concern.
5 The remaining statements shall be disseminated
6 to the Directors of Small and Disadvantaged
7 Business Utilization for the appropriate agen-
8 cies who shall further distribute such state-
9 ments to buying activities with such agencies
10 that may purchase the types of items or serv-
11 ices described on 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 rel-
16 evant Business Opportunity Specialist to indi-
17 cate the number, type and approximate dollar
18 value of contract opportunities that such activi-
19 ties may be awarding over the succeeding 12-
20 month period and which may be appropriate to
21 consider for contracting with the Administrator
22 and subsequent subcontracting to those con-
23 cerns for which it has received capability state-
24 ments.

1 “(14) CONTRACT FORECAST.—(A) Each execu-
2 tive agency reporting to the Federal Procurement
3 Data System contract actions with an aggregate
4 value in excess of \$50,000,000 shall prepare a fore-
5 cast of expected contract opportunities or classes of
6 contract opportunities for the next and succeeding
7 fiscal years that small business concerns, including
8 those owned and controlled by socially and economi-
9 cally disadvantaged individuals, are capable of per-
10 forming. Such forecast shall be periodically revised
11 during such year. To the extent such information is
12 available, the agency forecasts shall specify the fol-
13 lowing:

14 “(i) The approximate number of individual
15 contract opportunities (and the number of op-
16 portunities within a class).

17 “(ii) The approximate dollar value, or
18 range of dollar values, for each contract oppor-
19 tunity or class of contract opportunities.

20 “(iii) The anticipated time (by fiscal year
21 quarter) for the issuance of a procurement re-
22 quest.

23 “(iv) The activity responsible for the award
24 and administration of the contract.

1 “(B) FORECAST DISSEMINATION.—The head of
2 each executive agency subject to the provisions of
3 subparagraph (A) shall within 10 days of completion
4 furnish such forecasts to the Administrator and the
5 Director of the Office of Small and Disadvantaged
6 Business Utilization established pursuant to section
7 15(k) of this Act for such agency.

8 “(C) LIMITS ON DISSEMINATION.—The infor-
9 mation reported pursuant to subparagraph (B) may
10 be limited to classes of items and services for which
11 there are substantial annual purchases.

12 “(D) FORECAST AVAILABILITY.—Such forecasts
13 shall be available to program participants and all
14 other small business concerns.

15 “(15) PERCENTAGES PERFORMED BY PROGRAM
16 PARTICIPANTS.—

17 “(A) SERVICES AND PROCUREMENT.—A
18 program participant may not be awarded a con-
19 tract under this subsection unless the program
20 participant agrees that—

21 “(i) in the case of a contract for serv-
22 ices (except construction), at least 50 per-
23 cent of the cost of contract performance
24 incurred for personnel shall be expended
25 for employees of the concern; and

1 “(ii) in the case of a contract for pro-
2 curement of supplies (other than procure-
3 ment from a regular dealer in such sup-
4 plies), the concern will perform work for at
5 least 50 percent of the cost of manufac-
6 turing the supplies (not including the cost
7 of materials).

8 “(B) ALTERATION OF PERCENTAGES.—

9 The Administrator may change the percentage
10 under clause (i) or (ii) of subparagraph (A) if
11 the Administrator determines that such change
12 is necessary to reflect conventional industry
13 practices among business concerns that are
14 below the numerical size standard established
15 by the Administrator pursuant to section 3(a)
16 of this Act for businesses in that industry cat-
17 egory. A percentage established under the pre-
18 ceding sentence may not differ from a percent-
19 age established under section 15(n) of this Act.

20 “(C) CONSTRUCTION CONTRACT REGULA-
21 TIONS.—(i) The Administrator shall establish,
22 by regulation and after the opportunity for no-
23 tice and comment, requirements similar to those
24 specified in subparagraph (A) to be applicable
25 to contracts for general and specialty construc-

1 tion and to contracts for any other industry
2 category not otherwise subject to the require-
3 ments of such subparagraph.

4 “(ii) The percentage applicable to any such
5 requirement shall be determined in accordance
6 with subparagraph (B), except that such a per-
7 centage may not differ from a percentage estab-
8 lished under section 15(n) of this Act for the
9 same industry category.

10 “(16) PERFORMANCE EXCEPTION FOR WHOLE-
11 SALERS AND RETAILERS.—(A) An otherwise respon-
12 sible program participant that is in compliance with
13 the requirements of subparagraph (B) shall not be
14 denied the opportunity to submit and have consid-
15 ered its offer for any procurement contract for the
16 supply of a product to be let pursuant to this sub-
17 section or section 15(a) solely because such concern
18 is other than the actual manufacturer or processor
19 of the product to be supplied under the contract.

20 “(B) To be in compliance with the requirements
21 referred to in subparagraph (A), the program partic-
22 ipant shall—

23 “(i) be primarily engaged in the wholesale
24 or retail trade;

1 “(ii) be a small business concern under the
2 size standard for the North American Industrial
3 Classification System Code assigned to the con-
4 tract solicitation on which the offer is being
5 made;

6 “(iii) be a regular dealer, as defined pursu-
7 ant to section 1(a) of the Act entitled ‘An Act
8 to provide conditions for the purchase of sup-
9 plies and the making of contracts by the United
10 States, and for other purposes’, approved June
11 30, 1936 (popularly known as the ‘Walsh-
12 Healey Act’; 41 U.S.C. 35(a)), in the product
13 to be offered the Government or be specifically
14 exempted from such section by paragraph
15 (24)(C) of this subsection; and

16 “(iv) represent that it will supply the prod-
17 uct of a small manufacturer as defined in sec-
18 tion 3 of this Act, unless a waiver of such re-
19 quirement is granted—

20 “(I) by the Administrator, after re-
21 viewing a determination by the contracting
22 officer that no small manufacturer can rea-
23 sonably be expected to offer a product
24 meeting the specifications (including period

1 for performance) required of an offeror by
2 the solicitation; or

3 “(II) by the Administrator for a prod-
4 uct (or class of products), after deter-
5 mining that no small manufacturer is
6 available to participate in the Federal pro-
7 curement market.

8 “(17) RESTRICTION ON ADMINISTRATION EM-
9 PLOYEES.—

10 “(A) IN GENERAL.—No person within the
11 employ of the Administration shall, during the
12 term of such employment and for a period of
13 two years after such employment has been ter-
14 minated, engage in any activity or transaction
15 specified in subparagraph (B) with respect to
16 any program participant if such person partici-
17 pated personally (either directly or indirectly) in
18 decision-making responsibilities relating to such
19 program participant or with respect to the ad-
20 ministration of any assistance provided to pro-
21 gram participants generally under this sub-
22 section, section 8(b), or section 7(a)(20).

23 “(B) PROHIBITED TRANSACTIONS.—The
24 activities and transactions prohibited by sub-
25 paragraph (A) include—

1 “(i) the buying, selling, or receiving
2 (except by inheritance) of any legal or ben-
3 eficial ownership of stock or any other
4 ownership interest or the right to acquire
5 any such interest;

6 “(ii) the entering into or execution of
7 any written or oral agreement (whether or
8 not legally enforceable) to purchase or oth-
9 erwise obtain any right or interest de-
10 scribed in clause (i); or

11 “(iii) the receipt of any other benefit
12 or right that may be an incident of owner-
13 ship.

14 “(C) EMPLOYEE CERTIFICATION AND
15 PENALTIES.—(i) The employees designated in
16 clause (ii) shall annually submit a written cer-
17 tification to the Administrator regarding com-
18 pliance with the requirements of this para-
19 graph.

20 “(ii) The employees referred to in clause
21 (i) are—

22 “(I) regional administrators;

23 “(II) district directors;

1 “(III) the Assistant Administrator for
2 Minority Small Business and Capital Own-
3 ership Development;

4 “(IV) employees whose principal du-
5 ties relate to the award of contracts or the
6 provision of other assistance pursuant to
7 this subsection or section 8(b); and

8 “(V) such other employees as the Ad-
9 ministrators may designate.

10 “(iii) Any present or former employee of
11 the Administration who violates this paragraph
12 shall be subject to a civil penalty, assessed by
13 the Attorney General, that shall not exceed 300
14 percent of the maximum amount of gain such
15 employee realized or could have realized as a re-
16 sult of engaging in those activities and trans-
17 actions prescribed by subparagraph (B).

18 “(iv) In addition to any other remedy or
19 sanction provided for under law or regulation,
20 any person who falsely certifies pursuant to
21 clause (i) shall be subject to a civil penalty
22 under the Program Fraud Civil Remedies Act
23 of 1986 (31 U.S.C. 3801–3812).

24 “(18) PROHIBITION ON POLITICAL ACTIVITY.—

1 “(A) IN GENERAL.—Any employee of the
2 Administration who has authority to take, di-
3 rect others to take, recommend, or approve any
4 action with respect to any program or activity
5 conducted pursuant to this subsection or section
6 8(b), shall not, with respect to any such action,
7 exercise or threaten to exercise such authority
8 on the basis of the political activity or affili-
9 ation of any party. Employees of the Adminis-
10 tration shall expeditiously report to the Inspec-
11 tor General of the Administration any such ac-
12 tion for which such employee’s participation has
13 been solicited or directed.

14 “(B) PENALTIES.—Any employee who will-
15 fully and knowingly violates subparagraph (A)
16 shall be subject to disciplinary action which
17 may consist of separation from service, reduc-
18 tion in grade, suspension, or reprimand.

19 “(C) EXCEPTION.—Subparagraph (A)
20 shall not apply to any action taken as a penalty
21 or other enforcement of a violation of any law,
22 rule, or regulation prohibiting or restricting po-
23 litical activity.

24 “(D) OTHER LAWS NOT AFFECTED.—The
25 prohibitions of subparagraph (A), and remedial

1 measures provided for under subparagraphs (B)
2 and (C) with regard to such prohibitions, shall
3 be in addition to, and not in lieu of, any other
4 prohibitions, measures or liabilities that may
5 arise under any other provision of law.

6 “(19) ANNUAL REPORT TO BUSINESS OPPOR-
7 TUNITY SPECIALIST.—

8 “(A) IN GENERAL.—Program participants
9 shall semiannually report to their assigned
10 Business Opportunity Specialist the following:

11 “(i) A listing of any agents, represent-
12 atives, attorneys, accountants, consultants,
13 and other parties (other than employees)
14 receiving compensation to assist in obtain-
15 ing a Federal contract for such program
16 participant.

17 “(ii) The amount of compensation re-
18 ceived by any person listed under clause (i)
19 during the relevant reporting period and a
20 description of the activities performed in
21 return for such compensation.

22 “(B) SUBMISSIONS TO HEADQUARTERS.—
23 The Business Opportunity Specialist shall
24 promptly review and forward such report to the
25 Assistant Administrator for Minority Small

1 Business and Capital Ownership Development.
2 Any report that raises a suspicion of improper
3 activity shall be reported immediately to the In-
4 spector General of the Administration.

5 “(C) CAUSE FOR TERMINATION.—The fail-
6 ure to submit a report pursuant to the require-
7 ments of this subsection and applicable regula-
8 tions shall be considered good cause for the ini-
9 tiation of a termination proceeding pursuant to
10 paragraph (21)(D) of this section.

11 “(20) EFFECT OF CHANGE OF OWNERSHIP AND
12 CONTROL.—

13 “(A) IN GENERAL.—

14 “(i) Subject to the provisions of sub-
15 paragraph (B), a contract (including op-
16 tions) awarded pursuant to this subsection
17 shall be performed (as performance is de-
18 fined in paragraphs (15) and (16)) by the
19 program participant that initially received
20 such contract.

21 “(ii) Notwithstanding the provisions
22 of clause (i), if the owner or owners upon
23 whom eligibility was based relinquish own-
24 ership or control of such concern, or enter
25 into any agreement to relinquish such own-

1 ership or control, such contract or option
2 shall be terminated for the convenience of
3 the Government, except that no repurchase
4 costs or other damages may be assessed
5 against such concerns due solely to the
6 provisions of this subparagraph.

7 “(B) WAIVER.—The Administrator may,
8 on a nondelegable basis, waive the requirements
9 of subparagraph (A) only if one of the following
10 conditions exist:

11 “(i) When it is necessary for the own-
12 ers of the concern to surrender partial con-
13 trol of such concern on a temporary basis
14 in order to obtain equity financing.

15 “(ii) The head of the contracting
16 agency for which the contract is being per-
17 formed certifies that termination of the
18 contract would severely impair attainment
19 of the agency’s program objectives or mis-
20 sions.

21 “(iii) Ownership and control of the
22 concern that is performing the contract
23 will pass to another small business concern
24 that is a program participant, but only if
25 the acquiring firm would otherwise be eligi-

1 ble to receive the award pursuant to this
2 subsection.

3 “(iv) The individuals upon whom eligi-
4 bility was based are no longer able to exer-
5 cise control of the concern due to inca-
6 pacity or death.

7 “(v) When, in order to raise equity
8 capital, it is necessary for the disadvan-
9 tagged owners of the concern to relinquish
10 ownership of a majority of the voting stock
11 of such concern, but only if—

12 “(I) such concern has exited the
13 Capital Ownership Development Pro-
14 gram;

15 “(II) the disadvantaged owners
16 will maintain ownership of the largest
17 single outstanding block of voting
18 stock (including stock held by affili-
19 ated parties); and

20 “(III) the disadvantaged owners
21 will maintain control of daily business
22 operations.

23 “(C) TIMING OF WAIVER REQUEST.—The
24 Administrator may waive the requirements of
25 subparagraph (A) if—

1 “(i) in the case of subparagraph
2 (B)(i), (ii) and (iv), he is requested to do
3 so prior to the actual relinquishment of
4 ownership or control; and

5 “(ii) in the case of subparagraph
6 (B)(iii), he is requested to do so as soon as
7 possible after the incapacity or death oc-
8 curs.

9 “(D) NOTIFICATION TO ADMINIS-
10 TRATOR.—Concerns performing contracts
11 awarded pursuant to this subsection shall be re-
12 quired to notify the Administration immediately
13 upon entering an agreement (either oral or in
14 writing) to transfer all or part of its stock or
15 other ownership interest to any other party.

16 “(E) TREATMENT OF SMALL BUSINESS IN-
17 VESTMENT COMPANY INTEREST.—Notwith-
18 standing any other provision of law, for the
19 purposes of determining ownership and control
20 of a concern under this section, any potential
21 ownership interests held by investment compa-
22 nies licensed under the Small Business Invest-
23 ment Act of 1958 shall be treated in the same
24 manner as interests held by the individuals
25 upon whom eligibility is based.

1 “(21) CONDITIONS OF PARTICIPATION.—

2 “(A) DURATION.—A program participant
3 shall be permitted to continue participation in
4 such program for a period of time which is 9
5 years. Nothing contained in this subparagraph
6 shall be deemed to prevent the Administrator
7 from instituting a termination or graduation
8 pursuant to subparagraph (F) or (H) for issues
9 unrelated to the expiration of any time period
10 limitation.

11 “(B) BUSINESS PLAN SUBMISSION.—(i)
12 Promptly after certification as a participant in
13 the program established by this section, a pro-
14 gram participant shall submit a business plan
15 (hereinafter referred to as the ‘plan’) as de-
16 scribed in clause (ii) of this subparagraph for
17 review by the Business Opportunity Specialist
18 assigned to assist such program participant.

19 “(ii) The plan may be a revision of a pre-
20 liminary business plan submitted by the pro-
21 gram participant or required by the Adminis-
22 trator as a part of the application for certifi-
23 cation under this subsection and shall be de-
24 signed to result in the program participant
25 eliminating the conditions or circumstances

1 upon which the Administrator determined eligi-
2 bility pursuant to paragraph (7) of this section.

3 “(iii) Such plan, and subsequent modifica-
4 tions submitted under clause (v), shall be ap-
5 proved by the Business Opportunity Specialist
6 prior to the program participant being eligible
7 for award of a contract pursuant to this sub-
8 section.

9 “(iv) The plans submitted under this sub-
10 paragraph shall include the following:

11 “(I) An analysis of market potential,
12 competitive environment, and other busi-
13 ness analyses estimating the program par-
14 ticipant’s prospects for profitable oper-
15 ations during the term of program partici-
16 pation and after graduation.

17 “(II) An analysis of the program par-
18 ticipant’s strengths and weaknesses with
19 particular attention to correcting any fi-
20 nancial, managerial, technical, or personnel
21 conditions which are likely to impede the
22 program participant from receiving con-
23 tracts other than those awarded under this
24 section.

1 “(III) Specific targets, objectives, and
2 goals, for the business development of the
3 program participant during the next and
4 succeeding years utilizing the results of the
5 analyses conducted pursuant to subclauses
6 (I) and (II).

7 “(IV) A transition management plan
8 outlining specific steps to assure profitable
9 business operations after graduation (to be
10 incorporated into the program participant’s
11 plan during the first year of the transi-
12 tional stage of program participation).

13 “(V) Estimates of contract awards
14 pursuant to this subsection and from other
15 sources, which the program participant will
16 require to meet the specific targets, objec-
17 tives, and goals for the years covered by its
18 plan.

19 “(v) Each program participant shall annu-
20 ally review its currently approved plan with its
21 Business Opportunity Specialist and modify
22 such plan as may be appropriate. Any modified
23 plan shall be submitted to the District Director
24 for approval. The currently approved plan shall
25 be considered valid until such time as a modi-

1 fied plan is reviewed by the Business Oppor-
2 tunity Specialist and approved by the District
3 Director.

4 “(vi) Annual reviews pertaining to years in
5 the transitional stage of program participation
6 shall require, as appropriate, a written
7 verification that such program participant has
8 complied with the requirements of paragraph
9 (21)(G) of this section relating to attaining
10 business activity from sources other than con-
11 tracts awarded pursuant to this section.

12 “(vii) Each program participant shall an-
13 nually forecast its needs for contract awards
14 under this section for the next program year
15 and the succeeding program year during the re-
16 view of its business plan, conducted pursuant to
17 clause (v). Such forecast shall be known as the
18 ‘section 8(a) contract support level’ and shall be
19 included in the program participant’s business
20 plan. Such forecast shall include—

21 “(I) the aggregate dollar value of con-
22 tract support to be sought on a non-
23 competitive basis under this section, re-
24 flecting compliance with the requirements
25 of paragraph (21)(G) relating to attaining

1 business activity from sources other than
2 contracts awarded pursuant to this section,

3 “(II) the types of contract opportuni-
4 ties being sought, identified by North
5 American Industrial Classification System
6 Code or otherwise,

7 “(III) an estimate of the dollar value
8 of the section 8(a) contract support level to
9 be sought on a competitive basis, and

10 “(IV) such other information as may
11 be requested by the Business Opportunity
12 Specialist to provide effective business de-
13 velopment assistance to the program par-
14 ticipant.

15 “(C) CONDITIONS FOR DENIAL OF ASSIST-
16 ANCE.—A program participant shall be denied
17 all such assistance if such concern—

18 “(i) voluntarily elects not to continue
19 participation;

20 “(ii) completes the period of Program
21 participation as prescribed by paragraph
22 (27);

23 “(iii) is terminated or graduated pur-
24 suant to proceedings conducted in accord-
25 ance with paragraph (10).

1 “(D) TERMINATION DEFINED.—For pur-
2 poses of this subsection, the term ‘terminated’
3 and the term ‘termination’ means the total de-
4 nial or suspension of assistance under this
5 paragraph or under this section prior to the
6 graduation of the program participant or prior
7 to the expiration of the maximum program par-
8 ticipation term. An action for termination shall
9 be based upon good cause, including—

10 “(i) the failure by such concern to
11 maintain its eligibility for program partici-
12 pation;

13 “(ii) the failure of the concern to en-
14 gage in business practices that will pro-
15 mote its competitiveness within a reason-
16 able period of time as evidenced by, among
17 other indicators, a pattern of unjustified
18 delinquent performance or terminations for
19 default with respect to contracts awarded
20 under the authority of this subsection;

21 “(iii) a demonstrated pattern of fail-
22 ing to make required submissions or re-
23 sponses to Administration officials or em-
24 ployees in a timely manner;

1 “(iv) the willful violation of any rule
2 or regulation of the Administrator per-
3 taining to material issues;

4 “(v) the debarment of the concern or
5 its disadvantaged owners by any agency
6 pursuant to subpart 9.4 of title 48, Code
7 of Federal Regulations (or any successor
8 regulation); or

9 “(vi) the conviction of the disadvan-
10 taged owner or an officer of the concern
11 for any offense indicating a lack of busi-
12 ness integrity including any conviction for
13 embezzlement, theft, forgery, bribery, fal-
14 sification or violation of section 16. For
15 purposes of this clause, no termination ac-
16 tion shall be taken with respect to a dis-
17 advantaged owner solely because of the
18 conviction of an officer of the concern (who
19 is other than a disadvantaged owner) un-
20 less such owner conspired with, abetted, or
21 otherwise knowingly acquiesced in the ac-
22 tivity or omission that was the basis of
23 such officer’s conviction.

24 “(E) INITIATION OF TERMINATION PRO-
25 CEEDING.—(i) The District Director may ini-

1 tiate a termination proceeding by recom-
2 mending such action to the Assistant Adminis-
3 trator for Minority Small Business and Capital
4 Ownership Development.

5 “(ii) Whenever the Assistant Administrator
6 determines such termination is appropriate,
7 within 15 days after making such a determina-
8 tion the program participant shall be provided
9 a written notice of intent to terminate, speci-
10 fying the reasons for such action.

11 “(iii) No program participant shall be ter-
12 minated from the program pursuant to sub-
13 paragraph (D) without first being afforded an
14 opportunity for a hearing in accordance with
15 paragraph (10).

16 “(iv) If a termination proceeding is initi-
17 ated against a program participant, such partici-
18 pant shall be ineligible from receiving assist-
19 ance pursuant to this section until the final dis-
20 position of the termination action.

21 “(v) If the program participant is rein-
22 stated upon final decision by the Administrator
23 pursuant to paragraph (10), the time during
24 which the program participant did not receive

1 assistance shall be added on to the original pro-
2 gram term end date.

3 “(F) GRADUATION DEFINED.—For the
4 purposes of this subsection and subsection 8(b)
5 the term ‘graduated’ or ‘graduation’ means that
6 the program participant is recognized as suc-
7 cessfully completing the program by substan-
8 tially achieving the targets, objectives, and goals
9 contained in the concern’s business plan thereby
10 demonstrating its ability to compete in the mar-
11 ketplace without assistance under this section.

12 “(G) BUSINESS ACTIVITY TARGETS.—(i)
13 During the developmental stage of its participa-
14 tion in the program, a program participant
15 shall take all reasonable efforts within its con-
16 trol to attain the targets contained in its busi-
17 ness plan for contracts awarded other than pur-
18 suant to this subsection (hereinafter referred to
19 as ‘business activity targets.’).

20 “(ii) Such efforts shall be made a part of
21 the business plan and shall be sufficient in
22 scope and duration to satisfy the Administrator
23 that the program participant will engage in a
24 reasonable marketing strategy that will maxi-

1 mize its potential to achieve its business activity
2 targets.

3 “(iii) During the transitional stage of the
4 program a program participant shall be subject
5 to regulations regarding business activity tar-
6 gets that are promulgated by the Administrator
7 such regulations shall:

8 “(I) Establish business activity tar-
9 gets applicable to program participants
10 during the fifth year and each succeeding
11 year of program participation.

12 “(aa) Such activity targets shall,
13 for such period of time, reflect a rea-
14 sonably consistent increase in con-
15 tracts awarded other than pursuant to
16 this subsection, expressed as a per-
17 centage of total sales.

18 “(bb) The Administrator may es-
19 tablish modified business activity tar-
20 gets for program participants that
21 have participated in the program for a
22 period of longer than four years on
23 the date of the enactment of this Act.

24 “(II) Require the program participant
25 to certify that it has met its business activ-

1 ity targets or that it is in compliance with
2 such remedial measures as may have been
3 ordered pursuant to regulations issued
4 under subclause (III) prior to the receipt
5 of any contract awarded pursuant to this
6 subsection.

7 “(III) Authorize the Administrator to
8 take appropriate remedial measures with
9 respect to a program participant that has
10 failed to attain a required business activity
11 target for the purpose of reducing such
12 participant’s dependence on contracts
13 awarded pursuant to this section.

14 “(aa) Such remedial actions may
15 include assisting the program partici-
16 pant to expand the dollar volume of
17 its competitive business activity or
18 limiting the dollar volume of contracts
19 awarded to the program participant
20 pursuant to this subsection.

21 “(bb) Unless the remedial meas-
22 ures taken pursuant to subclause (aa)
23 bar the award of contracts to program
24 participants, no remedial measures

1 shall be reviewable pursuant to para-
2 graph (10).

3 “(H) ELIGIBILITY REVIEW.—(i) The Ad-
4 ministrator shall conduct an evaluation of a
5 program participant’s eligibility for continued
6 participation in the program whenever it re-
7 ceives specific and credible information alleging
8 that such program participant no longer meets
9 the requirements for program eligibility.

10 “(ii) Upon making a finding that a pro-
11 gram participant is no longer eligible, the Ad-
12 ministrator shall initiate a termination pro-
13 ceeding in accordance with subparagraphs (D)
14 and (E).

15 “(iii) A program participant’s eligibility for
16 award of any contract under the authority of
17 this section may be suspended pursuant to sub-
18 part 9.4 of title 48, Code of Federal Regula-
19 tions (or any successor regulation).

20 “(22) CERTIFICATION AND REVIEW BY ADMIN-
21 ISTRATOR.—

22 “(A) ASSISTANT ADMINISTRATOR COORDI-
23 NATION.—The Assistant Administrator for Mi-
24 nority Small Business and Capital Ownership
25 Development shall be responsible for coordi-

1 nating and formulating policies relating to Fed-
2 eral assistance to small business concerns eligi-
3 ble for assistance under section 7(i) of this Act
4 and program participants.

5 “(B) DIVISION OF PROGRAM CERTIFI-
6 CATION AND ELIGIBILITY.—(i) There is estab-
7 lished a Division of Program Certification and
8 Eligibility (hereinafter referred to in this para-
9 graph as the ‘Division’) in the Office of Minor-
10 ity Small Business and Capital Ownership De-
11 velopment. The Division shall be headed by a
12 Director who shall report directly to the Assist-
13 ant Administrator for Minority Small Business
14 and Capital Ownership Development. The Divi-
15 sion shall establish field offices within such re-
16 gional offices of the Administration as may be
17 necessary to perform efficiently its functions
18 and responsibilities.

19 “(ii) Subject to the provisions of paragraph
20 (5)(B), the functions and responsibility of the
21 Division of Program Certification and Eligi-
22 bility are to—

23 “(I) receive, review and evaluate ap-
24 plications for certification pursuant to
25 paragraphs (5), (6), and (7);

1 “(II) advise each program applicant
2 within 15 days after the receipt of an ap-
3 plication as to whether such application is
4 complete and suitable for evaluation and, if
5 not, what matters must be rectified;

6 “(III) render recommendations on
7 such applications to the Assistant Adminis-
8 trator for Minority Small Business and
9 Capital Ownership Development;

10 “(IV) review and evaluate financial
11 statements and other submissions from
12 concerns participating in the program es-
13 tablished by this subsection to ascertain
14 continued eligibility to receive subcontracts
15 pursuant to this section;

16 “(V) make a request for the initiation
17 of termination or graduation proceedings,
18 as appropriate, to the Assistant Adminis-
19 trator for Minority Small Business and
20 Capital Ownership Development;

21 “(VI) make recommendations to the
22 Assistant Administrator for Minority Small
23 Business and Capital Ownership Develop-
24 ment concerning protests from applicants
25 that have been denied program admission;

1 “(VII) decide protests regarding the
2 status of a concern as a disadvantaged
3 concern for purposes of any program or ac-
4 tivity conducted under the authority of
5 subsection (d), or any other provision of
6 Federal law that references such sub-
7 section for a definition of program eligi-
8 bility; and

9 “(VIII) implement such policy direc-
10 tives as may be issued by the Assistant
11 Administrator for Minority Small Business
12 and Capital Ownership Development pur-
13 suant to subparagraph (E) regarding,
14 among other things, the geographic dis-
15 tribution of concerns to be admitted to the
16 program and the industrial make-up of
17 such concerns.

18 “(C) PROGRAM ADMISSION AND CONTRACT
19 OPPORTUNITIES.—An applicant shall not be de-
20 nied admission into the program established by
21 this subsection due solely to a determination by
22 the Division of Program Certification and Eligi-
23 bility that specific contract opportunities are
24 unavailable to assist in the development of such
25 concern unless—

1 “(i) the Government has not pre-
2 viously procured and is unlikely to procure
3 the types of products or services offered by
4 the concern on a prime contract basis; or

5 “(ii) the purchases of such products
6 or services by the Federal Government will
7 not be in quantities sufficient to support
8 the developmental needs of the applicant
9 and other program participants providing
10 the same or similar items or services.

11 “(D) CERTIFICATION DECISION.—Except
12 as provided in paragraph 5(B), not later than
13 90 days after receipt of a completed application
14 for program certification, the Assistant Admin-
15 istrator for Minority Small Business and Cap-
16 ital Ownership Development shall certify a
17 small business concern as a program partici-
18 pant or shall deny such application.

19 “(E) DIVISION REVIEW.—

20 “(i) Thirty days before the conclusion
21 of each fiscal year, the Director of the Di-
22 vision of Program Certification and Eligi-
23 bility shall review all concerns that have
24 been admitted into the program during the
25 preceding 12-month period.

1 “(ii) The review shall ascertain the
2 number of entrants, their geographic dis-
3 tribution, and their industrial classifica-
4 tion. The Director shall also estimate the
5 expected growth of the program during the
6 next fiscal year and the number of addi-
7 tional Business Opportunity Specialists, if
8 any, that will be needed to meet the antici-
9 pated demand for the program.

10 “(iii) The findings and conclusions of
11 the Director shall be reported to the As-
12 sistant Administrator for Minority Small
13 Business and Capital Ownership Develop-
14 ment by September 30 of each year.

15 “(iv) Based on such report and such
16 additional data as may be relevant, the As-
17 sistant Administrator shall, by October 31
18 of each year, issue rules as that term is de-
19 fined in section 551(4) of title 5, United
20 States Code, applicable to such fiscal year
21 that—

22 “(I) establish priorities for the
23 solicitation of program applications
24 from underrepresented regions and in-
25 dustry categories;

1 “(II) assign staffing levels and
2 allocate other program resources as
3 necessary to meet program needs; and

4 “(III) establish priorities in the
5 processing and admission of new pro-
6 gram participants as may be nec-
7 essary to achieve an equitable geo-
8 graphic distribution of concerns and a
9 distribution of concerns across all in-
10 dustry categories in proportions need-
11 ed to increase significantly contract
12 awards to small business concerns
13 owned and controlled by socially and
14 economically disadvantaged individ-
15 uals. When considering such increase
16 the Administrator shall give due con-
17 sideration to those industrial cat-
18 egories where Federal purchases have
19 been substantial but where the partici-
20 pation rate of such concerns has been
21 limited.

22 “(23) STAGES OF PROGRAM PARTICIPATION.—

23 “(A) IN GENERAL.—The Capital ownership
24 Development Program established by this sub-

1 section shall have a developmental stage and
2 transitional stage.

3 “(B) DEVELOPMENTAL STAGE.—The de-
4 velopmental stage of program participation
5 shall be designed to assist the concern in its ef-
6 fort to overcome its economic disadvantage by
7 providing such assistance as may be necessary
8 and appropriate to access its markets and to
9 strengthen its financial and managerial skills.

10 “(C) TRANSITIONAL STAGE.—The transi-
11 tional stage of program participation shall be
12 designed to overcome, insofar as practicable,
13 the remaining elements of economic disadvan-
14 tage and to prepare such concern for gradua-
15 tion from the program.

16 “(24) TYPES OF ASSISTANCE PROVIDED BY
17 THE ADMINISTRATOR.—The Administrator shall
18 make available during the developmental and transi-
19 tional stages the following assistance:

20 “(A) Contract support pursuant to this
21 section.

22 “(B) Financial assistance pursuant to sec-
23 tion 7(a)(20).

24 “(C) A maximum of two exemptions from
25 the requirements of section 1(a) of the Walsh-

1 Healey Act, which exemptions shall apply only
2 to contracts awarded pursuant to this section
3 and shall only be used to allow for contingent
4 agreements by a small business concern to ac-
5 quire the machinery, equipment, facilities, or
6 labor needed to perform such contracts. No ex-
7 emption shall be made pursuant to this sub-
8 paragraph if the contract to which it pertains
9 has an anticipated value in excess of
10 \$10,000,000.

11 “(D)(i) Financial assistance whereby the
12 Administrator may purchase in whole or in
13 part, and on behalf of such concerns, skills
14 training or upgrading for employees or potential
15 employees of such concerns.

16 “(ii) For purposes of this subparagraph
17 the term ‘training provider’ shall mean an insti-
18 tution of higher education, a community or vo-
19 cational college, or an institution eligible to pro-
20 vide skills training or upgrading under the Job
21 Training Partnership Act or title I of the Work-
22 force Investment Act of 1998.

23 “(iii) Assistance may be made by direct
24 payment to the training provider or by reim-
25 bursing the program participant or the partici-

1 pant’s employee, if such reimbursement is
2 found to be reasonable and appropriate.

3 “(iv) The Administrator shall, in consulta-
4 tion with the Secretary of Labor, promulgate
5 rules and regulations to implement this sub-
6 paragraph that establish acceptable training
7 and upgrading performance standards and pro-
8 vide for such monitoring or audit requirements
9 as may be necessary to ensure the integrity of
10 the training effort.

11 “(v) No financial assistance shall be grant-
12 ed under this subparagraph unless the Adminis-
13 trator determines each of the following:

14 “(I) The program participant has doc-
15 umented that it has first explored the use
16 of existing cost-free or cost-subsidized
17 training programs offered by public and
18 private sector agencies working with pro-
19 grams of employment and training and
20 economic development.

21 “(II) No more than 5 employees or
22 potential employees of the program partici-
23 pant are recipients of any benefits under
24 this subparagraph at any one time.

1 “(III) No more than \$2,500 shall be
2 made available for any one employee or po-
3 tential employee.

4 “(IV) The length of training or up-
5 grading financed by this subparagraph
6 shall be no less than 1 month nor more
7 than 6 months.

8 “(V) The program participant has
9 given adequate assurance it will employ the
10 trainee or upgraded employee for at least
11 6 months after the training or upgrading
12 financed by this subparagraph has been
13 completed and each trainee or upgraded
14 employee has provided a similar assurance
15 to remain within the employ of such con-
16 cern for such period.

17 “(aa) If such concern, trainee, or
18 upgraded employee breaches this
19 agreement, the Administrator shall be
20 entitled to obtain from the violating
21 party the repayment of all funds ex-
22 pended on behalf of the violating
23 party.

24 “(bb) Such repayment shall be
25 made to the Administrator together

1 with such interest and costs of collec-
2 tion as may be reasonable.

3 “(cc) The violating party shall be
4 barred from receiving any further as-
5 sistance under this subparagraph.

6 “(VI) The training to be financed may
7 take place either at such concern’s facili-
8 ties or at those of the training provider.

9 “(VII) The program participant will
10 maintain such records as the Adminis-
11 trator deems appropriate to ensure that
12 the provisions of this paragraph and any
13 other applicable law have not been violated.

14 “(E)(i) The transfer of technology or sur-
15 plus property owned by the United States to
16 such a concern.

17 “(ii) Activities designed to effect such
18 transfer shall be developed in cooperation with
19 the heads of Federal agencies and shall include
20 the transfer by grant, license, or sale of such
21 technology or property to such a concern. Such
22 property may be transferred to program partici-
23 pants on a priority basis.

24 “(iii) Technology or property transferred
25 under this subparagraph shall be used by the

1 concern during the normal conduct of its busi-
2 ness operation and shall not be sold or trans-
3 ferred to any other party (other than the Gov-
4 ernment) during such concern's term of partici-
5 pation in the program and for one year there-
6 after.

7 “(F) Training assistance whereby the Ad-
8 ministrator shall conduct training sessions to
9 assist individuals and enterprises eligible to re-
10 ceive contracts under this section in the devel-
11 opment of business principles and strategies to
12 enhance their ability to successfully compete for
13 contracts in the marketplace.

14 “(G) Joint ventures, leader-follow arrange-
15 ments, and teaming agreements between the
16 program participant and other program partici-
17 pants and other small business concerns with
18 respect to contracting opportunities. Such ac-
19 tivities shall be undertaken on the basis of pro-
20 grams developed by the procuring agency with
21 the assistance of the Administration.

22 “(H) Transitional management business
23 planning training and technical assistance.

24 “(25) TRANSITIONAL STAGE ASSISTANCE.—

25 Program participants in the developmental stage of

1 program participation shall be eligible for the assist-
2 ance provided by subparagraphs (A), (B), (C), (D),
3 (E), (F), and (G) of paragraph (24).

4 “(26) DEVELOPMENTAL STAGE ASSISTANCE.—
5 Program Participants in the transitional stage of
6 Program participation shall be eligible for the assist-
7 ance provided by subparagraphs (A), (B), (F), (G),
8 and (H) of paragraph (24).

9 “(27) DURATION OF STAGES.—Subject to the
10 provisions of paragraph (21)(A), a program partici-
11 pant may receive developmental assistance under
12 this subsection and contracts under this subsection
13 for a total period of not longer than 9 years, meas-
14 ured from the date of its certification under this
15 subsection, of which—

16 “(A) no more than 5 years may be spent
17 in the developmental stage of program partici-
18 pation; and

19 “(B) no more than 4 years may be spent
20 in the transitional stage of program partici-
21 pation.

22 “(28) DATA COLLECTION.—

23 “(A) IN GENERAL.—The Administrator
24 shall develop and implement a process for the
25 systematic collection of data on the operations

1 of the program established pursuant to this sec-
2 tion.

3 “(B) REPORT.—Not later than April 30 of
4 each year, the Administrator shall submit a re-
5 port to the Committee on Small Business and
6 Entrepreneurship of the Senate and the Com-
7 mittee on Small Business of the House of Rep-
8 resentatives on the program that shall include
9 the following:

10 “(i) A description and estimate of the
11 benefits and costs that have accrued to the
12 economy and the Government in the imme-
13 diately preceding fiscal year due to the op-
14 erations of those business concerns that
15 were performing contracts awarded pursu-
16 ant to this section.

17 “(ii) A compilation and evaluation of
18 those business concerns that have exited
19 the program during the immediately pre-
20 ceeding three fiscal years. Such compilation
21 and evaluation shall detail the number of
22 concerns actively engaged in business oper-
23 ations, those that have ceased or substan-
24 tially curtailed such operations, including
25 the reasons for such actions, and those

1 concerns that have been acquired by other
2 firms or organizations owned and con-
3 trolled by other than socially and economi-
4 cally disadvantaged individuals.

5 “(iii) For those businesses that have
6 continued operations after they exited from
7 the program, the Administrator shall also
8 separately detail the benefits and costs
9 that have accrued to the economy during
10 the immediately preceding fiscal year due
11 to the operations of such concerns.

12 “(iv) A listing of all participants in
13 the program during the preceding fiscal
14 year identifying, by State and by region,
15 for each firm: the name of the concern, the
16 race or ethnicity, and gender of the dis-
17 advantaged owners, the dollar value of all
18 contracts received in the preceding year,
19 the dollar amount of advance payments re-
20 ceived by each concern pursuant to con-
21 tracts awarded under this section, and a
22 description including (if appropriate) an
23 estimate of the dollar value of all benefits
24 received pursuant to paragraphs (25) and

1 (26) and section 7(a)(20) during such
2 year.

3 “(v) The total dollar value of con-
4 tracts and options awarded during the pre-
5 ceding fiscal year pursuant to this section
6 and such amount expressed as a percent-
7 age of total sales of—

8 “(I) all firms participating in the
9 program during such year; and

10 “(II) firms in each of the nine
11 years of program participation.

12 “(vi) A description of such additional
13 resources or program authorities as may
14 be required to provide the types of services
15 needed over the next 2-year period to serv-
16 ice the expected portfolio of firms certified
17 pursuant to this section.

18 “(vii) The total dollar value of con-
19 tracts and options awarded pursuant to
20 this section, at such dollar increments as
21 the Administrator deems appropriate, for
22 each 6 digit North American Industrial
23 Classification System code under which
24 such contracts and options were classified.

25 “(b) MANAGEMENT AND TECHNICAL ASSISTANCE.—

1 “(1) CONTRACTS FOR ASSISTANCE.—The Ad-
2 ministrator shall be required to enter into contracts
3 with business concerns, not-for-profit entities, and
4 other persons capable of providing management and
5 technical assistance, as may be necessary, to partici-
6 pants in the program established in section 8(a) and
7 to small business concerns which have loans guaran-
8 teed pursuant to section 7(i).

9 “(2) SELECTION OF CONTRACTORS.—The Ad-
10 ministrator shall select contractors based on the ex-
11 perience in advising small business concerns on fi-
12 nancial and business operations, including but not
13 limited to comprehensive business plans, and other
14 functions needed to preserve and expand small busi-
15 nesses eligible for assistance under paragraph (1).
16 To the extent practical, the Administrator shall se-
17 lect, as contractors, small business concerns but the
18 primary evaluation criteria shall be the technical
19 ability of the contractor to provide the services set
20 forth in this subsection.

21 “(3) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to carry out
23 this subsection \$6,000,000 for each of fiscal years
24 2004 and 2005. Such sums shall remain available
25 until expended.

1 “(c) COORDINATION WITH OTHER AGENCIES.—The
2 Administrator shall take such steps as may be necessary
3 and appropriate, in coordination and cooperation with the
4 heads of Federal agencies to insure that contracts, sub-
5 contracts, and deposits made by the Federal Government
6 or with programs aided with Federal funds are placed in
7 such way as to further the purposes of subsection (a) of
8 this section and section 7(i).”.

9 (b) COMMERCIAL MARKETING.—Section 8(d)(10) of
10 the Small Business Act (15 U.S.C. 637(d)(10)) is amend-
11 ed to read as follows:

12 “(10) In the case of contracts within the provi-
13 sions of paragraphs (4), (5), and (6), the Adminis-
14 trator is authorized to—

15 “(A) assign at least one commercial mar-
16 keting representative per state whose primary
17 responsibilities shall be to—

18 “(i) assist Federal agencies and busi-
19 nesses in complying with their responsibil-
20 ities under the provisions of this sub-
21 section, including the formulation of sub-
22 contracting plans pursuant to paragraph
23 (4);

24 “(ii) review any solicitation for any
25 contract to be let pursuant to paragraphs

1 (4) and (5) to determine the maximum
2 practicable opportunity for small business
3 concerns, small manufacturers, small busi-
4 ness concerns owned and controlled by vet-
5 erans, small business concerns owned and
6 controlled by service-disabled veterans,
7 qualified HUBZone small business con-
8 cerns, small business concerns owned and
9 controlled by socially and economically dis-
10 advantaged individuals, small business eli-
11 gible for participation under section 8(a),
12 and small business concerns owned and
13 controlled by women to participate as sub-
14 contractors in the performance of any con-
15 tract resulting from any solicitation, and to
16 submit its findings, which shall be advisory
17 in nature, to the appropriate Federal agen-
18 cy;

19 “(iii) evaluate compliance with sub-
20 contracting plans, either on a contract-by-
21 contract basis, or in the case of contractors
22 having multiple contracts, on an aggregate
23 basis including recommendations to the
24 contracting officer for an assessment of
25 liquidated damages;

1 “(iv) work directly with small busi-
2 nesses to counsel them on marketing and
3 subcontracting to large business prime con-
4 tractors that have contracts with the Fed-
5 eral Government;

6 “(v) identify large business buyers of
7 small business products and services;

8 “(vi) assist small businesses in receiv-
9 ing timely payment from large business
10 prime contractors that have contracts with
11 the Federal Government; and

12 “(vii) perform program reviews of the
13 small business outreach programs and sub-
14 contracting programs of large businesses.

15 “(B) Not later than September 30, 2004,
16 each state shall be assigned at least one com-
17 mercial marketing representative, authorized by
18 paragraph 10(A) of this section, who must be
19 physically located in each state.

20 “(C) Not later than 120 days after enact-
21 ment of this Act, the Administrator shall, after
22 the opportunity for notice and comment, pro-
23 mulgate regulations governing the Administra-
24 tor’s review of subcontracting plans including

1 the standards for determining good faith effort
2 of compliance with the subcontracting plans.”.

3 (c) WOMEN-OWNED SMALL BUSINESS CONCERNS;
4 AUTHORITIES OF ADMINISTRATOR.—Subsections (m) and
5 (n) of section 8 of the Small Business Act (15 U.S.C. 637
6 (m) and (n)) are amended to read as follows:

7 “(m) PROCUREMENT PROGRAM FOR WOMEN-OWNED
8 SMALL BUSINESS CONCERNS.—

9 “(1) DEFINITIONS.—In this subsection, the fol-
10 lowing definitions apply:

11 “(A) SMALL BUSINESS CONCERN OWNED
12 AND CONTROLLED BY WOMEN.—The term
13 ‘small business concern owned and controlled by
14 women’ has the meaning given such term in
15 section 3(n), except that ownership shall be de-
16 termined without regard to any community
17 property law.

18 “(2) AUTHORITY TO RESTRICT COMPETITION.—
19 In accordance with this subsection, a contracting of-
20 ficer may restrict competition for any contract for
21 the procurement of goods or services by the Federal
22 Government to small business concerns owned and
23 controlled by women, if—

24 “(A) each of the concerns is not less than
25 51 percent owned by 1 or more women who are

1 economically disadvantaged (and such owner-
2 ship is determined without regard to any com-
3 munity property law);

4 “(B) the contracting officer has a reason-
5 able expectation that 2 or more small business
6 concerns owned and controlled by women will
7 submit offers for the contract;

8 “(C) the contract is for the procurement of
9 goods or services with respect to an industry
10 identified by the Administrator pursuant to
11 paragraph (4);

12 “(D) the anticipated award price of the
13 contract (including options) does not exceed—

14 “(i) \$5,000,000, in the case of a con-
15 tract assigned an industrial classification
16 code for manufacturing; or

17 “(ii) \$3,000,000, in the case of all
18 other contracts;

19 “(E) in the estimation of the contracting
20 officer, the contract award can be made at a
21 fair and reasonable price; and

22 “(F) each of the concerns—

23 “(i) is certified by a Federal agency
24 or a State government as a small business
25 concern owned and controlled by women;

1 “(ii) is certified by a national certi-
2 fying entity approved by the Administrator
3 as a small business concern owned and
4 controlled by women; or

5 “(iii) certifies to the contracting offi-
6 cer that it is a small business concern
7 owned and controlled by women and pro-
8 vides adequate documentation in accord-
9 ance with standards established by the Ad-
10 ministration to support such certification.

11 “(3) WAIVER.—With respect to a small busi-
12 ness concern owned and controlled by women, the
13 Administrator may waive subparagraph (2)(A) if the
14 Administrator determines that the concern is in an
15 industry in which small business concerns owned
16 and controlled by women are substantially underrep-
17 resented.

18 “(4) IDENTIFICATION OF INDUSTRIES.—

19 “(A) IN GENERAL.—The Administrator
20 shall conduct a study to identify industries in
21 which small business concerns owned and con-
22 trolled by women are underrepresented with re-
23 spect to Federal procurement contracting.

24 “(B) DETERMINATION BY CONTRACTING
25 OFFICER.—Until such time as the Adminis-

1 trator conducts such study, the determination
2 as to whether an industry is under-represented
3 by small business concerns owned and con-
4 trolled by women shall be made by the con-
5 tracting officer.

6 “(C) DEADLINE.—Not later than 90 days
7 after the date of the enactment of this subpara-
8 graph the Administrator shall—

9 “(i) ensure the completion of the
10 study described in this paragraph;

11 “(ii) approve national certifying enti-
12 ties for the purposes of paragraph
13 (2)(F)(ii); and

14 “(iii) make determinations in accord-
15 ance with paragraph (3).

16 “(5) ENFORCEMENT; PENALTIES.—

17 “(A) VERIFICATION OF ELIGIBILITY.—In
18 carrying out this subsection, the Administrator
19 shall use existing procedures established by the
20 Office of Hearings and Appeals relating to—

21 “(i) the filing, investigation, and dis-
22 position by the Administration of any chal-
23 lenge to the eligibility of a small business
24 concern to receive assistance under this
25 subsection (including a challenge, filed by

1 an interested party, relating to the veracity
2 of a certification made or information pro-
3 vided to the Administration by a small
4 business concern under paragraph (2)(F));
5 and

6 “(ii) verification by the Administrator
7 of the accuracy of any certification made
8 or information provided to the Administra-
9 tion by a small business concern under
10 paragraph (2)(F).

11 “(B) EXAMINATIONS.—The procedures es-
12 tablished under subparagraph (A) may provide
13 for program examinations (including random
14 program examinations) by the Administrator of
15 any small business concern making a certifi-
16 cation or providing information to the Adminis-
17 trator under paragraph (2)(F).

18 “(C) PENALTIES.—In addition to the pen-
19 alties described in section 16(d), any small busi-
20 ness concern that is determined by the Admin-
21 istrator to have misrepresented the status of
22 that concern as a small business concern owned
23 and controlled by women for purposes of this
24 subsection, shall be subject to—

1 “(i) section 1001 of title 18, United
2 States Code; and

3 “(ii) sections 3729 through 3733 of
4 title 31, United States Code.

5 “(6) PROVISION OF DATA.—Upon the request
6 of the Administrator, the head of any Federal de-
7 partment or agency shall promptly provide to the
8 Administrator such information as the Adminis-
9 trator determines to be necessary to carry out this
10 subsection.

11 “(n) AUTHORITIES OF ADMINISTRATOR.—In car-
12 rying out its functions under subsections 7(i), 8(a), and
13 8(b) of this Act the Administrator may do the following:

14 “(1) Utilize, with their consent, the services and
15 facilities of Federal agencies without reimbursement,
16 and, with the consent of any State or political sub-
17 division of a State, accept and utilize the services
18 and facilities of such State or subdivision without re-
19 imbursement.

20 “(2) Accept voluntary and uncompensated serv-
21 ices, notwithstanding section 1342 of title 31,
22 United States Code.

23 “(3) Employ experts and consultants or organi-
24 zations thereof as authorized by section 3109 of title
25 5, United States Code. No individual may be em-

1 employed under the authority of this paragraph for
2 more than 100 days in any fiscal year. No individual
3 employed under this paragraph may be compensated
4 at rates in excess of the daily equivalent of the high-
5 est rate payable under section 5332 of title 5,
6 United States Code, including traveltime. Individuals
7 employed under this paragraph may be allowed,
8 while away from their homes or regular places of
9 business, travel expenses (including per diem in lieu
10 of subsistence) as authorized by section 5703 of title
11 5, United States Code for persons in the Govern-
12 ment service employed intermittently. Contracts for
13 employment under this paragraph may be renewed
14 annually.”.

15 (d) CLERICAL AMENDMENT.—Section 8 of the Small
16 Business Act (15 U.S.C. 637) is amended by inserting the
17 following section heading:

18 **“SEC. 8. GOVERNMENT CONTRACT AND BUSINESS DEVEL-**
19 **OPMENT ASSISTANCE FOR SMALL BUSINESS**
20 **CONCERNS, ETC.”.**

21 **SEC. 209. TRAINING AND ASSISTANCE.**

22 Section 12 of the Small Business Act (15 U.S.C. 641)
23 is amended to read as follows:

1 **“SEC. 12. TRAINING AND ASSISTANCE.**

2 “(a) ASSISTANCE.—The Administrator shall
3 (through co-sponsorships, small business development cen-
4 ters, women’s business centers, the Office of Veterans Af-
5 fairs, and other programs as the Administrator determines
6 appropriate) provide technical and managerial assistance,
7 advice and guidance on matters of government procure-
8 ment (at the Federal, State, and local levels) and informa-
9 tion on the policies, practices, and principles of good man-
10 agement, and, when appropriate, distribute publications
11 and other material on Administration programs to small
12 business concerns, including all categories of such con-
13 cerns defined in section 3 of this Act.

14 “(b) VOLUNTEERS.—

15 “(1) The Administrator shall recruit executive
16 volunteers to assist the Administrator in carrying
17 out this section.

18 “(2) The Administrator shall recruit retired
19 and active executives to form the Service Corps of
20 Retired Executives and the Active Corps of Execu-
21 tives. Such executives will be responsible for pro-
22 viding technical and managerial assistance and ad-
23 vice to small business concerns.

24 “(3) The Administrator shall recruit retired
25 and active executives from large and small manufac-
26 turers to form the Service Corps of Retired Manu-

1 facturing Executives and the Active Corps of Manu-
2 facturing Executives. Such executives will advise, as-
3 sist, and train small manufacturers.

4 “(4) The Administrator may enter into appro-
5 priate contracts, grants, or cooperative agreements
6 with the volunteers or corps referred to in this sub-
7 section in order to provide the services set forth in
8 this section.

9 “(5) The Administrator may maintain the head-
10 quarters of the corps referred to in this subsection
11 and assign, at his discretion, Administration per-
12 sonnel to assist the volunteers.

13 “(6) The volunteers may solicit cash, other per-
14 sonal property, and in-kind contributions from the
15 private sector to be used to carry out their functions
16 under this section. The volunteers may use payments
17 from the Administrator made pursuant to this sub-
18 section to assist in such solicitations.

19 “(7) The Administrator may permit any indi-
20 vidual or group of persons participating in the pro-
21 grams established pursuant to this subsection to use
22 any facilities of the Administration, including re-
23 gional and district offices, as well as clerical and
24 computer services.

1 “(8) The volunteers, while carrying out the pur-
2 poses of this section, shall be deemed Federal em-
3 ployees for the purposes of the Federal tort claims
4 provisions in title 28, United States Code; and for
5 the purposes of subchapter I of chapter 81 of title
6 5, United States Code (relative to compensation to
7 Federal employees for work injuries) shall be
8 deemed civil employees of the United States within
9 the meaning of the term ‘employee’ as defined in
10 section 8101 of title 5, United States Code, and the
11 provisions of that subchapter shall apply except that
12 in computing compensation benefits for disability or
13 death, the monthly pay of a volunteer shall be
14 deemed that received under the entrance salary for
15 a grade GS–11 employee.

16 “(9) The Administrator may reimburse the vol-
17 unteers for all necessary out-of-pocket expenses inci-
18 dent to their provision of services under this section,
19 or in connection with attendance at meetings spon-
20 sored by the Administrator, or for the cost of mal-
21 practice insurance, as the Administrator shall deter-
22 mine, in accordance with regulations which he or she
23 shall prescribe, and, while they are carrying out such
24 activities away from their homes or regular places of
25 business, for travel expenses (including per diem in

1 lieu of subsistence) as authorized by section 5703 of
2 title 5, United States Code, for individuals serving
3 without pay.

4 “(10) None of the services made available by
5 volunteers pursuant to this subsection shall be made
6 available to any person or small business concern
7 who is delinquent on a loan made pursuant to sec-
8 tion 7 of this Act or Title V of the Small Business
9 Investment Act of 1958 unless such assistance re-
10 lates solely to addressing the matter of the delin-
11 quency and a specific request is made in writing to
12 the volunteer (and a record of such communication
13 is maintained by the volunteer).

14 “(11) No payment for supportive services or re-
15 imbursement of out-of-pocket expenses made to per-
16 sons serving pursuant to this subsection shall be
17 subject to any tax or charge or be treated as wages
18 or compensation for the purposes of unemployment,
19 disability, retirement, public assistance, or similar
20 benefit payments, or minimum wage laws.

21 “(12) Under regulations which the Adminis-
22 trator shall prescribe, counsel may be employed and
23 counsel fees, court costs, bail, and other expenses in-
24 cidental to the defense of volunteers may be paid in
25 judicial or administrative proceedings arising directly

1 out of the performance of activities pursuant to this
2 subsection to which volunteers have been made par-
3 ties.

4 “(c) SMALL BUSINESS INSTITUTES.—In carrying out
5 its functions under this section, the Administrator may
6 make grants (including contracts or cooperative agree-
7 ments) to any public or private institution of higher edu-
8 cation for the establishment and operation of a small busi-
9 ness institute, which shall be used to provide business
10 counseling and assistance to small business concerns
11 through the activities of students enrolled at the institu-
12 tion, which students shall be entitled to receive educational
13 credits for their activities. To the extent practicable, the
14 Administrator shall select applicants that demonstrate the
15 best capability of serving small manufacturers.

16 “(d) BUSINESS GRANTS AND COOPERATIVE AGREE-
17 MENTS.—

18 “(1) IN GENERAL.—In accordance with this
19 subsection, the Administrator may make grants to
20 and enter into cooperative agreements with any coa-
21 lition of private entities, public entities, or any com-
22 bination of private and public entities—

23 “(A) to expand business-to-business rela-
24 tionships between large and small businesses
25 by—

1 “(i) identifying opportunities for small
2 business concerns located in areas of high
3 unemployment or low income;

4 “(ii) assisting small business concerns
5 and small manufacturers in finding oppor-
6 tunities to supply goods and services to
7 other businesses, particularly large busi-
8 nesses that have previously obtained such
9 goods and services from businesses located
10 outside of the United States; and

11 “(iii) providing such other assistance
12 as the Administrator may identify;

13 “(B) to maintain a database, to the extent
14 practicable, of supply chain management oppor-
15 tunities for small business concerns and small
16 manufacturers;

17 “(C) to provide businesses, directly or indi-
18 rectly, with online information and a database
19 of companies that are interested in mentor-pro-
20 tege programs or community-based, statewide,
21 or local business development programs; and

22 “(D) by providing businesses with informa-
23 tion on the best practices used by other busi-
24 ness concerns in establishing mentor-protege or
25 other business development programs.

1 “(2) MATCHING REQUIREMENT.—The Adminis-
2 trator may make a grant to a coalition under para-
3 graph (1) only if the coalition provides for activities
4 described in paragraph (1) an amount, either in
5 kind or in cash, equal to the grant amount.

6 “(3) DEFINITIONS.—For purposes of this sub-
7 section, the term ‘supply chain’ means a network of
8 facilities and distribution options that performs the
9 functions of procurement of materials, trans-
10 formation of these materials into intermediate and
11 furnished products, and distribution of the finished
12 products to customers.

13 “(4) AUTHORIZATION OF APPROPRIATIONS.—
14 There is authorized to be appropriated to carry out
15 this subsection \$10,000,000, to remain available
16 until expended, for each of fiscal years 2004 through
17 2005.”.

18 **SEC. 210. CONTRACTING ASSISTANCE; ETC.**

19 (a) CERTAIN DISAGREEMENTS SUBMITTED TO
20 OMB.—Section 15(a) of the Small Business Act (15
21 U.S.C. 644(a)) is amended by striking the sentence begin-
22 ning “Whenever the Administrator and the contracting
23 procurement agency fail to agree,” and inserting the fol-
24 lowing: “Whenever the Administration and the contracting
25 procurement agency fail to agree, the Administrator shall

1 submit the matter to the Director of the Office of Manage-
2 ment and Budget, who shall render his decision regarding
3 the matter not later than 10 days after receiving the mat-
4 ter. The Director may not delegate his duties under the
5 preceding sentence except to a subordinate official within
6 the Office of Management and Budget appointed by the
7 President, by and with the advice and consent of the Sen-
8 ate.”.

9 (b) PROGRAMS FOR BLIND AND HANDICAPPED INDI-
10 VIDUALS.—Section 15(c) of the Small Business Act (15
11 U.S.C. 644(c)) is amended to read as follows:

12 “(c) PROGRAMS FOR BLIND AND HANDICAPPED IN-
13 DIVIDUALS.—

14 “(1) As used in this subsection:

15 “(A) The term ‘Committee’ means the
16 Committee for Purchase From People Who Are
17 Blind or Severely Disabled established under
18 the first section of the Act entitled ‘An Act to
19 create a Committee on Purchases of Blind-
20 made Products, and for other purposes’, ap-
21 proved June 25, 1938 (41 U.S.C. 46).

22 “(B) The term ‘public or private organiza-
23 tion for the disabled’ means any organization—

24 “(i) which is organized under the laws
25 of the United States or of any State, oper-

1 ated in the interest of disabled individuals,
2 the net income of which does not inure in
3 whole or in part to the benefit of any
4 shareholder or other individual;

5 “(ii) which complies with any applica-
6 ble occupational health and safety pre-
7 scribed by the Secretary of Labor; and

8 “(iii) which in the production of com-
9 modities and in the provision of services
10 during any fiscal year employs disabled in-
11 dividuals for not less than 75 percent of
12 the man-hours required for the production
13 or provision of the commodities or services.

14 “(C) The term ‘disabled person’ means any
15 individual who—

16 “(i) is a service-disabled veteran; or

17 “(ii) has a disability (as defined in
18 section 3 of the Americans with Disabil-
19 ities Act of 1990) which limits such indi-
20 vidual’s selection of any type of employ-
21 ment for which such individual would oth-
22 erwise be qualified or qualifiable.

23 “(2) The Administrator shall evaluate the
24 placement of products on the procurement list main-
25 tained by the Committee pursuant to section 2 of

1 the Act entitled ‘An Act to create a Committee on
2 Purchases of Blind made Products, and for other
3 purposes’, approved June 25, 1938 (41 U.S.C. 47)
4 to determine the impact of such placement on for-
5 profit small business concerns.

6 “(3) The Administrator shall monitor and
7 evaluate the participation of public or private organi-
8 zations for the disabled in Federal procurement con-
9 tracts and shall annually report the results of such
10 monitoring and evaluation to the Committee on
11 Small Business of the House of Representatives and
12 the Committee on Small Business and Entrepre-
13 neurship of the Senate not later than March 31st of
14 each year. This report shall include the impact of
15 such participation on for-profit small business con-
16 cerns.

17 “(4)(A) Not later than 10 days after the an-
18 nouncement of a proposed award of a contract by an
19 agency or department to a public or private organi-
20 zation for the disabled, a for-profit small business
21 concern that has experienced or is likely to experi-
22 ence severe economic injury as the result of the pro-
23 posed award may file an appeal of the proposed
24 award with the Administrator.

1 “(B) If such a concern files an appeal of a pro-
2 posed award under subparagraph (A) and the Ad-
3 ministrator, after consultation with the Executive
4 Director of the Committee, finds that the concern
5 has experienced or is likely to experience severe eco-
6 nomic injury as the result of the proposed award,
7 not later than 30 days after the filing of the appeal,
8 the Administrator shall require each agency and de-
9 partment having procurement powers to take such
10 action as may be appropriate to alleviate economic
11 injury sustained or likely to be sustained by the con-
12 cern.

13 “(5) Each agency and department having pro-
14 curement powers shall report to the Office of Fed-
15 eral Procurement Policy each time a contract subject
16 to paragraph (2)(A) is entered into, and shall in-
17 clude in its report the amount of the next highest
18 bid submitted by a for-profit small business concern.
19 The Office of Federal Procurement Policy shall col-
20 lect data reported under the preceding sentence
21 through the Federal procurement data system and
22 shall report to the Administrator who shall notify all
23 such agencies and departments when the maximum
24 amount of awards authorized under paragraph
25 (2)(A) has been made during any fiscal year.

1 “(6) For the purposes of this subsection, a con-
2 tract may be awarded only if at least 75 percent of
3 the direct labor performed on each item being pro-
4 duced under the contract in the sheltered workshop
5 or performed in providing each type of service under
6 the contract by the sheltered workshop is performed
7 by disabled individuals.

8 “(7) Agencies awarding one or more contracts
9 to such an organization pursuant to the provisions
10 of this subsection may use multiyear contracts, if
11 appropriate.”.

12 (c) MINIMUM SOLICITATION PERIOD.—Section 15(e)
13 of the Small Business Act (15 U.S.C. 644(e)) is amended
14 by adding at the end the following new paragraph:

15 “(5) MINIMUM SOLICITATION PERIOD.—In the
16 case of a solicitation of offers for a bundled contract
17 that is issued by the head of an agency, small busi-
18 ness concerns shall be allowed to submit offers for
19 a period of not less than 60 days beginning on the
20 date the solicitation is issued.”.

21 (d) PROCUREMENT GOALS.—Section 15(g) of the
22 Small Business Act (15 U.S.C. 644(g)) is amended to read
23 as follows:

24 “(g)(1) The President shall before the close of
25 each fiscal year establish new Government-wide pro-

1 procurement goals for the following fiscal year for pro-
2 curement contracts awarded to small business con-
3 cerns, small business concerns owned and controlled
4 by service-disabled veterans, qualified HUBZone
5 small business concerns, small business concerns
6 owned and controlled by socially and economically
7 disadvantaged individuals, and small business con-
8 cerns owned and controlled by women. The Presi-
9 dent shall not simply readopt the preceding years
10 procurement goals. The Government-wide goal for
11 participation by small business concerns shall be es-
12 tablished at not less than 23 percent of the total
13 value of all prime contract awards for each fiscal
14 year. The Government-wide goal for participation by
15 small business concerns owned and controlled by
16 service-disabled veterans shall be established at not
17 less than 3 percent of the total value of all prime
18 contract and subcontract awards for each fiscal year.
19 The Government-wide goal for participation by
20 qualified HUBZone small business concerns shall be
21 established at not less than 3 percent of the total
22 value of all prime contract awards. The Government-
23 wide goal for participation by small business con-
24 cerns owned and controlled by socially and economi-
25 cally disadvantaged individuals shall be established

1 at not less than 5 percent of the total value of all
2 prime contract awards and not less than 5 percent
3 of the total value of all subcontract awards for each
4 fiscal year. The Government-wide goal for participa-
5 tion by small business concerns owned and con-
6 trolled by women shall be established at not less
7 than 5 percent of the total value of all prime con-
8 tract awards and not less than 5 percent of the total
9 value of all subcontract awards for each fiscal year.
10 Notwithstanding the Government-wide goal, each
11 agency shall have an annual goal that presents, for
12 that agency, the maximum practicable opportunity
13 for small business concerns, small manufacturers,
14 small business concerns owned and controlled by
15 service-disabled veterans, qualified HUBZone small
16 business concerns, small business concerns owned
17 and controlled by socially and economically disadvan-
18 taged individuals, small business concerns partici-
19 pating in the program established by section 8(a) of
20 this Act, and small business concerns owned and
21 controlled by women to participate in the perform-
22 ance of contracts let by such agency. For the pur-
23 poses of the preceding sentence, each agency is pro-
24 hibited from counting towards its procurement goal
25 for small business concerns owned and controlled by

1 socially and economically disadvantaged individuals
2 any contract awarded to small business concerns
3 participating in the program established pursuant to
4 section 8(a) of this Act. The Administrator and the
5 Administrator of the Office of Federal Procurement
6 Policy shall, when exercising their authority pursu-
7 ant to paragraph (2), insure that the cumulative an-
8 nual prime contract goals for all agencies meet or
9 exceed the annual Government-wide prime contract
10 goal established by the President pursuant to this
11 paragraph.

12 “(2) The head of each Federal agency shall,
13 after consultation with the Administrator, establish
14 goals for the participation by small business con-
15 cerns, small manufacturers, small business concerns
16 owned and controlled by service-disabled veterans,
17 qualified HUBZone small business concerns, small
18 business concerns owned and controlled by socially
19 and economically disadvantaged individuals, small
20 business concerns participating in the program es-
21 tablished pursuant to section 8(a) of this Act, and
22 small business concerns owned and controlled by
23 women in procurement contracts of such agency hav-
24 ing a value of \$25,000 or more. For the purposes
25 of the preceding sentence, each agency is prohibited

1 from counting towards its procurement goal for
2 small business concerns owned and controlled by so-
3 cially and economically disadvantaged individuals
4 any contract awarded to small business concerns
5 participating in the program established pursuant to
6 section 8(a) of this Act. Goals established under this
7 subsection shall be jointly established by the Admin-
8 istrator and the head of each Federal agency and
9 shall realistically reflect the potential of small busi-
10 ness concerns, small manufacturers, small business
11 concerns owned and controlled by service-disabled
12 veterans, qualified HUBZone small business con-
13 cerns, small business concerns owned and controlled
14 by socially and economically disadvantaged individ-
15 uals, small business concerns participating in the
16 program established pursuant to section 8(a) of this
17 Act, and small business concerns owned and con-
18 trolled by women to perform subcontracts under
19 such contracts. For the purposes of the preceding
20 sentence, each agency is prohibited from counting
21 towards its procurement goal for small business con-
22 cerns owned and controlled by socially and economi-
23 cally disadvantaged individuals any contract awarded
24 to small business concerns participating in the pro-
25 gram established pursuant to section 8(a) of this

1 Act. Whenever the Administrator and the head of
2 any Federal agency fail to agree on established
3 goals, the disagreement shall be submitted to the
4 Administrator of the Office of Federal Procurement
5 Policy for final determination. For the purpose of
6 establishing goals under this subsection, the head of
7 each Federal agency shall make consistent efforts to
8 annually expand participation by small business con-
9 cerns from each industry category in procurement
10 contracts of the agency, including participation by
11 small business concerns owned and controlled by
12 service-disabled veterans, qualified HUBZone small
13 business concerns, small business concerns owned
14 and controlled by socially and economically disadvan-
15 taged individuals, small business concerns partici-
16 pating in the program established pursuant to sec-
17 tion 8(a), small business concerns owned and con-
18 trolled by women, and small manufacturers. For the
19 purposes of the preceding sentence, each agency is
20 prohibited from counting towards its procurement
21 goal for small business concerns owned and con-
22 trolled by socially and economically disadvantaged
23 individuals any contract awarded to small business
24 concerns participating in the program established
25 pursuant to section 8(a) of this Act. The head of

1 each Federal agency, in attempting to attain such
2 participation, shall consider—

3 “(A) contracts awarded as the result of
4 unrestricted competition; and

5 “(B) contracts awarded after competition
6 restricted to eligible small business concerns
7 under this section and under the program es-
8 tablished under section 8(a).”.

9 (e) REPORTS.—Section 15(h) of the Small Business
10 Act (15 U.S.C. 644(h)) is amended to read as follows:

11 “(h)(1) At the conclusion of each fiscal year, the head
12 of each Federal agency shall report to the Administrator
13 on the extent of participation by small business concerns,
14 small manufacturers, small business concerns owned and
15 controlled by veterans (including service-disabled vet-
16 erans), qualified HUBZone small business concerns, small
17 business concerns owned and controlled by socially and
18 economically disadvantaged individuals, small business
19 concerns participating in the program established pursu-
20 ant to section 8(a) of this Act, and small business con-
21 cerns owned and controlled by women in procurement con-
22 tracts of such agency. Such reports shall contain appro-
23 priate justifications for failure to meet the goals estab-
24 lished under subsection (g) of this section. Additionally,
25 such reports shall contain sufficient justification if goals

1 established for the most recent fiscal year end were estab-
2 lished lower than the same goals for the previous fiscal
3 year.

4 “(2) The Administrator shall annually compile and
5 analyze the reports submitted by the individual agencies
6 pursuant to paragraph (1) and shall submit them to the
7 President and the Congress. The Administrator’s submis-
8 sion to the President shall include the following:

9 “(A) The Government-wide goals for participa-
10 tion by small business concerns, small business con-
11 cerns owned and controlled by service-disabled vet-
12 erans, qualified HUBZone small business concerns,
13 small business concerns owned and controlled by so-
14 cially and economically disadvantaged individuals,
15 small business concerns participating in the program
16 established pursuant to section 8(a) of this Act, and
17 small business concerns owned and controlled by
18 women and the performance in attaining such goals.

19 “(B) The goals in effect for each agency and
20 the agency’s performance in attaining such goals.

21 “(C) An analysis of any failure to achieve the
22 Government-wide goals or any individual agency
23 goals and the actions planned by such agency (and
24 approved by the Administrator) to achieve the goals
25 in the succeeding fiscal year.

1 “(D) The number and dollar value of prime
2 contracts awarded to small business concerns, small
3 manufacturers small business concerns owned and
4 controlled by service-disabled veterans, qualified
5 HUBZone small business concerns, small business
6 concerns owned and controlled by socially and eco-
7 nomically disadvantaged individuals, small business
8 concerns participating in the program established
9 pursuant to section 8(a) of this Act and small busi-
10 ness concerns owned and controlled by women. For
11 each agency and on a government-wide basis, num-
12 ber and dollar value of contracts issued through—

13 “(i) noncompetitive negotiation,

14 “(ii) competition restricted to small busi-
15 ness concerns owned and controlled by socially
16 and economically disadvantaged individuals

17 “(iii) competition restricted to small busi-
18 ness concerns participating in the program es-
19 tablished by section 8(a) of this Act,

20 “(iv) competition restricted to small busi-
21 ness concerns, and

22 “(v) unrestricted competitions.

23 “(E) The number and dollar value of sub-
24 contracts awarded to small business concerns, small
25 manufacturers, small business concerns owned and

1 controlled by service-disabled veterans, qualified
2 HUBZone small business concerns, small business
3 concerns owned and controlled by socially and eco-
4 nomically disadvantaged individuals, small business
5 concerns participating in the program established
6 pursuant to section 8(a) of this Act, and small busi-
7 ness concerns owned and controlled by women.

8 “(3) The President shall include the information re-
9 quired by paragraph (2) in each annual report to the Con-
10 gress on the state of small business prepared pursuant to
11 section 303(a) of the Small Business Economic Policy Act
12 of 1980 (15 U.S.C. 631b(a)).

13 “(4) For the purpose of this subsection, the term
14 ‘small disadvantaged business’ means any small business
15 concern that is certified as a ‘small disadvantaged busi-
16 ness’ by the Administrator.”.

17 (f) RESTRICTED COMPETITION.—Section 15(j) of the
18 Small Business Act (15 U.S.C. 644(j)) is amended to read
19 as follows:

20 “(j)(1) Each contract for the purchase of goods and
21 services that has an anticipated value greater than \$2,500
22 but not greater than \$1,000,000 shall be reserved exclu-
23 sively for small business concerns unless the contracting
24 officer is unable to obtain offers from two or more small
25 business concerns that are competitive with market prices

1 and are competitive with regard to the quality and delivery
2 of the goods or services being purchased.

3 “(2) In carrying out paragraph (1), a contracting of-
4 ficer shall consider a responsive offer timely received from
5 an eligible small business offeror.

6 “(3) Nothing in paragraph (1) shall be construed as
7 precluding an award of a contract with a value not greater
8 than \$1,000,000 under the authority of section 8(a) of
9 this Act, section 2323 of title 10, United States Code, sec-
10 tion 712 of the Business Opportunity Development Re-
11 form Act of 1988 (Public Law 100-656; 15 U.S.C. 644
12 note), or section 7102 of the Federal Acquisition Stream-
13 lining Act of 1994.”.

14 (g) ASSIGNMENT OF PROCUREMENT CENTER REP-
15 REPRESENTATIVES.—Section 15(l) of the Small Business Act
16 (15 U.S.C. 644(l)) is amended to read as follows:

17 “(l)(1) The Administrator shall assign to each major
18 procurement center a procurement center representative
19 with such assistance as may be appropriate. The procure-
20 ment center representative shall carry out the activities
21 described in paragraph (2), and shall be an advocate for
22 the breakout of items for procurement through full and
23 open competition, whenever appropriate, while maintain-
24 ing the integrity of the system in which such items are
25 used, and an advocate for the use of full and open competi-

1 tion, whenever appropriate, for the procurement of sup-
2 plies and services by such center. Any procurement center
3 representative assigned under this subsection shall be in
4 addition to the representative referred to in subsection
5 (k)(6).

6 “(2) A procurement center representative is author-
7 ized to—

8 “(A) work directly with small businesses to
9 counsel them on the Federal market and contracting
10 with the Federal Government;

11 “(B) identify Federal agency buyers of small
12 business products and services;

13 “(C) attend any provisioning conference or
14 similar evaluation session during which determina-
15 tions are made as to whether requirements are to be
16 procured through other than full and open competi-
17 tion and make recommendations with respect to
18 such requirements to the members of such con-
19 ference or session;

20 “(D) review, at any time, restrictions on com-
21 petition previously imposed on items through acqui-
22 sition method coding or similar procedures, and rec-
23 ommend to personnel of the appropriate activity the
24 prompt reevaluation of such limitations;

1 “(E) review restrictions on competition arising
2 out of restrictions on the rights of the United States
3 in technical data, and, when appropriate, recommend
4 that personnel of the appropriate activity initiate a
5 review of the validity of such an asserted restriction;

6 “(F) obtain from any governmental source, and
7 make available to personnel of the appropriate activ-
8 ity, technical data necessary for the preparation of
9 a competitive solicitation package for any item of
10 supply or service previously procured noncompeti-
11 tively due to the unavailability of such technical
12 data;

13 “(G) have access to procurement records and
14 other data of the procurement center commensurate
15 with the level of such representative’s approved secu-
16 rity clearance classification;

17 “(H) receive unsolicited engineering proposals
18 and, when appropriate—

19 “(i) conduct a value analysis of such pro-
20 posal to determine whether such proposal, if
21 adopted, will result in lower costs to the United
22 States without substantially impeding legitimate
23 acquisition objectives and forward to personnel
24 of the appropriate activity recommendations
25 with respect to such proposal, or

1 “(ii) forward such proposals without anal-
2 ysis to personnel of the activity responsible for
3 reviewing such proposals and who shall furnish
4 the breakout procurement center representative
5 with information regarding the disposition of
6 any such proposal; and

7 “(iii) review the systems that account for
8 the acquisition and management of technical
9 data within the procurement center to assure
10 that such systems provide the maximum avail-
11 ability and access to data needed for the prepa-
12 ration of offers to sell to the United States
13 those supplies to which such data pertain which
14 potential offerors are entitled to receive.

15 “(3) A procurement center representative is author-
16 ized to appeal the failure to act favorably on any rec-
17 ommendation made pursuant to paragraph (2). Such ap-
18 peal shall be filed and processed in the same manner and
19 subject to the same conditions and limitations as an ap-
20 peal filed by the Administrator pursuant to subsection (a).

21 “(4) The Administrator shall assign and co-locate at
22 least two small business technical advisers to each major
23 procurement center in addition to such other advisers as
24 may be authorized from time to time. The sole duties of
25 such advisers shall be to assist the procurement center

1 representative for the center to which such advisers are
2 assigned in carrying out the functions described in para-
3 graph (2) and the representatives referred to in subsection
4 (k)(6).

5 “(5)(A) The procurement center representatives and
6 technical advisers assigned pursuant to this subsection
7 shall be—

8 “(i) full-time employees of the Administration;
9 and

10 “(ii) fully qualified, technically trained, and fa-
11 miliar with the supplies and services procured by the
12 major procurement center to which they are as-
13 signed.

14 “(B) In addition to the requirements of subparagraph
15 (A), each procurement center representative, and at least
16 one technical adviser assigned to such representative, shall
17 be an accredited engineer.

18 “(C) The Administrator shall establish personnel po-
19 sitions for procurement representatives and advisers as-
20 signed pursuant to this subsection which are classified at
21 a grade level of the General Schedule sufficient to attract
22 and retain highly qualified personnel.

23 “(6) For purposes of this subsection, the term ‘major
24 procurement center’ means a procurement center that, in
25 the opinion of the Administrator, purchases substantial

1 dollar amounts of other than commercial items and which
2 has the potential to incur significant savings as the result
3 of the placement of a procurement center representative.

4 “(7)(A) At such times as the Administrator deems
5 appropriate, the procurement center representative shall
6 conduct familiarization sessions for contracting officers
7 and other appropriate personnel of the procurement center
8 to which such representative is assigned. Such sessions
9 shall acquaint the participants with the provisions of this
10 subsection and shall instruct them in methods designed
11 to further the purposes of such subsection.

12 “(B) The procurement center representative shall
13 prepare and personally deliver an annual briefing and re-
14 port to the head of the procurement center to which such
15 representative is assigned. Such briefing and report shall
16 detail the past and planned activities of the representative
17 and shall contain such recommendations for improvement
18 in the operation of the center as may be appropriate. The
19 head of such center shall personally receive such briefing
20 and report and shall, within sixty calendar days after re-
21 ceipt, respond, in writing, to each recommendation made
22 by such representative.”.

23 (h) OTHER DUTIES OF ADMINISTRATOR.—Section
24 15 of the Small Business Act (15 U.S.C. 644) is amended
25 by adding at the end the following new subsection:

1 “(q)(1) The Administrator shall obtain information
2 as to methods and practices which Government prime con-
3 tractors utilize in letting subcontracts and to take action
4 to encourage the letting of subcontracts by prime contrac-
5 tors to small business concerns and small manufacturers
6 at prices and on conditions and terms which are fair and
7 equitable.

8 “(2) The Administrator shall determine within any
9 industry the concerns, firms, persons, corporations, part-
10 nerships, cooperatives, or other business enterprises which
11 are to be designated as small business concerns or small
12 manufacturers for the purpose of effectuating the provi-
13 sions of this Act. To carry out this purpose the Adminis-
14 trator, when requested to do so, shall issue in response
15 to each such request an appropriate certificate certifying
16 an individual concern as a small business concern or small
17 manufacturer in accordance with criteria expressed in this
18 Act. Any such certificate shall be subject to revocation
19 when the concern covered thereby ceases to be a small
20 business concern or small manufacturer. Offices of the
21 Government having procurement or lending powers, or en-
22 gaging in the disposal of Federal property or allocating
23 materials or supplies, or promulgating regulations affect-
24 ing the distribution of materials or supplies, shall accept
25 as conclusive the Administration’s determination as to

1 which enterprises are to be designated as small business
2 concerns or small manufacturers, as authorized and di-
3 rected under this paragraph.

4 “(3)(A) The Administration shall certify to Govern-
5 ment procurement officers, and officers engaged in the
6 sale and disposal of Federal property, with respect to all
7 elements of responsibility, including, but not limited to,
8 capability, competency, capacity, credit, integrity, perse-
9 verance, and tenacity, of any small business concern or
10 group of such concerns to receive and perform a specific
11 Government contract. A Government procurement officer
12 or an officer engaged in the sale and disposal of Federal
13 property may not, for any reason specified in the pre-
14 ceding sentence, preclude any small business concern or
15 group of such concerns from being awarded such contract
16 without referring the matter for a final disposition to the
17 Administration.

18 “(B) If a Government procurement officer finds that
19 an otherwise qualified small business concern may be ineli-
20 gible due to the provisions of section 35(a) of title 41,
21 United States Code (the Walsh-Healey Public Contracts
22 Act), he shall notify the Administration in writing of such
23 finding. The Administration shall review such finding and
24 shall either dismiss it and certify the small business con-
25 cern to be an eligible Government contractor for a specific

1 Government contract or if it concurs in the finding, for-
2 ward the matter to the Secretary of Labor for final dis-
3 position, in which case the Administration may certify the
4 small business concern only if the Secretary of Labor finds
5 the small business concern not to be in violation.

6 “(C) In any case in which a small business concern
7 or group of such concerns has been certified by the Admin-
8 istration pursuant to (A) or (B) to be a responsible or
9 eligible Government contractor as to a specific Govern-
10 ment contract, the officers of the Government having pro-
11 curement or property disposal powers are directed to ac-
12 cept such certification as conclusive, and shall let such
13 Government contract to such concern or group of concerns
14 without requiring it to meet any other requirement of re-
15 sponsibility or eligibility. Notwithstanding the first sen-
16 tence of this subparagraph, the Administration may not
17 establish an exemption from referral or notification or
18 refuse to accept a referral or notification from a Govern-
19 ment procurement officer made pursuant to subparagraph
20 (A) or (B) of this paragraph, but nothing in this para-
21 graph shall require the processing of an application for
22 certification if the small business concern to which the re-
23 ferral pertains declines to have the application processed.

24 “(4) The Administrator shall obtain from any Fed-
25 eral department, establishment, or agency engaged in pro-

1 curement or in the financing of procurement or production
2 such reports concerning the letting of contracts and sub-
3 contracts and the making of loans to business concerns
4 as it may deem pertinent in carrying out its functions
5 under this Act.

6 “(5) The Administrator shall obtain from any Fed-
7 eral department, establishment, or agency engaged in the
8 disposal of Federal property such reports concerning the
9 solicitation of bids, time of sale, or otherwise as it may
10 deem pertinent in carrying out its functions under this
11 Act.

12 “(6) The Administrator shall obtain from suppliers
13 of materials information pertaining to the method of fill-
14 ing orders and the bases for allocating their supply, when-
15 ever it appears that any small business is unable to obtain
16 materials from its normal sources.

17 “(7) The Administrator shall make studies and rec-
18 ommendations to the appropriate Federal agencies to in-
19 sure that a fair proportion of the total purchases and con-
20 tracts for property and services for the Government be
21 placed with small-business enterprises, to insure that a
22 fair proportion of Government contracts for research and
23 development be placed with small-business concerns, to in-
24 sure that a fair proportion of the total sales of Govern-
25 ment property be made to small-business concerns, and

1 to insure a fair and equitable share of materials, supplies,
2 and equipment to small-business concerns.

3 “(8) The Administrator shall consult and cooperate
4 with all Government agencies for the purpose of insuring
5 that small-business concerns shall receive fair and reason-
6 able treatment from such agencies.”

7 (i) FEDERAL PROCUREMENT DATA SYSTEM.—Sec-
8 tion 15 of the Small Business Act (15 U.S.C. 644) is fur-
9 ther amended by adding at the end the following new sub-
10 section:

11 “(r) The Administrator shall work with the Adminis-
12 trator of the General Services Administration to establish
13 within the data collection capabilities of the Federal Pro-
14 curement Data System a data element capable of identi-
15 fying contract awards made as a result of Section 7102(c)
16 of the Federal Acquisition Streamlining Act of 1994 (Pub-
17 lic Law 103–355; 15 U.S.C. 644 note) and Section
18 31(B)(3) of this Act. Such data element shall be estab-
19 lished and populated by Federal agencies awarding con-
20 tracts as a result of Section 7102(c) of the Federal Acqui-
21 sition Streamlining Act of 1994 (Public Law 103-355; 15
22 U.S.C. 644 note) and Section 31(B)(3) of this Act within
23 90 days of the enactment of this Act.”

24 (j) PRIORITY OF SMALL BUSINESS PROCUREMENT
25 PREFERENCES.—Section 15 of the Small Business Act

1 (15 U.S.C. 644) is further amended by adding at the end
2 the following new subsection:

3 “(s) PRIORITY OF SMALL BUSINESS PROCUREMENT
4 PREFERENCES.—

5 “(1) IN GENERAL.—A contracting officer may
6 not make a procurement from a source on the basis
7 of a preference provided under any provision of this
8 Act referred to in paragraph (2) unless the con-
9 tracting officer has determined that such procure-
10 ment cannot be made on the basis of a preference
11 provided under another provision of this Act with a
12 higher priority under such subsection.

13 “(2) ORDER OF PRIORITY.—For purposes of
14 this subsection, the following provisions of this Act
15 are listed in order of priority from highest to lowest:

16 “(A) Section 8(a).

17 “(B) Section 31(b)(2)(B).

18 “(C) Section 31(b)(2)(A).

19 “(D) Section 8(m).

20 “(3) PRIORITY OF CERTAIN OTHER PROCURE-
21 MENT PREFERENCES.—A procurement may not be
22 made from a source on the basis of a preference pro-
23 vided under any provision of this Act referred to in
24 paragraph (2) if the procurement would otherwise be
25 made from a different source under section 4124 or

1 4125 of title 18, United States Code, or the Act en-
2 titled ‘An Act to create a Committee on Purchases
3 of Blind made Products, and for other purposes’,
4 approved June 25, 1938 (41 U.S.C. 47).”.

5 (k) PROCUREMENT PROGRAM FOR VERY SMALL
6 BUSINESS CONCERNS.—Section 15 of the Small Business
7 Act (15 U.S.C. 644) is further amended by adding at the
8 end the following new subsection:

9 “(t) PROCUREMENT PROGRAM FOR VERY SMALL
10 BUSINESS CONCERNS.—

11 “(1) ESTABLISHMENT.—The Administrator
12 shall establish and carry out a program in accord-
13 ance with the requirements of this subsection to pro-
14 vide improved access to Federal contract opportuni-
15 ties for very small business concerns.

16 “(2) PROCUREMENT CONTRACTS.—

17 “(A) IDENTIFICATION OF CONTRACTS.—
18 The Administrator shall identify procurement
19 contracts of Federal agencies for award under
20 the program.

21 “(B) CONTRACT AWARDS.—Under the pro-
22 gram established pursuant to this subsection,
23 the award of a procurement contract of a Fed-
24 eral agency identified by the Administrator pur-
25 suant to subparagraph (A) shall be made by the

1 agency to a very small business concern se-
2 lected, and determined to be responsible, by the
3 agency.

4 “(C) COMPETITION.—All contract opportu-
5 nities offered for award under the program
6 shall be awarded on the basis of competition
7 among very small business concerns. A con-
8 tracting officer may rely in good faith on a
9 written certification that a small business con-
10 cern is a very small business concern.

11 “(3) FINANCIAL ASSISTANCE.—In order to as-
12 sist very small business concerns receiving contract
13 awards under the program, the Administrator shall
14 establish a preauthorization program for such con-
15 cerns for the purpose of receiving financial assist-
16 ance under section 7(a).

17 “(4) VERY SMALL BUSINESS CONCERN.—For
18 purposes of this subsection, the term ‘very small
19 business concern’ means a small business concern
20 that has not more than 15 employees and—

21 “(A) in the case of a small manufacturer,
22 annual gross receipts of not more than
23 \$2,000,000; or

24 “(B) in any other case, annual gross re-
25 ceipts of not more than \$500,000.

1 “(5) REGULATIONS.—The Administrator
2 shall—

3 “(A) issue proposed regulations to carry
4 out this subsection not later than 180 days
5 after the date of enactment of this subsection;
6 and

7 “(B) issue final regulations to carry out
8 this subsection not later than 270 days after
9 the date of enactment of this subsection.”.

10 (l) OTHER AMENDMENTS TO SECTION 15.—

11 (1) Section 15(e)(1) of the Small Business Act
12 (15 U.S.C. 644(e)(1)) is amended by inserting “in
13 the following order” after “concerns”.

14 (2) Section 15(e)(4) of the Small Business Act
15 (15 U.S.C. 644(e)(4)) is amended by striking “bun-
16 dled”.

17 (3) Section 15(k)(9) of the Small Business Act
18 (15 U.S.C. 644(k)(9)) is amended by striking “Ad-
19 ministration” and inserting “Administrator”.

20 (4) Section 15(p)(4)(A) of the Small Business
21 Act (15 U.S.C. 644(p)(4)(A)) is amended by strik-
22 ing “Administration” and inserting “Adminis-
23 trator”.

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
6 thereafter, there are authorized to be appropriated such
7 sums as may be necessary and appropriate, to remain
8 available 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
11 exceed the annual funding level, as specified in sec-
12 tion 21(j)(7);

13 “(B) to pay the expenses of the National Small
14 Business Development Center Advisory Board, as
15 provided in section 21(m)(1);

16 “(C) to pay the expenses of the information
17 sharing 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
2 rentals, or other amounts due under qualified contracts
3 and other types of financial assistance and enter into com-
4 mitments to purchase debentures and preferred securities
5 and to guarantee sureties against loss pursuant to pro-
6 grams under this Act and the Small Business Investment
7 Act of 1958, in the full amounts provided by law subject
8 only to—

9 “(i) the availability of qualified applications;
10 and

11 “(ii) limitations contained in appropriations
12 Acts.

13 “(B) Nothing in this paragraph authorizes the Ad-
14 ministrator to reduce or limit its authority to enter into
15 such commitments.

16 “(3) Subject to approval in appropriations Acts,
17 amounts authorized for preferred securities, debentures or
18 participating securities under title III of the Small Busi-
19 ness Investment Act of 1958 may be obligated in one fiscal
20 year and disbursed or guaranteed in any 1 or more of the
21 4 subsequent fiscal years.

22 “(4) The amount of deferred participation loans au-
23 thorized in this section—

24 “(A) shall mean the net amount of the loan
25 principal guaranteed by the Administrator (and does

1 not include any amount which is not guaranteed);
2 and

3 “(B) shall be available for a national program,
4 except as otherwise provided in section 7(a).

5 “(b) There are authorized to be appropriated to the
6 Administration for each fiscal year such sums as may be
7 necessary to carry out the provisions of this Act and the
8 Small Business Investment Act of 1958. There also are
9 hereby authorized to be appropriated such sums as may
10 be necessary and appropriate for the carrying out of the
11 provisions and purposes, including administrative ex-
12 penses, of sections 7(b) of this Act; and there are author-
13 ized to be transferred from such sums as may be necessary
14 and appropriate for such administrative expenses.

15 “(c) FISCAL YEAR 2004.—

16 “(1) PROGRAM LEVELS.—The following pro-
17 gram levels are authorized for fiscal year 2004:

18 “(A) For the programs authorized by this
19 Act, the Administrator is authorized to make—

20 “(i) \$70,000,000 in technical assist-
21 ance grants, as provided in section 7(m);
22 and

23 “(ii) \$100,000,000 in direct loans, as
24 provided in section 7(m).

1 “(B) For the programs authorized by this
2 Act, the Administrator is authorized to make
3 \$22,000,000,000 in deferred participation loans
4 and other financings. Of such sum, the Admin-
5 istration is authorized to make—

6 “(i) \$16,000,000,000 in general busi-
7 ness loans as provided in section 7(a);

8 “(ii) \$5,500,000 in financings as pro-
9 vided in section 7(a)(13) of this Act and
10 section 504 of the Small Business Invest-
11 ment Act of 1958; and

12 “(iii) \$500,000,000 in loans as pro-
13 vided in section 7(a)(21).

14 “(C) For the programs authorized by title
15 III of the Small Business Investment Act of
16 1958, the Administrator is authorized to
17 make—

18 “(i) \$5,000,000,000 in purchases of
19 participating securities; and

20 “(ii) \$4,000,000,000 in guarantees of
21 debentures.

22 “(D) For the programs authorized by part
23 B of title IV of the Small Business Investment
24 Act of 1958, the Administration is authorized
25 to enter into guarantees not to exceed

1 \$6,000,000,000, of which not more than 50
2 percent may be in bonds approved pursuant to
3 section 411(a)(3) of that Act.

4 “(E) There is authorized to be appro-
5 priated \$7,000,000 to carry out section 12(b).

6 “(2) ADDITIONAL AUTHORIZATIONS.—

7 “(A) There are authorized to be appro-
8 priated to the Administration for fiscal year
9 2004 such sums as may be necessary to carry
10 out this Act not elsewhere provided for, includ-
11 ing administrative expenses and necessary loan
12 capital for disaster loans pursuant to section
13 7(b), and to carry out the Small Business In-
14 vestment Act of 1958, including salaries and
15 expenses of the Administration.

16 “(B) Notwithstanding any other provision
17 of this paragraph, for fiscal year 2004—

18 “(i) no funds are authorized to be
19 provided to carry out the loan program au-
20 thorized by section 7(a)(21) except by
21 transfer from another Federal department
22 or agency to the Administration, unless the
23 program level authorized for general busi-
24 ness loans under paragraph (1)(B)(i) is
25 fully funded; and

1 “(ii) the Administrator may not ap-
2 prove loans on behalf of the Administra-
3 tion or on behalf of any other department
4 or agency, by contract or otherwise, under
5 terms and conditions other than those spe-
6 cifically authorized under this Act or the
7 Small Business Investment Act of 1958,
8 except that he may approve loans under
9 section 7(a)(21) of this Act in gross
10 amounts of not more than \$1,250,000.

11 “(d) FISCAL YEAR 2005.—

12 “(1) PROGRAM LEVELS.—The following pro-
13 gram levels are authorized for fiscal year 2005:

14 “(A) For the programs authorized by this
15 Act, the Administrator is authorized to make—

16 “(i) \$75,000,000 in technical assist-
17 ance grants as provided in section 7(m);
18 and

19 “(ii) \$105,000,000 in direct loans, as
20 provided in section 7(m).

21 “(B) For the programs authorized by this
22 Act, the Administrator is authorized to make
23 \$23,000,000,000 in deferred participation loans
24 and other financings. Of such sum, the Admin-
25 istration is authorized to make—

1 “(i) \$16,500,000,000 in general busi-
2 ness loans as provided in section 7(a);

3 “(ii) \$6,000,000,000 in financings as
4 provided in section 7(a)(13) of this Act
5 and section 504 of the Small Business In-
6 vestment Act of 1958; and

7 “(iii) \$500,000,000 in loans as pro-
8 vided in section 7(a)(21).

9 “(C) For the programs authorized by title
10 III of the Small Business Investment Act of
11 1958, the Administration is authorized to
12 make—

13 “(i) \$5,500,000,000 in purchases of
14 participating securities; and

15 “(ii) \$4,500,000,000 in guarantees of
16 debentures.

17 “(D) For the programs authorized by part
18 B of title IV of the Small Business Investment
19 Act of 1958, the Administration is authorized
20 to enter into guarantees not to exceed
21 \$6,000,000,000, of which not more than 50
22 percent may be in bonds approved pursuant to
23 section 411(a)(3) of that Act.

24 “(E) There is authorized to be appro-
25 priated \$7,000,000 to carry out section 12(b).

1 “(2) ADDITIONAL AUTHORIZATIONS.—

2 “(A) There are authorized to be appro-
3 priated to the Administration for fiscal year
4 2005 such sums as may be necessary to carry
5 out this Act not elsewhere provided for, includ-
6 ing administrative expenses and necessary loan
7 capital for disaster loans pursuant to section
8 7(b), and to carry out the Small Business In-
9 vestment Act of 1958, including salaries and
10 expenses of the Administration.

11 “(B) Notwithstanding any other provision
12 of this paragraph, for fiscal year 2005—

13 “(i) no funds are authorized to be
14 provided to carry out the loan program au-
15 thorized by section 7(a)(21) except by
16 transfer from another Federal department
17 or agency to the Administration, unless the
18 program level authorized for general busi-
19 ness loans under paragraph (1)(B)(i) is
20 fully funded; and

21 “(ii) the Administrator may not ap-
22 prove loans on behalf of the Administra-
23 tion or on behalf of any other department
24 or agency, by contract or otherwise, under
25 terms and conditions other than those spe-

1 cifically authorized under this Act or the
2 Small Business Investment Act of 1958,
3 except that he may approve loans under
4 section 7(a)(21) of this Act in gross
5 amounts of not more than \$1,250,000.”.

6 **SEC. 212. SMALL BUSINESS DEVELOPMENT CENTERS.**

7 (a) IN GENERAL.—Section 21 of the Small Business
8 Act (15 U.S.C. 648) is amended to read as follows:

9 **“SEC. 21. SMALL BUSINESS DEVELOPMENT CENTER PRO-**
10 **GRAM.**

11 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-
12 trator is authorized to make grants to any eligible appli-
13 cant to establish the network of small business develop-
14 ment centers proposed in the plan submitted by such ap-
15 plicant under subsection (b).

16 “(b) SELECTION OF GRANTEES.—

17 “(1) APPLICATION.—An eligible applicant may
18 apply for a grant under subsection (a) by submitting
19 to the Administrator for approval a plan for estab-
20 lishing a network of small business development cen-
21 ters.

22 “(2) SELECTION.—The Administrator shall se-
23 lect the applicant that demonstrates it has the budg-
24 etary and other resources to ensure that it will pro-
25 vide the most comprehensive and coordinated assist-

1 ance throughout the State. The Administrator shall
2 require the grantee to have a separate budget for
3 the purpose of operating its network of small busi-
4 ness development centers and to primarily utilize in-
5 stitutions of higher education and women’s business
6 centers operating pursuant to section 29 to provide
7 for the operation of the small business development
8 centers. The Administrator may approve, condi-
9 tionally approve, or reject, a plan or combination of
10 plans submitted under this section. The Adminis-
11 trator may not delegate the authority to select
12 grantees under this section except to the Deputy Ad-
13 ministrators.

14 “(3) LIMITATION BY STATE.—

15 “(A) IN GENERAL.—Except as otherwise
16 provided in this paragraph, the Administrator
17 shall select one grantee from each State to
18 serve the entire State.

19 “(B) UNAVAILABILITY EXCEPTION.—The
20 Administrator may select 2 grantees to serve a
21 State if no eligible applicant submits an appli-
22 cation to serve the entire State. With respect to
23 any such State, the Administrator, at the end
24 of the 2-year period beginning on the date of
25 the selection of such grantees, shall seek appli-

1 cations under this subsection for the purpose of
2 replacing such grantees with a single grantee to
3 serve the entire State.

4 “(C) HISTORICAL EXCEPTION.—Subpara-
5 graph (A) shall not apply with respect to any
6 State if multiple grantees served such State
7 during calendar year 2000 or 2001.

8 “(D) CERTAIN TERRITORIES.—In the case
9 that no eligible applicant from a qualified terri-
10 tory applies for a grant under this section, the
11 Administrator may select a grantee from any
12 State to serve such qualified territory. For pur-
13 poses of the preceding sentence, the term ‘quali-
14 fied territory’ means Guam, the United States
15 Virgin Islands, American Samoa, and the Com-
16 monwealth of the Northern Mariana Islands.

17 “(4) ELIGIBLE APPLICANT.—For purposes of
18 this section, the term ‘eligible applicant’ means—

19 “(A) any institution of higher education;

20 “(B) any women’s business center oper-
21 ating pursuant to section 29; or

22 “(C) in the case of an entity that was re-
23 ceiving a grant under this section on December
24 31, 1990, any of the following:

1 “(i) Any State government or any
2 agency thereof.

3 “(ii) Any regional entity.

4 “(iii) Any State-chartered develop-
5 ment, credit or finance corporation.

6 “(iv) Any entity formed by two or
7 more of the entities described in this para-
8 graph.

9 “(5) REQUIREMENT TO SEEK APPLICATIONS.—

10 If for any reason a grant under this section is termi-
11 nated or not renewed, the Administrator shall seek
12 applications from eligible applicants with respect to
13 such grant.

14 “(c) GRANT PROVISIONS.—

15 “(1) AGREEMENT BETWEEN GRANTEE AND AD-
16 MINISTRATOR.—The Administrator and the grantee
17 shall jointly develop, negotiate, and agree upon the
18 terms and conditions of the grant. The grantee shall
19 also consult with the district office or offices within
20 the State to determine the special services and as-
21 sistance that are needed by the community or com-
22 munities served by the grantee’s small business de-
23 velopment centers.

24 “(2) REQUIREMENTS.—Each grant shall—

1 “(A) allow the grantee to serve portions of
2 the State by subcontracting the operation of a
3 small business development center to another
4 entity, provided that such small business devel-
5 opment centers shall, to the extent feasible, be
6 located at institutions of higher education or
7 Women’s Business Centers established pursuant
8 to section 29 of this Act;

9 “(B) ensure that the grantee provides serv-
10 ices as close as possible to small business con-
11 cerns by providing extension services and uti-
12 lizing satellite facilities, including those of any
13 subcontractor;

14 “(C) ensure that the grantee provides fa-
15 cilities and staff for each small business devel-
16 opment center to provide maximum accessibility
17 and benefit to small business concerns;

18 “(D) ensure that the grantee is utilizing
19 the resources of other Federal agencies in pro-
20 viding the services and assistance set forth in
21 subsection (f);

22 “(E) allow the grantee to enter into a con-
23 tract described in subsection (g)(2).

24 “(3) PROHIBITION ON DELEGATION TO DIS-
25 TRICT OFFICES.—The Administrator shall not dele-

1 gate any authority under paragraph (1) to any em-
2 ployee of the Administration located in a regional or
3 district office.

4 “(4) FORM OF GRANT AGREEMENTS.—For pur-
5 poses of this section, the term ‘grant’ includes any
6 contract or cooperative agreement.

7 “(5) PROHIBITION ON CERTAIN GRANT RE-
8 QUIREMENTS.—The Administrator shall not require,
9 and a grant agreement shall not include a require-
10 ment, that the grantee serve a particular number of
11 small business concerns with respect to loans under
12 section 7 of this Act or title V of the Small Business
13 Investment Act of 1958.

14 “(d) TERM, RENEWAL, AND TERMINATION OF
15 GRANTS.—

16 “(1) TERM OF GRANTS.—Each grant made
17 under this section shall be made on the basis of a
18 calendar year or the Federal fiscal year, as deter-
19 mined by the Administrator.

20 “(2) AUTOMATIC RENEWAL.—Unless the Ad-
21 ministrator for cause terminates the grant or the
22 grantee decides not to seek renewal of the grant, the
23 Administrator and the grantee shall renew the
24 agreement and may make mutually satisfactory
25 modifications to the agreement. The renewal shall

1 take effect on the date of termination of the old
2 agreement.

3 “(3) STANDARDS FOR TERMINATION.—After
4 the opportunity for notice and comment and con-
5 sultation with the association authorized by sub-
6 section (k), the Administrator shall promulgate
7 standards for determining when cause exists to ter-
8minate a grantee. Such standards shall be codified
9 in the Code of Federal Regulations and shall take
10 into account the grantee’s compliance with the
11 standards set forth in the grant agreement, any
12 budgetary restrictions faced by the grantee, the
13 overall economic climate in the State served by the
14 grantee, and the accreditation of the grantee’s small
15 business development centers (whether operated by
16 the grantee or through a subcontractor) under the
17 program established pursuant to subsection (l).

18 “(4) NOTICE OF TERMINATION.—If the Admin-
19 istrator determines that cause exists to terminate a
20 grant agreement under this section, the Adminis-
21 trator shall provide the grantee with written notifi-
22 cation setting forth the reasons therefore and afford-
23 ing the applicant an opportunity for a hearing pur-
24 suant to section 554 of title 5, United States Code.

1 “(e) MANAGEMENT OF SMALL BUSINESS DEVELOP-
2 MENT CENTERS BY GRANTEES.—

3 “(1) APPOINTMENT OF GRANTEE DIRECTOR.—

4 Each Grantee shall appoint a full-time director to
5 oversee the operations of the grant, the subcontractors
6 to the grantee, and the small business develop-
7 ment centers operated by the grantee. The grantee’s
8 director shall be responsible for accounting for any
9 Federal funds used by the grantee to carry out the
10 requirements of this section. The grantee shall have
11 the sole discretion of selecting the director without
12 requiring the approval of the Administrator, except
13 that the Administrator may terminate the employ-
14 ment of the grantee’s director if the Administrator
15 determines that the grantee’s director is unfit for
16 the position because of a prior conviction for a fel-
17 ony.

18 “(2) SMALL BUSINESS DEVELOPMENT CENTER
19 STAFF.—Each small business development center
20 shall have a staff, which shall be full-time, part-time,
21 or on a contract basis, as the grantee may deter-
22 mine.

23 “(3) EXPENDITURES.—Expenditures of funds
24 by the grantee shall not require the approval of the
25 Administrator except that the Administrator may

1 prohibit an expenditure using Federal funds if, after
2 consultation with the General Counsel of the Admin-
3 istration, the Administrator determines that such ex-
4 penditure violates Federal law.

5 “(f) SERVICES PROVIDED BY THE GRANTEE
6 THROUGH SMALL BUSINESS DEVELOPMENT CENTERS.—

7 “(1) IN GENERAL.—Each grantee and its sub-
8 contractors shall assist small business concerns in
9 solving problems concerning operations, manufac-
10 turing, engineering, technology exchange and devel-
11 opment, personnel administration, marketing, sales,
12 merchandising, finance, accounting, business strat-
13 egy development, and other disciplines required for
14 small business growth and expansion, innovation, in-
15 creased productivity, and management improvement,
16 and for decreasing industry economic concentrations.
17 Small Business Development Centers shall, in pro-
18 viding assistance to small manufacturers, coordinate
19 such assistance and utilize the resources of the Man-
20 ufacturing Extension Partnership of the National
21 Institutes of Standards and Technology.

22 “(2) PERIODIC MODIFICATION.—Each grantee
23 or its subcontractors shall continue to upgrade and
24 modify its services, as needed, in order to meet the
25 changing and evolving needs of the small business

1 community and those of small manufacturers in par-
2 ticular.

3 “(3) ACCESS TO PROFESSIONALS.—Each grant-
4 ee shall ensure that small business development cen-
5 ters provide access to:

6 “(A) Business analysts to counsel, assist,
7 and inform small business clients.

8 “(B) Technology transfer agents to provide
9 state of art technology to small business con-
10 cerns through coupling with national and re-
11 gional technology data sources.

12 “(C) Information specialists to assist in
13 providing information searches and referrals to
14 small business.

15 “(D) Part-time professional specialists to
16 conduct research or to provide counseling as-
17 sistance whenever the need arises.

18 “(E) Laboratory and adaptive engineering
19 facilities.

20 “(4) SERVICES.—Each grantee shall ensure
21 that the services provided by its network of small
22 business development centers include—

23 “(A) furnishing one-to-one individual coun-
24 seling to small business concerns, including—

1 “(i) working with individuals to in-
2 crease awareness of basic credit practices
3 and credit requirements;

4 “(ii) working with individuals to de-
5 velop business plans, financial packages,
6 credit applications, and contract proposals;

7 “(iii) working with the Administration
8 to develop and provide informational tools
9 for use in working with individuals on pre-
10 business startup planning, existing busi-
11 ness expansion, and export planning; and

12 “(iv) working with individuals referred
13 by the district offices of the Administration
14 and Administration participating lenders;

15 “(B) assisting in technology transfer, re-
16 search and development, including applied re-
17 search, and coupling from existing sources to
18 small business concerns, including—

19 “(i) working to increase the access of
20 small business concerns to the capabilities
21 of automated flexible manufacturing sys-
22 tems;

23 “(ii) working through existing net-
24 works and developing new networks for
25 technology transfer that encourage part-

1 nership between the small business and
2 academic communities to help commer-
3 cialize university-based research and devel-
4 opment and introduce university-based en-
5 gineers and scientists to their counterparts
6 in small technology-based firms;

7 “(iii) exploring the viability of devel-
8 oping shared production facilities, under
9 appropriate circumstances; and

10 “(iv) assisting small manufacturers in
11 developing more efficient operations, in-
12 cluding coordination of assistance with the
13 Manufacturing Extension Partnership of
14 the National Institutes of Standards and
15 Technology;

16 “(C) in cooperation with the Department
17 of Commerce, the entities providing services
18 pursuant to section 8(n) of this Act, and other
19 relevant Federal agencies, actively assisting
20 small business concerns in exporting by identi-
21 fying and developing potential export markets,
22 facilitating export transactions, developing link-
23 ages between United States small business
24 firms and prescreened foreign buyers, assisting
25 small business concerns to participate in inter-

1 national trade shows, assisting small business
2 concerns in obtaining export financing, assisting
3 small manufacturers in identifying supply chain
4 management opportunities, and facilitating the
5 development or reorientation of marketing and
6 production strategies; where appropriate, the
7 grantee and the Administrator may work in co-
8 operation with the State to establish a State
9 international trade center for these purposes;

10 “(D) developing a program in conjunction
11 with the Export-Import Bank and local and re-
12 gional Administration offices that will enable
13 Small Business Development Centers to serve
14 as an information network and to assist small
15 business applicants for Export-Import Bank fi-
16 nancing programs, and otherwise identify and
17 help to make available export financing pro-
18 grams to small business concerns;

19 “(E) working closely with the small busi-
20 ness community, small business consultants,
21 State agencies, universities and other appro-
22 priate groups to make translation services more
23 readily available to small business firms doing
24 business, or attempting to develop business, in
25 foreign markets;

1 “(F) in providing assistance under this
2 subsection, grantees shall cooperate with the
3 Department of Commerce and other relevant
4 Federal agencies to increase access to available
5 export market information systems such as the
6 CIMS system;

7 “(G) assisting small business concerns to
8 develop and implement strategic business plans
9 to timely and effectively respond to the planned
10 closure (or reduction) of a Department of De-
11 fense facility within the community, or actual or
12 projected reductions in such firms’ business
13 base due to the actual or projected termination
14 (or reduction) of a Department of Defense pro-
15 gram or a contract in support of such pro-
16 gram—

17 “(i) by developing broad economic as-
18 sessments of the adverse impacts of—

19 “(I) the closure (or reduction) of
20 the Department of Defense facility on
21 the small business concerns providing
22 goods or services to such facility or to
23 the military and civilian personnel
24 currently stationed or working at such
25 facility; and

1 “(II) the termination (or reduc-
2 tion) of a Department of Defense pro-
3 gram (or contracts under such pro-
4 gram) on the small business concerns
5 participating in such program as a
6 prime contractor, subcontractor or
7 supplier at any tier;

8 “(ii) by developing, in conjunction
9 with appropriate Federal, State, and local
10 governmental entities and other private
11 sector organizations, the parameters of a
12 transition adjustment program adaptable
13 to the needs of individual small business
14 concerns;

15 “(iii) by conducting appropriate pro-
16 grams to inform the affected small busi-
17 ness community regarding the anticipated
18 adverse impacts identified under clause (i)
19 and the economic adjustment assistance
20 available to such firms; and

21 “(iv) by assisting small business con-
22 cerns to develop and implement an individ-
23 ualized transition business plan;

24 “(H) maintaining current information con-
25 cerning Federal, State, and local regulations

1 that affect small business concerns and counsel
2 small business concerns on methods of compli-
3 ance. Counseling and technology development
4 shall be provided when necessary to help small
5 business concerns find solutions for complying
6 with environmental, energy, health, safety, and
7 other Federal, State, and local regulations;

8 “(I) coordinating and conducting research
9 into technical and general small business prob-
10 lems for which there are no ready solutions;

11 “(J) providing and maintaining a com-
12 prehensive library that contains current infor-
13 mation and statistical data needed by small
14 business concerns;

15 “(K) maintaining a working relationship
16 and open communications with the financial
17 and investment communities, legal associations,
18 local and regional private consultants, and local
19 and regional small business groups and associa-
20 tions in order to help address the various needs
21 of the small business community;

22 “(L) conducting in-depth surveys for local
23 small business groups in order to develop gen-
24 eral information regarding the local economy

1 and general small business strengths and weak-
2 nesses in the locality;

3 “(M) in cooperation with the Department
4 of Commerce, the Administration and other rel-
5 evant Federal agencies, actively assisting rural
6 small business concerns in exporting by identi-
7 fying and developing potential export markets
8 for rural small business concerns, facilitating
9 export transactions for rural small business
10 concerns, developing linkages between United
11 States’ rural small business concerns and
12 prescreened foreign buyers, assisting rural
13 small business concerns to participate in inter-
14 national trade shows, assisting rural small busi-
15 ness concerns in obtaining export financing and
16 developing marketing and production strategies;

17 “(N) assisting rural small business con-
18 cerns—

19 “(i) in developing marketing and pro-
20 duction strategies that will enable them to
21 better compete in the domestic market—

22 “(ii) by providing technical assistance
23 needed by rural small business concerns;

1 “(iii) by making available managerial
2 assistance to rural small business concerns;
3 and

4 “(iv) by providing information and as-
5 sistance in obtaining financing for business
6 startups and expansion;

7 “(O) in conjunction with the United States
8 Travel and Tourism Administration, assist
9 rural small business in developing the tourism
10 potential of rural communities by—

11 “(i) identifying the cultural, historic,
12 recreational, and scenic resources of such
13 communities;

14 “(ii) providing assistance to small
15 business concerns in developing tourism
16 marketing and promotion plans relating to
17 tourism in rural areas; and

18 “(iii) assisting small business concerns
19 to obtain capital for starting or expanding
20 businesses primarily serving tourists;

21 “(P) maintaining lists of local and regional
22 private consultants to whom small business con-
23 cerns can be referred;

1 “(Q) providing information to small busi-
2 ness concerns regarding compliance with regu-
3 latory requirements;

4 “(R) developing informational publications,
5 establishing resource centers of reference mate-
6 rials, and distributing compliance guides pub-
7 lished under section 312(a) of the Small Busi-
8 ness Regulatory Enforcement Fairness Act of
9 1996;

10 “(S) providing small business owners with
11 access to a wide variety of export-related infor-
12 mation by establishing on-line computer link-
13 ages between small business development cen-
14 ters and an international trade data informa-
15 tion network with ties to the Export Assistance
16 Center program; and

17 “(T) providing information and assistance
18 to small business concerns with respect to es-
19 tablishing drug-free workplace programs;

20 “(U) in the case of a small business devel-
21 opment center located at an institution of high-
22 er learning, hosting semi-annually a procure-
23 ment conference to which the grantee (or its
24 subcontractors) invites small business concerns,

1 including small manufacturers, to meet with the
2 procurement officials of such institution; and

3 “(V) providing comprehensive plans (devel-
4 oped in cooperation with relevant State and
5 Federal agencies) relating to the export poten-
6 tial of small business concerns, including small
7 manufacturers.

8 “(g) SPECIAL RULES RELATING TO SMALL BUSI-
9 NESS DEVELOPMENT CENTERS.—

10 “(1) SERVICES TO OUT-OF-STATE SMALL BUSI-
11 NESS CONCERNS.—The Administrator may allow a
12 small business development center to serve small
13 business concerns located outside the State in which
14 such center is located (or, in the case of a State with
15 more than one grantee, outside the area served by
16 the grantee) to the extent such businesses are lo-
17 cated within close geographical proximity to the
18 small business development center as determined by
19 the Administrator.

20 “(2) CONTRACTS WITH OTHER AGENCIES.—
21 Subject to the restrictions set forth in this para-
22 graph, a grantee (or its subcontractors, with the
23 grantee’s approval) may contract with a Federal De-
24 partment or agency to provide specific assistance to
25 small business concerns through its network of small

1 business development centers. Before bidding on a
2 contract described in this paragraph, a grantee shall
3 receive approval from the Administrator. Before
4 granting approval, the Administrator shall consider
5 the subject and scope of the contract and the extent
6 to which performance of the contract would provide
7 assistance to small business and not impair the per-
8 formance of the grantee's obligations under this sec-
9 tion. A contract for assistance under this paragraph
10 shall not count toward the achievement of any con-
11 tracting goal under section 15(g).

12 “(3) SMALL BUSINESS VENDORS.—Each grant-
13 ee shall ensure, to the extent practicable, that its
14 network of small business development centers uti-
15 lize and compensate qualified small business ven-
16 dors, including private management consultants, pri-
17 vate consulting engineers, and private testing labora-
18 tories, to provide services under this section to small
19 business concerns. To the extent appropriate for the
20 community served by the small business development
21 center, such qualified small business vendors should
22 include at least one such vendor with expertise in
23 manufacturing and assisting small manufacturers.

24 “(4) COORDINATION WITH DISTRICT OFFICES,
25 ETC.—The grantees shall ensure that the small busi-

1 ness development centers shall work in close co-
2 operation with the Administration’s regional and dis-
3 trict offices, the local small business community, and
4 appropriate State and local agencies. No action by
5 a grantee or its subcontractors or staff shall require
6 the approval of any employee in a regional or dis-
7 trict office of the Administration. Any such employee
8 shall, after consultation with district counsel, notify
9 the Assistant Administrator for Small Business De-
10 velopment Centers if such employee believes that the
11 grantee or its subcontractors or staff has taken ac-
12 tion that violates the law or jeopardizes the legal po-
13 sition of the United States.

14 “(5) ASSISTANCE FROM STATE INTERNATIONAL
15 TRADE OFFICES.—The grantee may use funds pro-
16 vided by State international trade offices and co-lo-
17 cate employees of such offices at small business de-
18 velopment centers.

19 “(6) COORDINATION WITH ADMINISTRATION.—
20 On an annual basis, the grantee, after consultation
21 with the district director, shall review and coordinate
22 public and private partnerships and cosponsorships
23 with the Administrator for the purpose of more effi-
24 ciently leveraging available resources on a national
25 and a State basis. Should the grantee be unable to

1 consult with the district director, the grantee shall
2 consult with the Assistant Administrator for Small
3 Business Development Centers.

4 “(7) PROHIBITION ON CERTAIN FEES.—Each
5 grantee shall ensure that small business development
6 centers shall not impose or otherwise collect a fee or
7 other compensation in connection with the provision
8 of counseling services under this section.

9 “(8) PRIVACY REQUIREMENTS.—

10 “(A) IN GENERAL.—Each grantee shall en-
11 sure that small business development centers
12 shall not disclose the name or address of any
13 individual or small business concern receiving
14 assistance under this section without the con-
15 sent of such individual or small business con-
16 cern, except that—

17 “(i) the Administrator shall require
18 such disclosure if ordered to do so by a
19 court in any civil or criminal action; and

20 “(ii) if the Administrator considers it
21 necessary while undertaking a financial
22 audit of a Small Business Development
23 Center, the Administrator shall require
24 such disclosure for the sole purpose of un-
25 dertaking such audit.

1 “(B) REGULATIONS.—After notice and
2 comment and not later than 180 days after the
3 date of the enactment of this subparagraph, the
4 Administrator shall issue regulations to estab-
5 lish standards for requiring disclosures during a
6 financial audit under subparagraph (A)(ii).

7 “(h) ADDITIONAL GRANTS.—

8 “(1) IN GENERAL.—Any grantee may apply to
9 the Administrator for an additional grant to be used
10 solely to assist—

11 “(A) with the development and enhance-
12 ment of exports by small business concerns;

13 “(B) in technology transfer;

14 “(C) with outreach, development, and en-
15 hancement of minority-owned small business
16 startups or expansions, HUBZone small busi-
17 ness concerns, veteran-owned small business
18 startups or expansions, and women-owned small
19 business startups or expansions, in communities
20 impacted by base closings or military or cor-
21 porate downsizing, or in rural or underserved
22 communities; and

23 “(D) small manufacturers.

24 “(2) CERTAIN RULES TO APPLY.—Except as
25 otherwise provided in this subsection, any additional

1 grant under this subsection shall be subject to rules
2 similar to the rules that apply to grants made under
3 subsection (a).

4 “(3) GRANT AMOUNT.—A grant shall not be
5 made under this subsection if such grant which
6 would exceed the grantee’s pro rata share of a
7 \$15,000,000 program based upon the populations to
8 be served by the grantee as compared to the total
9 population of the United States. The minimum
10 amount of eligibility for any State shall be
11 \$100,000. Any additional grant made under this sec-
12 tion shall not be taken into account for purposes of
13 the dollar program limitations specified in subsection
14 (j).

15 “(4) REALLOCATION OF UNUSED FUNDS.—If
16 the Administrator has not received an application
17 for an additional grant from a grantee pursuant to
18 this subsection within 90 days after the Adminis-
19 trator and the grantee have signed an agreement
20 pursuant to subsection (c) or within 60 days after
21 the grantee and Administrator has renewed an
22 agreement pursuant to subsection (c), the Adminis-
23 trator may make such grant to any eligible applicant
24 (determined without regard to so much of subsection
25 (b)(4)(C) as precedes ‘1990,’) in that State to carry

1 out the activities specified in this subsection subject
2 to the requirements of paragraphs (2) and (3).

3 “(i) MATCHING FUNDS.—

4 “(1) IN GENERAL.—The Administrator shall re-
5 quire as a condition of any grant (or amendment or
6 modification thereof) made to a grantee under this
7 section, that a matching amount equal to the
8 amount of such grant be provided from sources
9 other than the Federal Government, to be comprised
10 of not less than 50 percent cash and not more than
11 50 percent of indirect costs and in-kind contribu-
12 tions.

13 “(2) RESTRICTION.—The matching amount de-
14 scribed in paragraph (1) shall not include—

15 “(A) any indirect costs or in-kind contribu-
16 tions derived from any Federal program; and

17 “(B) any amount received under a contract
18 described in subsection (g)(2).

19 “(j) FUNDING FORMULA.—

20 “(1) IN GENERAL.—Subject to paragraph (3),
21 the amount of funds to be made available to the
22 grantee or grantees within a State under this sub-
23 section shall be equal to an amount determined in
24 accordance with the following formula:

1 “(A) The annual amount made available
2 for the Small Business Development Center
3 Program under section 20(a), less any reduc-
4 tions made for expenses authorized by para-
5 graph (5), shall be divided on a pro rata basis,
6 based on the percentage of the population of
7 each State, as compared to the population of
8 the United States.

9 “(B) If the pro rata amount calculated
10 under subparagraph (A) for any State is less
11 than the minimum funding level under para-
12 graph (3), the Administrator shall determine
13 the aggregate amount necessary to achieve that
14 minimum funding level for each such State.

15 “(C) The aggregate amount calculated
16 under subparagraph (B) shall be deducted from
17 the amount calculated under subparagraph (A)
18 for States eligible to receive more than the min-
19 imum funding level. The deductions shall be
20 made on a pro rata basis, based on the popu-
21 lation of each such State, as compared to the
22 total population of all such States.

23 “(D) The aggregate amount deducted
24 under subparagraph (C) shall be added to the
25 funds of those States that are not eligible to re-

1 ceive more than the minimum funding level in
2 order to achieve the minimum funding level for
3 each such State, except that the eligible amount
4 of funds made available to any State under this
5 subsection shall not be reduced to an amount
6 below the minimum funding level.

7 “(2) FUNDS AVAILABILITY DETERMINATION.—
8 The amount of funds that one or more grantees
9 within a State are eligible to receive under this sub-
10 section shall be the amount determined under para-
11 graph (1), subject to any modifications required
12 under paragraph (3), and shall be based on the
13 amount available for the fiscal year in which per-
14 formance of the grant commences, but not including
15 amounts distributed in accordance with paragraph
16 (4). The amount of funds received by a grant or
17 grantees in a State under any provision of this sub-
18 section shall not exceed the amount of matching
19 funds from sources other than the Federal Govern-
20 ment, as required under subsection (i).

21 “(3) MINIMUM FUNDING LEVEL.—The amount
22 of the minimum funding level for each State shall be
23 determined for each fiscal year based on the amount
24 made available for that fiscal year to carry out this
25 section, as follows:

1 “(A) If the amount made available is not
2 less than \$81,500,000 and not more than
3 \$90,000,000, the minimum funding level shall
4 be \$500,000.

5 “(B) If the amount made available is less
6 than \$81,500,000, the minimum funding level
7 shall be the remainder of \$500,000 minus a
8 percentage of \$500,000 equal to the percentage
9 amount by which the amount made available is
10 less than \$81,500,000.

11 “(C) If the amount made available is more
12 than \$90,000,000, the minimum funding level
13 shall be the sum of \$500,000 plus a percentage
14 of \$500,000 equal to the percentage amount by
15 which the amount made available exceeds
16 \$90,000,000.

17 “(4) DISTRIBUTIONS.—Subject to paragraph
18 (3), if one or more grantees within a State do not
19 apply for, or use, their full funding eligibility for a
20 fiscal year, the Administration shall distribute the
21 remaining funds as follows:

22 “(A) If the grant to any State is less than
23 the amount received by that State in fiscal year
24 2000, the Administrator shall distribute such
25 remaining funds, on a pro rata basis, based on

1 the percentage of shortage of each such State,
2 as compared to the total amount of such re-
3 maining funds available, to the extent necessary
4 in order to increase the amount of the grant to
5 the amount received by that State in fiscal year
6 2000, or until such funds are exhausted, which-
7 ever first occurs.

8 “(B) If any funds remain after the applica-
9 tion of subparagraph (A), the remaining
10 amount may be distributed as supplemental
11 funds to a grantee or grantees in any State, as
12 the Administrator determines, in its discretion,
13 to be appropriate, after consultation with the
14 association referred to in subsection (k).

15 “(5) USE OF AMOUNTS.—Of the amounts made
16 available in any fiscal year to carry out this section
17 not more than \$500,000 may be used by the Admin-
18 istrator to pay expenses enumerated in subpara-
19 graphs (B) through (D) of section 20(a)(1).

20 “(6) EXCLUSIONS.—Funds made available to
21 one or more grantees within a State provided by the
22 Administrator or another Federal agency to carry
23 out subsection (f)(4), (g)(2), (h), or (o) or for sup-
24 plemental grants set forth in paragraph (4)(B), shall
25 not be included in the calculation of maximum fund-

1 ing to be made available to one or more grantees
2 within the State under paragraph (2).

3 “(7) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out
5 this section \$135,000,000 for fiscal year 2004 and
6 \$145,000,000 for fiscal year 2005. The authority to
7 award grants under this section shall be in effect for
8 each fiscal year only to the extent and in the
9 amounts as are provided in advance in appropria-
10 tions Acts.

11 “(k) FORMATION OF ASSOCIATION.—The grantees’
12 directors are authorized to form an association to pursue
13 matters of common concern. If more than a majority of
14 the grantees’ directors are members of such an associa-
15 tion, the Administrator is authorized and directed to rec-
16 ognize the existence and activities of such an association
17 and to consult with it and develop documents—

18 “(1) announcing the annual scope of activities
19 pursuant to this section;

20 “(2) requesting proposals to deliver assistance
21 as provided in this section; and

22 “(3) governing the general operations and ad-
23 ministration of the Small Business Development
24 Center Program, specifically including the develop-
25 ment of regulations and a uniform negotiated grant

1 agreement for use on an annual basis when entering
2 into agreements with grantees.

3 “(1) PROGRAM EXAMINATION AND ACCREDITA-
4 TION.—

5 “(1) EXAMINATION.—The Administrator shall
6 develop and implement a biennial programmatic and
7 financial examination of each network of small busi-
8 ness development centers established pursuant to
9 this section. The biennial examination shall be con-
10 ducted by the Assistant Administrator for Small
11 Business Development Centers.

12 “(2) ACCREDITATION.—The Administrator
13 shall provide financial support, by contract or other-
14 wise, to the association authorized by subsection (k)
15 for the purpose of developing and implementing a
16 small business development center accreditation pro-
17 gram.

18 “(3) EXTENSION OR RENEWAL OF COOPERA-
19 TIVE AGREEMENTS.—

20 “(A) IN GENERAL.—In renewing a grant
21 or cooperative agreement or contract of a
22 grantee, the Administrator shall consider the
23 results of the examination and accreditation
24 program conducted pursuant to paragraphs (1)
25 and (2).

1 “(B) ACCREDITATION REQUIREMENT.—

2 The Administrator may not renew any grant
3 under this section unless the grantee’s small
4 business development centers have been accred-
5 ited under the program conducted pursuant to
6 this subsection, except that the Assistant Ad-
7 ministrators for Small Business Development
8 Centers may waive such accreditation require-
9 ment if the Assistant Administrator determines
10 that the grantee is making a good faith effort
11 to obtain accreditation for each of the grantee’s
12 small business development centers.

13 “(m) SMALL BUSINESS DEVELOPMENT CENTER AD-
14 VISORY BOARDS.—

15 “(1) NATIONAL SMALL BUSINESS DEVELOP-
16 MENT CENTER ADVISORY BOARD.—

17 “(A) ESTABLISHMENT.—There is estab-
18 lished a National Small Business Development
19 Center Advisory Board (herein referred to as
20 ‘Board’) which shall consist of nine members
21 appointed from civilian life by the Adminis-
22 trator and who shall be persons of outstanding
23 qualifications known to be familiar and sympa-
24 thetic with small business needs and problems.
25 No more than three members shall be from uni-

1 versities or their affiliates and six shall be from
2 small business concerns or associations rep-
3 resenting small business concerns. At the time
4 of the appointment of the Board, the Adminis-
5 trator shall designate one-third of the members
6 and at least one from each category whose term
7 shall end in two years from the date of appoint-
8 ment, a second third whose term shall end in
9 three years from the date of appointment, and
10 the final third whose term shall end in four
11 years from the date of appointment. Succeeding
12 Boards shall have three-year terms, with one-
13 third of the Board changing each year.

14 “(B) OPERATION.—The Board shall elect
15 a Chairman and advise, counsel, and confer
16 with the Assistant Administrator for Small
17 Business Development Centers in carrying out
18 the duties described in this section. The Board
19 shall meet at least semiannually and at the call
20 of the Chairman of the Board. Each member of
21 the Board shall be entitled to be compensated
22 at the rate not in excess of the per diem equiva-
23 lent of the highest rate of pay for individuals
24 occupying the position under GS-18 of the
25 General Schedule for each day engaged in ac-

1 activities of the Board and shall be entitled to be
2 reimbursed for expenses as a member of the
3 Board.

4 “(2) LOCAL SMALL BUSINESS DEVELOPMENT
5 CENTER ADVISORY BOARDS.—Each grantee’s direc-
6 tor shall establish an advisory board for the grant-
7 ee’s network of small business development centers.
8 The district director shall have no authority to ap-
9 prove or disapprove the members of the advisory
10 board selected by the grantee’s director.

11 “(n) ADMINISTRATION OF PROGRAM.—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this section, the program established by this
14 section shall be administered by the Administrator,
15 acting through the Assistant Administrator for
16 Small Business Development Centers with such
17 oversight by the Associate Administrator for Enter-
18 prise Outreach and Training as the Administrator
19 determines to be appropriate.

20 “(2) DUTIES OF ASSISTANT ADMINISTRATOR
21 FOR SMALL BUSINESS DEVELOPMENT CENTERS.—
22 The duties of the Assistant Administrator for Small
23 Business Development Centers shall include recom-
24 mending the annual program budget, reviewing the
25 annual budgets submitted by each grantee, estab-

1 lishing appropriate funding levels therefore, advising
2 the Administrator on the selection of grantees to
3 participate in the program, implementing the provi-
4 sions of this section, maintaining a clearinghouse to
5 provide for the dissemination and exchange of infor-
6 mation between grantees and their subcontractors
7 and conducting audits of recipients of grantees
8 under this section.

9 “(3) CONSULTATION REQUIREMENTS.—In car-
10 rying out the duties described in paragraph (2), the
11 Assistant Administrator shall confer with and seek
12 the advice of the advisory boards established pursu-
13 ant to subsection (m) and the heads of the regional
14 and district offices of the Administration.

15 “(o) ESTABLISHMENT OF INFORMATION SHARING
16 SYSTEM.—

17 “(1) IN GENERAL.—The Administrator, in con-
18 sultation with the grantees, their subcontractors,
19 and the association authorized by this section shall
20 develop and implement an information sharing sys-
21 tem. Such system shall—

22 “(A) allow small business development cen-
23 ters to exchange information about their pro-
24 grams;

1 “(B) provide information central to tech-
2 nology transfer; and

3 “(C) provide information central to in-
4 creased utilization by United States businesses
5 of sourcing their procurement requirements
6 with small manufacturers.

7 “(2) GRANT AUTHORITY.—The Administrator
8 may make grants to one or more grantees to carry
9 out the provisions of this subsection. Such grants
10 shall be awarded for a period of not to exceed 5
11 years. The matching funds requirements of sub-
12 section (i) shall not be applicable to grants made
13 under this subsection.

14 “(p) COOPERATION WITH FEDERAL SCIENCE RE-
15 SEARCH FACILITIES AND AGENCIES.—

16 “(1) IN GENERAL.—Laboratories operated and
17 funded by the Federal Government are authorized
18 and directed to cooperate with the Administrator in
19 developing and establishing programs to support
20 small business development centers by making facili-
21 ties and equipment available; providing experiment
22 station capabilities in adaptive engineering; pro-
23 viding library and technical information processing
24 capabilities; and providing professional staff for con-

1 sulting. The Administrator is authorized to reim-
2 burse the laboratories for such services.

3 “(2) NATIONAL SCIENCE FOUNDATION.—The
4 National Science Foundation is authorized and di-
5 rected to cooperate with the Administrator in devel-
6 oping and establishing programs to support small
7 business development centers.

8 “(3) NATIONAL AERONAUTICS AND SPACE AD-
9 MINISTRATION.—The National Aeronautics and
10 Space Administration and regional technology trans-
11 fer centers supported by the National Aeronautics
12 and Space Administration are authorized and di-
13 rected to cooperate with grantees and their small
14 business development centers.

15 “(q) REGULATIONS.—In promulgating regulations to
16 carry out this section, the Administration shall identify,
17 and require grantee compliance with, the provisions in-
18 cluded in uniform requirements of Office of Management
19 and Budget (OMB) Circulars which govern audits, cost
20 principles and administrative requirements for Federal
21 grants, and contracts and cooperative agreements.”.

22 (b) CONFORMING AMENDMENT.—Paragraph (2) of
23 section 27(g) of the Small Business Act (15 U.S.C.
24 654(g)) is amended by striking “section 21(c)(3)(T)” and
25 inserting “section 21(f)(4)(T)”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall take effect on the date of the enactment of this
5 Act.

6 (2) GRANTS.—To the extent that the amend-
7 ment made by subsection (a) applies with respect to
8 grants, such amendment shall apply to grants made,
9 renewed, or terminated after the date of the enact-
10 ment of this Act.

11 (d) TRANSITION RULES.—

12 (1) MULTIPLE GRANTEES REPLACED WITH SIN-
13 GLE GRANTEE.—In the case of a State which is
14 served by two or more grantees under section 21 of
15 the Small Business Act on the date of the enactment
16 of this Act, the Administrator shall be required to
17 select a new grantee for such State following the se-
18 lection process set forth in such section (as in effect
19 on the day after the date of the enactment of this
20 Act) if the grantees serving such State on the date
21 of the enactment of this Act were selected after Jan-
22 uary 1, 2002.

23 (2) SMALL BUSINESS DEVELOPMENT CENTER
24 ADVISORY BOARDS.—Each member of the National
25 Small Business Development Center Advisory Board

1 and each member serving on a local small business
2 development center advisory board on the day before
3 the date of the enactment of this Act shall continue
4 to so serve until the end of such member's term.

5 **SEC. 213. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF**
6 **INTERNATIONAL TRADE.**

7 Section 22 of the Small Business Act (15 U.S.C. 649)
8 is amended by adding at the end the following new sub-
9 section:

10 “(h) In carrying out this section, the Administrator
11 shall ensure that the number of full-time equivalent em-
12 ployees of the Office assigned to the one-stop shops re-
13 ferred to in section 2301(b) of the Omnibus Trade and
14 Competitiveness Act of 1988 (15 U.S.C. 4721(b)) is not
15 less than the number of such employees so assigned on
16 January 1, 2003.”.

17 **SEC. 214. SUPERVISORY AND ENFORCEMENT AUTHORITY**
18 **FOR SMALL BUSINESS LENDING COMPANIES.**

19 Section 23 of the Small Business Act (15 U.S.C. 650)
20 is amended to read as follows:

21 **“SEC. 23. SUPERVISORY AND ENFORCEMENT AUTHORITY**
22 **FOR SMALL BUSINESS LENDING COMPANIES.**

23 “(a) IN GENERAL.—The Administrator is author-
24 ized—

1 “(1) to supervise the safety and soundness of
2 small business lending companies and non-Federally
3 regulated lenders;

4 “(2) with respect to small business lending
5 companies to set capital standards to regulate, to ex-
6 amine, and to enforce laws governing such compa-
7 nies, in accordance with the purposes of this Act;
8 and

9 “(3) with respect to non-Federally regulated
10 lenders to regulate, to examine, and to enforce laws
11 governing the lending activities of such lenders
12 under section 7(a) in accordance with the purposes
13 of this Act.

14 “(b) CAPITAL DIRECTIVE.—The Administrator may
15 determine that failure of a small business lending com-
16 pany to maintain capital at the minimum level established
17 by the Administrator is an unsafe and unsound practice.
18 In addition to any other action authorized by law, the Ad-
19 ministrator may issue a directive to a small business lend-
20 ing company that does not comply with the minimum cap-
21 ital requirement requiring the small business lending com-
22 pany to increase capital to level established by the Admin-
23 istrator.

24 “(c) CIVIL ACTION.—If a small business lending com-
25 pany violates this Act, the Administrator may institute a

1 civil action in an appropriate district court to terminate
2 the rights, privileges, and franchises of the company under
3 this Act.

4 “(d) REVOCATION OR SUSPENSION OF LOAN AU-
5 THORITY.—

6 “(1) The Administrator may revoke or suspend
7 the authority of a small business lending company or
8 a non-Federally regulated lender to make, service or
9 liquidate business loans authorized by section 7(a) of
10 this Act—

11 “(A) for false statements knowingly made
12 in any written submission required under this
13 Act;

14 “(B) for omission of a material fact from
15 any written submission required under this Act;

16 “(C) for willful or repeated violation of this
17 Act;

18 “(D) for willful or repeated violation of
19 any condition imposed by the Administrator
20 with respect to any application, request, or
21 agreement under this Act; or

22 “(E) for violation of any cease and desist
23 order of the Administrator under this section.

24 “(2) The Administrator may revoke or suspend
25 authority under paragraph (1) only after a hearing

1 under subsection (f). The Administrator may dele-
2 gate power to revoke or suspend authority under
3 paragraph (1) only to the Deputy Administrator and
4 only if the Administrator is unavailable to take such
5 action.

6 “(A) The Administrator, after finding ex-
7 traordinary circumstances and in order to pro-
8 tect the financial or legal position of the United
9 States, may issue a suspension order without
10 conducting a hearing pursuant to subsection
11 (f). If the Administrator issues a suspension
12 under the preceding sentence, the Adminis-
13 trator shall within two business days follow the
14 procedures set forth in subsection (f).

15 “(B) Any suspension under paragraph (1)
16 shall remain in effect until the Administrator
17 makes a decision pursuant to subparagraph (4)
18 to permanently revoke the authority of the
19 small business lending company or non-Feder-
20 ally regulated lender, suspend the authority for
21 a time certain, or terminate the suspension.

22 “(3) The small business lending company or
23 non-Federally regulated lender must notify bor-
24 rowers of a revocation and that a new entity has
25 been appointed to service their loans. The Adminis-

1 trator or an employee of the Administration des-
2 ignated by the Administrator may provide such no-
3 tice to the borrower.

4 “(4) Any revocation or suspension under para-
5 graph (1) shall be made by the Administrator except
6 that the Administrator shall delegate to an adminis-
7 trative law judge as that term is used in section
8 3105 of title 5, United States Code the authority to
9 conduct any hearing required under subsection (f).
10 The Administrator shall base the decision to revoke
11 on the record of the hearing.

12 “(e) CEASE AND DESIST ORDER.—

13 “(1) Where a small business lending company,
14 a non-Federally regulated lender, or other person
15 violates this Act or is engaging or is about to engage
16 in any acts or practices which constitute or will con-
17 stitute a violation of this Act, the Administrator may
18 order, after the opportunity for hearing pursuant to
19 subsection (f), the company, lender, or other person
20 to cease and desist from such action or failure to
21 act. The Administrator may delegate the authority
22 under the preceding sentence only to the Deputy Ad-
23 ministrators and only if the Administrator is unavail-
24 able to take such action.

1 “(2) The Administrator, after finding extraor-
2 dinary circumstances and in order to protect the fi-
3 nancial or legal position of the United States, may
4 issue a cease and desist order without conducting a
5 hearing pursuant to subsection (f). If the Adminis-
6 trator issues a cease and desist order under the pre-
7 ceding sentence, the Administrator shall within two
8 business days follow the procedures set forth in sub-
9 section (f).

10 “(3) The Administrator may further order such
11 small business lending company or non-Federally
12 regulated lender or other person to take such action
13 or to refrain from such action as the Administrator
14 deems necessary to insure compliance with this Act.

15 “(4) A cease and desist order under this sub-
16 section may also provide for the suspension of au-
17 thority to lend in subsection (d).

18 “(f) PROCEDURE FOR REVOCATION OR SUSPENSION
19 OF LOAN AUTHORITY AND FOR CEASE AND DESIST
20 ORDER.—

21 “(1) Before revoking or suspending authority
22 under subsection (d) or issuing a cease and desist
23 order under subsection (e), the Administrator shall
24 serve an order to show cause upon the small busi-
25 ness lending company, non-Federally regulated lend-

1 er, or other person why an order revoking or sus-
2 pending the authority or a cease and desist order
3 should not be issued. The order to show cause shall
4 contain a statement of the matters of fact and law
5 asserted by the Administrator and the legal author-
6 ity and jurisdiction under which a hearing is to be
7 held, and shall set forth that a hearing will be held
8 before an administrative law judge at a time and
9 place stated in the order. Such hearing shall be con-
10 ducted pursuant to the provisions of sections 554,
11 556, and 557 of title 5, United States Code. If after
12 hearing, or a waiver thereof, the Administrator de-
13 termines that an order revoking or suspending the
14 authority or a cease and desist order should be
15 issued, the Administrator shall promptly issue such
16 order, which shall include a statement of the find-
17 ings of the Administrator and the grounds and rea-
18 sons therefor and specify the effective date of the
19 order, and shall cause the order to be served on the
20 small business lending company, non-Federally regu-
21 lated 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
2 revocation issued by the Administrator, after the
3 hearing under this subsection is final agency action
4 for purposes of chapter 7 of title 5, United States
5 Code. An adversely aggrieved party shall have 20
6 days from the date of issuance of the cease and de-
7 sist order, suspension or revocation, to seek judicial
8 review in an appropriate district court.

9 “(g) REMOVAL OR SUSPENSION OF MANAGEMENT
10 OFFICIAL.—

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
16 the management of the affairs of the company’s or
17 lender’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—

24 “(i) the management official—

1 “(I) willfully and knowingly com-
2 mits a substantial violation of—

3 “(aa) this Act;

4 “(bb) any regulation issued
5 under this Act; or

6 “(cc) a final cease-and-desist
7 order under this Act; or

8 “(dd) any agreement by the
9 management official, the small
10 business lending company or non-
11 Federally regulated lender under
12 this Act; or

13 “(II) willfully and knowingly
14 commits a substantial breach of a fi-
15 duciary duty of that person as a man-
16 agement official; and

17 “(III) the violation or breach of
18 fiduciary duty is one involving per-
19 sonal dishonesty on the part of such
20 management official.

21 “(B) CONTENTS OF NOTICE.—A notice
22 under subparagraph (A) shall contain a state-
23 ment of the facts constituting grounds therefor
24 and shall fix a time and place at which a hear-
25 ing, conducted pursuant to section 554, 556,

1 and 557 of title 5, United States Code, will be
2 held thereon.

3 “(C) HEARING.—

4 “(i) TIMING.—A hearing under sub-
5 paragraph (B) shall be held not earlier
6 than 30 days and later than 60 days after
7 the date of service of notice of the hearing,
8 unless an earlier or a later date is set by
9 the Administrator at the request of—

10 “(I) the management official, and
11 for good cause shown; or

12 “(II) the Attorney General.

13 “(ii) CONSENT.—Unless the manage-
14 ment official appears at a hearing under
15 this paragraph in person or by a duly au-
16 thorized representative, the management
17 official shall be deemed to have consented
18 to the issuance of an order of removal
19 under subparagraph (A).

20 “(D) ORDER OF REMOVAL.—

21 “(i) IN GENERAL.—In the event of
22 consent under subparagraph (C)(ii), or if
23 upon the record made at a hearing under
24 this subsection, the Administrator finds
25 that any of the grounds specified in the

1 notice of removal has been established, the
2 Administrator may issue such orders of re-
3 moval from office as the Administrator
4 deems appropriate.

5 “(ii) EFFECTIVENESS.—An order
6 under clause (i) shall—

7 “(I) take effect 30 days after the
8 date of service upon the subject small
9 business lending company or non-Fed-
10 erally regulated lender and the man-
11 agement official concerned (except in
12 the case of an order issued upon con-
13 sent as described in subparagraph
14 (C)(ii), which shall become effective at
15 the time specified in such order); and

16 “(II) remain effective and en-
17 forceable, except to such extent as it
18 is stayed, modified, terminated, or set
19 aside by action of the Administrator
20 or a reviewing court in accordance
21 with this section.

22 “(3) AUTHORITY TO SUSPEND OR PROHIBIT
23 PARTICIPATION.—

24 “(A) IN GENERAL.—In order to protect a
25 small business lending company, a non-Feder-

1 ally regulated lender or the interests of the Ad-
2 ministration or the United States, the Adminis-
3 trator may suspend from office or prohibit from
4 further participation in any manner in the man-
5 agement or conduct of the affairs of a small
6 business lending company or a non-Federally
7 regulated lender a management official by writ-
8 ten notice to such effect served upon the man-
9 agement official. Such suspension or prohibition
10 may prohibit the management official from
11 making, servicing, reviewing, approving, or liq-
12 uidating any loan under section 7(a) of this
13 Act.

14 “(B) EFFECTIVENESS.—A suspension or
15 prohibition under subparagraph (A)—

16 “(i) shall take effect upon service of
17 notice under paragraph (2); and

18 “(ii) unless stayed by a court in pro-
19 ceedings authorized by subparagraph (C),
20 shall remain in effect—

21 “(I) pending the completion of
22 the administrative proceedings pursu-
23 ant to a notice of intention to remove
24 served under paragraph (2); and

1 “(II) until such time as the Ad-
2 ministrator dismisses the charges
3 specified in the notice, or, if an order
4 of removal or prohibition is issued
5 against the management official, until
6 the effective date of any such order.

7 “(C) JUDICIAL REVIEW OF SUSPENSION
8 PRIOR TO HEARING.—Not later than 10 days
9 after a management official is suspended or
10 prohibited from participation under subpara-
11 graph (A), the management official may apply
12 to an appropriate district court for a stay of the
13 suspension or prohibition pending the comple-
14 tion of the administrative proceedings pursuant
15 to a notice of intent to remove served upon the
16 management official under paragraph (2).

17 “(4) AUTHORITY TO SUSPEND ON CRIMINAL
18 CHARGES.—

19 “(A) IN GENERAL.—If a management offi-
20 cial is charged in any information, indictment,
21 or complaint authorized by a United States at-
22 torney, with a felony involving dishonesty or
23 breach of trust, the Administrator may, by writ-
24 ten notice served upon the management official,
25 suspend the management official from office or

1 prohibit the management official from further
2 participation in any manner in the management
3 or conduct of the affairs of the small business
4 lending company or non-Federally regulated
5 lender.

6 “(B) EFFECTIVENESS.—A suspension or
7 prohibition under subparagraph (A) shall re-
8 main in effect until the information, indictment,
9 or complaint is finally disposed of, or until ter-
10 minated by the Administrator or upon an order
11 of a district court.

12 “(C) AUTHORITY UPON CONVICTION.—If a
13 judgment of conviction with respect to an of-
14 fense described in subparagraph (A) is entered
15 against a management official, then at such
16 time as the judgment is not subject to further
17 judicial review (and for purposes of this sub-
18 paragraph shall not include any petition for a
19 writ of habeas corpus), the Administrator may
20 issue and serve upon the management official
21 an order removing the management official, ef-
22 fective upon service of a copy of the order upon
23 the small business lending company or non-Fed-
24 erally regulated lender.

1 “(D) AUTHORITY UPON DISMISSAL OR
2 OTHER DISPOSITION.—A finding of not guilty
3 or other disposition of charges described in sub-
4 paragraph (A) shall not preclude the Adminis-
5 trator from instituting proceedings under sub-
6 section (e) or (f).

7 “(5) NOTIFICATION TO SMALL BUSINESS LEND-
8 ING COMPANY OR A NON-FEDERALLY REGULATED
9 LENDER.—Copies of each notice required to be
10 served on a management official under this section
11 shall also be served upon the small business lending
12 company or non-Federally regulated lender involved.

13 “(6) FINAL AGENCY ACTION AND JUDICIAL RE-
14 VIEW.—

15 “(A) ISSUANCE OF ORDERS.—After a
16 hearing under this subsection, and not later
17 than 30 days after the Administrator notifies
18 the parties that the case has been submitted for
19 final decision, the Administrator shall render a
20 decision in the matter (which shall include find-
21 ings of fact upon which its decision is predi-
22 cated), and shall issue and cause to be served
23 upon each party to the proceeding an order or
24 orders consistent with this section. The decision
25 of the Administrator shall constitute final agen-

1 cy action for purposes of chapter 7 of title 5,
2 United States Code.

3 “(B) JUDICIAL REVIEW.—An adversely ag-
4 grieved party shall have 20 days from the date
5 of issuance of the order to seek judicial review
6 in an appropriate district court.

7 “(h) APPOINTMENT OF RECEIVER.—

8 “(1) In any proceeding under subsection (f)(4)
9 or subsection (g)(6)(C), the court may take exclusive
10 jurisdiction of a small business lending company or
11 a non-Federally regulated lender and appoint a re-
12 ceiver for assets of the company or lender.

13 “(2) Upon request of the Administrator, the
14 court may appoint the Administrator as a receiver
15 under paragraph (1).

16 “(i) POSSESSION OF ASSETS.—

17 “(1) If a small business lending company or a
18 non-Federally regulated lender is not in compliance
19 with capital requirements or is insolvent, the Admin-
20 istrator may take possession of the portfolio of loans
21 guaranteed by the Administrator and sell such loans
22 to a third party by means of a receiver appointed
23 under subsection (h).

24 “(2) If a small business lending company or a
25 non-Federally regulated lender is not in compliance

1 with capital requirements or is insolvent or otherwise
2 operating in an unsafe and unsound condition, the
3 Administrator may take possession of servicing ac-
4 tivities of loans that are guaranteed by the Adminis-
5 trator and sell such servicing rights to a third party
6 by means of a receiver appointed under subsection
7 (h).

8 “(j) PENALTIES AND FORFEITURES.—

9 “(1) Except as provided in paragraph (2), a
10 small business lending company or a non-Federally
11 regulated lender which violates any regulation or
12 written directive issued by the Administrator regard-
13 ing the filing of any regular or special report shall
14 pay to the United States a civil penalty of not more
15 than \$100 for each day of the continuance of the
16 failure to file such report, unless it is shown that
17 such failure is due to reasonable cause and not due
18 to willful neglect. The civil penalties under this sub-
19 section may be enforced in a civil action brought by
20 the Administrator. The penalties under this sub-
21 section shall not apply to any affiliate of a small
22 business lending company that procures at least 10
23 percent of its annual purchasing requirements from
24 small manufacturers.

1 **SEC. 216. WOMEN'S BUSINESS CENTER PROGRAM.**

2 Section 29 of the Small Business Act (15 U.S.C. 656)
3 is amended to read as follows:

4 **“SEC. 29. WOMEN'S BUSINESS CENTER PROGRAM.**

5 “(a) DEFINITIONS.—For purposes of this section:

6 “(1) The term ‘private nonprofit organization’
7 means an entity that is described in section 501(c)
8 of the Internal Revenue Code of 1986 and exempt
9 from taxation under section 501(a) of such Code.

10 “(2) The term ‘women’s business center site’
11 means the location of—

12 “(A) a women’s business center; or

13 “(B) 1 or more women’s business centers,
14 established in conjunction with another wom-
15 en’s business center in another location within
16 a State or region—

17 “(i) that reach a distinct population
18 that would otherwise not be served;

19 “(ii) whose services are targeted to
20 women; and

21 “(iii) whose scope, function, and ac-
22 tivities are similar to those of the primary
23 women’s business center or centers in con-
24 junction with which it was established.

25 “(b) AUTHORITY.—The Administrator may provide
26 financial assistance to private nonprofit organizations to

1 conduct projects which will receive Federal funding for 5
2 years and those that receive extensions for funding under
3 the conditions set forth in this section for the benefit of
4 small business concerns owned and controlled by women.

5 The projects shall provide—

6 “(1) financial assistance, including training and
7 counseling in how to apply for and secure business
8 credit and investment capital, preparing and pre-
9 senting financial statements, and managing cash
10 flow and other financial operations of a business
11 concern;

12 “(2) management assistance, including training
13 and counseling in how to plan, organize, staff, di-
14 rect, and control each major activity and function of
15 a small business concern; and

16 “(3) marketing assistance, including training
17 and counseling in identifying and segmenting domes-
18 tic and international market opportunities, preparing
19 and executing marketing plans, developing pricing
20 strategies, locating contract opportunities, negoti-
21 ating contracts, and utilizing varying public relations
22 and advertising techniques.

23 “(c) SUBMISSION OF 5-YEAR PLANS.—

24 “(1) In response to solicitations made by the
25 Administrator requesting applications for grants to

1 operate women’s business centers, each applicant or-
2 ganization initially shall submit a 5-year plan to the
3 Administrator detailing the budget required to pro-
4 vide the services set forth in subsection (b), the serv-
5 ices that will be provided, the target population, and
6 the proposed fundraising activities to meet the non-
7 Federal contributions mandated by this section.

8 “(2)(A) Notwithstanding any other provision of
9 law, the Administrator may use such expedited
10 methods of solicitation and award as the Adminis-
11 trator determines to be appropriate to carry out this
12 section.

13 “(B) Any expedited procedures utilized by the
14 Administrator shall ensure that all small business
15 sources are provided a reasonable opportunity to
16 submit applications.

17 “(d) CRITERIA.—The Administrator shall evaluate
18 and rank applicants in accordance with predetermined se-
19 lection criteria that shall be stated in terms of relative im-
20 portance. Such criteria and their relative importance shall
21 be made publicly available and stated in each solicitation
22 for applications made by the Administrator. The criteria
23 shall include—

24 “(1) the experience of the applicant in con-
25 ducting programs or ongoing efforts designed to im-

1 part or upgrade the business skills of women busi-
2 ness owners or potential owners;

3 “(2) the present ability of the applicant to com-
4 mence a project within a minimum amount of time;

5 “(3) the ability of the applicant to provide
6 training and services to a representative number of
7 women who are both socially and economically dis-
8 advantaged; and

9 “(4) the location for the women’s business cen-
10 ter site proposed by the applicant.

11 “(e) SELECTION OF GRANTEEES.—Assuming other
12 ranking factors to be equal, the Administrator shall make
13 selection of grantees in the following order of preference:

14 “(1) The Administrator shall select from the
15 applications those that demonstrate the greatest
16 ability to serve women who are socially and economi-
17 cally disadvantaged whether located in standard
18 metropolitan statistical areas or rural areas and
19 without regard to the location of an existing center.

20 “(2) If, in the opinion of the Administrator, 2
21 or more applicants have the same rank with respect
22 to service of socially and economically disadvantaged
23 women, the Administrator shall prefer the applicant
24 that proposes to serve part of a State in a State that
25 has not had a center in the past 5 years.

1 “(3) If no application has been received under
2 which an award can be made pursuant to paragraph
3 (2), the Administrator then shall select an applicant
4 that proposes to serve a standard metropolitan sta-
5 tistical area that has not been served by a women’s
6 business center during the past 5 years.

7 “(f) ADMINISTRATOR FUNDING OF GRANTEES.—The
8 Administrator, except as otherwise provided by subsection
9 (m), shall provide funding according to the following for-
10 mula:

11 “(1) During the first and second years of oper-
12 ation, two dollars in Federal funds for each dollar in
13 matching funds as required by subsection (g).

14 “(2) During the third, fourth, and fifth years,
15 one dollar in Federal funds for each dollar in match-
16 ing funds as required by subsection (g).

17 “(3) The grant agreement shall provide for the
18 mechanism of disbursement of Federal funds by the
19 Administrator including payment in lump sum or in-
20 stallments, in advance, or by way of reimbursement.
21 The Administrator may disburse up to 25 percent of
22 each year’s Federal share to a grantee before the
23 non-Federal sector matching funds are obtained.

24 “(4) If a grantee fails to obtain the required
25 non-Federal contribution at any time during the life

1 of the grant, such grantee shall not be eligible there-
2 after for advance disbursements pursuant to para-
3 graph (3) during the remainder of the term of the
4 grant, or for any other women’s business center
5 which it operates or for which it has applied to es-
6 tablish.

7 “(5) Prior to approving assistance to a grantee
8 for any other projects, the Administrator shall spe-
9 cifically determine whether the Administrator be-
10 lieves that the grantee will be able to obtain the req-
11 uisite non-Federal funding and enter a written find-
12 ing setting forth the reasons for making such deter-
13 mination.

14 “(6) The authority of the Administrator to pro-
15 vide funding pursuant to this section shall only be
16 in effect for each fiscal year and only to the extent
17 and in amounts as are provided for in advance of
18 appropriations Acts.

19 “(g) MATCHING FUNDS.—

20 “(1) Except as provided by subsection (n), each
21 grantee, shall be required to obtain matching con-
22 tributions according to the formula set forth in sub-
23 section (f).

24 “(2) No more than one-half of such contribu-
25 tions may be in the form of in-kind contributions

1 that are budget line items only, including office
2 equipment and office space.

3 “(3) The restriction in paragraph (2) shall
4 apply to all grantees under this section.

5 “(h) CONTRACT AUTHORITY.—A women’s business
6 center may enter into a contract with a Federal depart-
7 ment or agency to provide specific assistance to women
8 and other underserved small business concerns. Perform-
9 ance of such contract should not hinder the women’s busi-
10 ness centers in carrying out the terms of the grant re-
11 ceived by the women’s business centers from the Adminis-
12 trator.

13 “(i) ANNUAL PROGRAM EXAMINATION.—

14 “(1) The Administrator shall—

15 “(A) develop and implement an annual
16 programmatic and financial examination of
17 each women’s business center established pur-
18 suant to this section, pursuant to which each
19 such center shall provide to the Adminis-
20 trator—

21 “(i) an itemized cost breakdown of ac-
22 tual expenditures for costs incurred during
23 the preceding year; and

24 “(ii) documentation regarding the
25 amount of matching assistance from non-

1 Federal sources obtained and expended by
2 the center during the preceding year in
3 order to meet the requirements of sub-
4 section (g) and, with respect to any in-kind
5 contributions described in that subsection
6 that were used to satisfy the matching re-
7 quirements, verification of the existence
8 and valuation of those contributions; and

9 “(iii) a review of the grantee’s success
10 in fundraising plan and whether that needs
11 revision to ensure that the grantee can
12 sustain operations after five years; and

13 “(B) analyze the results of each such ex-
14 amination and, based on that analysis, make a
15 determination regarding the programmatic and
16 financial viability of each women’s business cen-
17 ter.

18 “(2) In conducting such annual examination,
19 the Administrator shall limit the total number of site
20 visits to a particular women’s business center to no
21 more than 2 per year, unless the Administrator de-
22 termines that extraordinary circumstances, as de-
23 fined in regulations promulgated by the Adminis-
24 trator, requires more than 2 such visits.

25 “(j) RENEWAL OF FUNDING AND TERMINATION.—

1 “(1) On an annual basis, commencing with the
2 end of the grantee’s second year of operation of a
3 women’s business center, the Administrator, based
4 on the program review made pursuant to subsection
5 (i), shall determine whether to continue funding the
6 grantee according to the formula set forth in sub-
7 section (f). In determining whether to renew funding
8 during any year of the life of the project operated
9 by the grantee, the Administrator—

10 “(A) shall consider the results of each an-
11 nual examination of the center under subsection
12 (i); and

13 “(B) may withhold funding for the fol-
14 lowing year or years, if the Administrator deter-
15 mines that—

16 “(i) the grantee has failed to provide
17 for any women’s business center which it
18 operates any information required to by
19 the Administrator to perform the annual
20 program examination required under sub-
21 section (i), or the information is deemed to
22 be inadequate to conduct the annual exam-
23 ination under subsection (i);

24 “(ii) the center has failed to provide
25 any information required to be provided by

1 the center for purposes of the report of the
2 Administrator under subsection (l), or the
3 information provided by the center is inad-
4 equate; or

5 “(iii) the Administrator determines,
6 pursuant to regulations adopted by the Ad-
7 ministrator and codified in the Code of
8 Federal Regulations, that the grantee has
9 failed to deliver the services required by
10 subsection (b) taking into account current
11 economic conditions and the target popu-
12 lation served by the grantee.

13 “(2) The Administrator shall not require, as a
14 condition of initial or continued funding, and a
15 grant agreement shall not include a requirement
16 that a women’s business center operated by the
17 grantee serve a particular number of women with re-
18 spect to loans under section 7 of this Act or title V
19 of the Small Business Investment Act of 1958.

20 “(3) The Administrator shall not fund a grant-
21 ee for the operation of a women’s business center
22 that has been in operation for 5 years unless it ap-
23 plies for and receives an extension of Federal fund-
24 ing pursuant to subsection (m) or the grantee re-
25 applies as a new applicant pursuant to subsection

1 (c) and the Administrator selects the grantee pursu-
2 ant to subsections (d) and (e).

3 “(4) If the Administrator makes a determina-
4 tion pursuant to subparagraph (1)(B)(iii), prior to
5 the withholding of any funds, the Administrator
6 shall provide the grantee with a written notification
7 of the reasons and shall provide the grantee with the
8 opportunity for a hearing pursuant to section 554 of
9 title 5, United States Code.

10 “(5) The Administrator shall make a final deci-
11 sion based on the record of the hearing and such de-
12 cision shall be made within 60 days of the notifica-
13 tion provided in paragraph (4).

14 “(k) MANAGEMENT REPORT.—

15 “(1) The Administrator shall prepare and sub-
16 mit to the Committee on Small Business of the
17 House of Representatives and the Committee on
18 Small Business and Entrepreneurship of the Senate
19 a report on the effectiveness of all projects, including
20 those operated pursuant to extensions of Federal
21 funding, conducted under this section.

22 “(2) Each report submitted under paragraph
23 (1) shall include information concerning, with re-
24 spect to each women’s business center established
25 pursuant to this section—

1 “(A) the number of individuals receiving
2 assistance;

3 “(B) the number of startup business con-
4 cerns formed;

5 “(C) the gross receipts of assisted con-
6 cerns;

7 “(D) the employment increases or de-
8 creases of assisted concerns;

9 “(E) to the maximum extent practicable,
10 increases or decreases in profits of assisted con-
11 cerns;

12 “(F) the number of hours of counseling
13 and training provided and workshops con-
14 ducted; and

15 “(G) the most recent analysis, as required
16 under subsection (i)(1)(B), and the subsequent
17 determination made by the Administrator under
18 that subsection.

19 “(1) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) There is authorized to be appropriated—

21 “(A) \$ 16,000,000 for fiscal year 2004;
22 and

23 “(B) \$ 17,500,000 for fiscal year 2005.

24 “(2)(A) Except as provided in subparagraph
25 (B), amounts made available under this subsection

1 for each fiscal year, may only be used for grant
2 awards and may not be used for costs incurred by
3 the Administrator in connection with the manage-
4 ment and administration of the program under this
5 section.

6 “(B) Of the amount made available under this
7 subsection for a fiscal year, 1.75 percent shall be
8 available for costs associated with selection, moni-
9 toring, and oversight.

10 “(3)(A) Subject to subparagraph (B), 30.2 per-
11 cent of the funds authorized pursuant to this sub-
12 section shall be reserved to provide extensions of
13 Federal funding to grantees that meet the standards
14 set forth in subsection (m).

15 “(B) If the Administrator does not distribute
16 all funds reserved for extensions of Federal funding
17 pursuant to subsection (m), the Administrator shall
18 utilize the unawarded funds to grantees according to
19 the priorities set forth in paragraphs (1), (2), and
20 (3) of subsection (e).

21 “(m) EXTENSIONS OF FEDERAL FUNDING AFTER
22 FIVE YEARS.—

23 “(1) The Administrator is authorized to extend
24 Federal funding to any grantee for 5 years after the
25 term of the original grant ends.

1 “(2) In order to receive an extension of Federal
2 funding, the grantee shall submit an application in
3 the fourth year of its operation of a women’s busi-
4 ness center and has met all of the criteria set by the
5 Administrator for continued funding in its fifth year.

6 “(n) SELECTION OF GRANTEES FOR EXTENSIONS OF
7 FEDERAL FUNDING.—

8 “(1) The Administrator shall review each appli-
9 cation submitted under paragraph (2) and select
10 grantees for extensions of Federal funding who
11 have—

12 “(A) a demonstrated record of serving pre-
13 dominantly socially and economically disadvan-
14 taged women; and

15 “(B) are unable to meet their matching
16 fund requirements due to their target popu-
17 lations.

18 “(2) If the Administrator does not receive any
19 applications that meet the standards of subpara-
20 graph (A), the Administrator shall select grantees
21 under this subsection according to the following
22 preferences:

23 “(A) Those that meet the matching re-
24 quirements in subsection (f)(2).

1 “(B) If there are no applicants that meet
2 that standard in subparagraph (A) then based
3 on criteria developed by the Administrator to
4 rank applicants for extensions of Federal fund-
5 ing.

6 “(3) The Administrator shall maintain a copy
7 of each application submitted under this subsection
8 for not less than 10 years.

9 “(4) In awarding an extension of Federal fund-
10 ing, the Administrator may condition such award on
11 the grantee obtaining a match requirement at least
12 equal to 2 non-Federal dollars for each dollar of
13 Federal funding except that grantees meeting the
14 standards of subparagraph (1)(A) shall only be re-
15 quired to match each Federal dollar with a non-Fed-
16 eral dollar.”.

17 **SEC. 217. HUBZONE PROGRAM.**

18 Section 31 of the Small Business Act (15 U.S.C.
19 657a) is amended to read as follows:

20 **“SEC. 31. HUBZONE PROGRAM.**

21 “(a) IN GENERAL.—There is established within the
22 Administration a program to be carried out by the Admin-
23 istrator to provide for Federal contracting assistance to
24 qualified HUBZone small business concerns in accordance
25 with this section.

1 “(b) ELIGIBLE CONTRACTS.—

2 “(1) AUTHORITY OF CONTRACTING OFFICER.—

3 “(A) A contracting officer may award sole
4 source contracts under this section to any quali-
5 fied HUBZone small business concern, if—

6 “(i) the qualified HUBZone small
7 business concern is determined to be a re-
8 sponsible contractor with respect to per-
9 formance of such contract opportunity, and
10 the contracting officer does not have a rea-
11 sonable expectation that 2 or more quali-
12 fied HUBZone small business concerns will
13 submit offers for the contracting oppor-
14 tunity;

15 “(ii) the anticipated award price of he
16 contract (including options) will not ex-
17 ceed—

18 “(I) \$5,000,000, in the case of a
19 contract opportunity assigned a stand-
20 ard industrial classification code for
21 manufacturing; or

22 “(II) \$3,000,000, in the case of
23 all other contract opportunities; and

1 “(iii) in the estimation of the con-
2 tracting officer, the contract award can be
3 made at a fair and reasonable price.

4 “(B) A contract opportunity may be
5 awarded pursuant to this section on the basis of
6 competition restricted to qualified HUBZone
7 small business concerns if the contracting offi-
8 cer has a reasonable expectation that not less
9 than 2 qualified HUBZone small business con-
10 cerns will submit offers and that the award can
11 be made at a fair market price.

12 “(2) PRICE EVALUATION PREFERENCE IN FULL
13 AND OPEN COMPETITIONS.—

14 “(A) IN GENERAL.—In any case in which
15 a contract is to be awarded on the basis of full
16 and open competition, the price offered by a
17 qualified HUBZone small business concern
18 shall be deemed as being lower than the price
19 offered by another offeror (other than another
20 small business concern), if the price offered by
21 the qualified HUBZone small business concern
22 is not more than 10 percent higher than the
23 price offered by the otherwise lowest, respon-
24 sive, and responsible offeror.

1 “(B) FULL AND OPEN COMPETITION.—For
2 purposes of this paragraph, the term ‘full and
3 open competition’ has the meaning given that
4 term in section 4 of the Office of Federal Pro-
5 curement Policy Act (41 U.S.C. 403).

6 “(3) RELATIONSHIP TO OTHER CONTRACTING
7 PREFERENCES.—A procurement may not be made
8 from a source on the basis of a preference provided
9 in paragraph (1) or (2), if the procurement would
10 otherwise be made from a different source under
11 section 4124 or 4125 of title 18, United States
12 Code, or the Javits-Wagner-O’Day Act (41 U.S.C.
13 46 et seq.).

14 “(c) ENFORCEMENT; PENALTIES.—

15 “(1) VERIFICATION OF ELIGIBILITY.—In car-
16 rying out this section, the Administrator shall estab-
17 lish procedures relating to—

18 “(A) the filing, investigation, and disposi-
19 tion by the Administration of any challenge to
20 the eligibility of a small business concern to re-
21 ceive assistance under this section (including a
22 challenge, filed by an interested party, relating
23 to the veracity of a certification made or infor-
24 mation provided to the Administration by a

1 small business concern under section 3(p)(5);
2 and

3 “(B) verification by the Administrator of
4 the accuracy of any certification made or infor-
5 mation provided to the Administration by a
6 small business concern under section 3(p)(5).

7 “(2) EXAMINATIONS.—The procedures estab-
8 lished under paragraph (1) may provide for program
9 examinations (including random program examina-
10 tions) by the Administrator of any small business
11 concern making a certification or providing informa-
12 tion to the Administrator under section 3(p)(5).

13 “(3) PROVISION OF DATA.—Upon the request
14 of the Administrator, the Secretary of Labor, the
15 Secretary of Housing and Urban Development, and
16 the Secretary of the Interior (or the Assistant Sec-
17 retary for Indian Affairs), shall promptly provide to
18 the Administrator such information as the Adminis-
19 trator determines to be necessary to carry out this
20 subsection.

21 “(4) PENALTIES.—In addition to the penalties
22 described in section 16(d), any small business con-
23 cern that is determined by the Administrator to have
24 misrepresented the status of that concern as a

1 ‘HUBZone small business concern’ for purposes of
2 this section, shall be subject to—

3 “(A) section 1001 of title 18, United
4 States Code; and

5 “(B) sections 3729 through 3733 of title
6 31, United States Code.

7 “(d) LIST OF QUALIFIED SMALL BUSINESS CON-
8 CERNS.—The Administrator shall establish and maintain
9 a list of qualified HUBZone small business concerns,
10 which list shall, to the extent practicable—

11 “(1) once the Administrator has made the cer-
12 tification required by subsection 3(p)(5)(A)(i) of this
13 Act regarding a qualified HUBZone small business
14 concern and has determined that subsection
15 3(p)(5)(B) does not apply to that concern, include
16 the name, address, and type of business with respect
17 to each such small business concern;

18 “(2) be updated by the Administrator not less
19 than annually; and

20 “(3) be provided upon request to any Federal
21 agency or other entity.

22 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
23 is authorized to be appropriated to carry out the program
24 established by this section \$5,000,000 for each of fiscal
25 years 2004 through 2005.”.

1 **SEC. 218. OTHER REPEALS AND REORGANIZATIONS.**

2 (a) SEVERABILITY CLAUSE MOVED TO END OF
3 SMALL BUSINESS ACT.—Section 36 of the Small Business
4 Act is amended to read as follows:

5 **“SEC. 36. SEVERABILITY.**

6 “If any provision of this Act, or the application there-
7 of to any person or circumstances, is held invalid, the re-
8 mainder of this Act, and the application of such provision
9 to other persons or circumstances, shall not be affected
10 thereby.”.

11 (b) REPEALS.—

12 (1) Section 19 of the Small Business Act (15
13 U.S.C. 631 note) is amended to read as follows:

14 **“SEC. 19. [RESERVED.].”.**

15 (2) Section 24 of the Small Business Act (15
16 U.S.C. 651) is amended to read as follows:

17 **“SEC. 24. [RESERVED.].”.**

18 (3) Section 25 of the Small Business Act (15
19 U.S.C. 652) is amended to read as follows:

20 **“SEC. 25. [RESERVED.].”.**

21 (4) Section 26 of the Small Business Act (15
22 U.S.C. 653) is amended to read as follows:

23 **“SEC. 26. [RESERVED.].”.**

24 (5) Section 28 of the Small Business Act (15
25 U.S.C. 655) is amended to read as follows:

1 **“SEC. 28. [RESERVED.]”.**

2 **SEC. 219. RULES OF CONSTRUCTION.**

3 (a) REFERENCES.—A reference to a provision of law
4 replaced by this title, including a reference in a regulation,
5 rule, order, or other law, is deemed to refer to the cor-
6 responding provision enacted by this Act.

7 (b) CONTINUING EFFECT.—Unless otherwise pro-
8 vided in this Act or in an amendment made by this Act,
9 any regulation, rule, or order in effect under a provision
10 of law replaced by this title shall continue in effect under
11 the corresponding provision enacted by this title until re-
12 pealed, amended, or superseded.

13 (c) INFERENCES OF REPEAL.—The repeal of a provi-
14 sion of law by this title shall not be construed as a legisla-
15 tive inference that the provision was or was not in effect
16 before its repeal.

17 **TITLE III—OTHER PROVISIONS**

18 **SEC. 301. REPORT REGARDING NATIONAL DATABASE OF**
19 **SMALL MANUFACTURERS.**

20 (a) STUDY AND REPORT.—The Administrator, in
21 consultation with the association of small business devel-
22 opment centers authorized by section 21(k) of the Small
23 Business Act, shall—

24 (1) study the feasibility of creating a national
25 database of small manufacturers that institutions of

1 higher education could access for purposes of meet-
2 ing procurement needs; and

3 (2) not later than one year after the date of the
4 enactment of this Act, transmit a report to the Con-
5 gress regarding the findings and conclusions of such
6 study.

7 (b) COST ESTIMATE.—The report referred to in sub-
8 section (a)(2) shall include an estimate of the cost of cre-
9 ating and maintaining the database described in sub-
10 section (a).

11 **SEC. 302. WORKFORCE TRANSFORMATION PLAN.**

12 (a) REORGANIZATION.—The Administrator shall, to
13 the extent permitted by law, reorganize the structure of
14 the Administration and reassign employees in order to—

15 (1) increase outreach to small business con-
16 cerns;

17 (2) improve coordination with Federal con-
18 tracting officers in an effort to increase prime con-
19 tract awards to small business concerns;

20 (3) enable small business concerns to obtain
21 better access to capital;

22 (4) expand assistance provided to small manu-
23 facturers; and

1 (5) meet goals in this section and the Small
2 Business Act for procurement center representatives
3 and commercial market representatives.

4 (b) REQUIRED COST SAVINGS.—In carrying out sub-
5 section (a), the Administrator shall achieve a 1 percent
6 savings in the overall cost of operating the agency.

7 (c) INCREASED NUMBER OF PROCUREMENT CENTER
8 REPRESENTATIVES AND COMMERCIAL MARKETING REP-
9 RESENTATIVES.—In carrying out subsection (a), the Ad-
10 ministrator shall ensure—

11 (1) that the following number of procurement
12 center representatives are employed by the Adminis-
13 tration:

14 (A) 75 by September 30, 2004; and

15 (B) 100 by September 30, 2005; and

16 (2) that the following number of commercial
17 marketing representatives are employed by the Ad-
18 ministration:

19 (A) 25 by September 30, 2004; and

20 (B) 50 by September 30, 2005.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out this section.

24 (e) REPORT TO CONGRESS.—Not later than 1 year
25 after the date of the enactment of this Act, the Adminis-

1 trator shall transmit a report to the Congress describing
2 the steps taken by the Administrator to carry out this sec-
3 tion. Such report shall contain—

4 (1) a detailed analysis of how the trans-
5 formation has—

6 (A) increased contact with small business
7 concerns;

8 (B) expanded dollar financings to small
9 business concerns;

10 (C) increased the total number of prime
11 and subcontracting dollars awarded to small
12 business concerns, including increases in each
13 contracting program established pursuant to
14 sections 8 and 15 of this Act; and

15 (D) increased assistance provided to small
16 manufacturers; and

17 (2) the Administrator's assessment of further
18 actions needed to transform the workforce to meet
19 the objectives described in paragraph (1).

20 **SEC. 303. REPEAL OF CERTAIN PROVISIONS OF THE DIS-**
21 **ASTER RELIEF ACT OF 1970.**

22 (a) IN GENERAL.—Section 237 of the Disaster Relief
23 Act of 1970 (15 U.S.C. 636d) is hereby repealed.

1 (b) NO AFFECT ON OUTSTANDING LOANS.—The re-
2 peal made by this section shall not affect any loan made
3 before the date of the enactment of this Act.

4 **SEC. 304. REGULATIONS ON SIZE STANDARDS OF**
5 **FRANCHISEES.**

6 (a) PROMULGATION.—Not later than 180 days after
7 the date of the enactment of this Act, the Administrator
8 shall repeal section 121.103(g) of title 13, Code of Federal
9 Regulations (as in effect on the date of the enactment of
10 this Act) and promulgate a new regulation, after the op-
11 portunity for notice and comment, taking into account
12 whether the franchisee or licensee—

13 (1) retains the majority of its profits but not
14 less than 51 percent;

15 (2) bears the burdens of its losses;

16 (3) shares no common ownership or manage-
17 ment personnel with the franchisor or licensor;

18 (4) maintains daily control of its operations in-
19 cluding determining who its customers will be;

20 (5) is subject to excessive restrictions on the
21 sale of its business given the interest of the
22 franchisor or licensor in protecting the goodwill of
23 its trademarks, tradenames, or service marks.

24 (b) FAILURE TO PROMULGATE NEW STANDARD.—If
25 the Administrator fails to comply with subsection (a), any

1 franchisee or licensee shall be treated as small for pur-
2 poses of the Small Business Act until the Administrator
3 has issued a final regulation as required under subsection
4 (a).

5 **SEC. 305. TEMPORARY SMALL BUSINESS DEVELOPMENT**
6 **CENTER ASSISTANCE TO INDIAN TRIBE MEM-**
7 **BERS, NATIVE ALASKANS, AND NATIVE HA-**
8 **WAIANS.**

9 (a) **IN GENERAL.**—The Administrator of the Small
10 Business Administration may award a grant under this
11 section to any grantee under section 21 of the Small Busi-
12 ness Act. A grant under this section shall be used solely
13 to provide services described in section 21(f)(4) of the
14 Small Business Act to assist with outreach, development,
15 and enhancement on Indian lands of small business
16 startups and expansions owned by Indian tribe members,
17 Native Alaskans, and Native Hawaiians.

18 (b) **LIMITATION.**—A grant shall not be made to a
19 grantee under this section unless the area served by such
20 grantee has a combined population of Indian tribe mem-
21 bers, Natives Alaskans, and Native Hawaiians that com-
22 prises at least 1 percent of the area’s total population,
23 as shown by the latest available census.

24 (c) **GRANT APPLICATIONS.**—An applicant for a grant
25 under this section shall submit to the Administrator of the

1 Small Business Administration an application that is in
2 such form as the Administrator may require. The applica-
3 tion shall include information regarding the applicant's
4 goals and objectives for the services to be provided using
5 the grant, including—

6 (1) the capability of the applicant to provide
7 training and services to Indian tribe members, Na-
8 tive Alaskans, and Native Hawaiians;

9 (2) the locations of the Small Business Develop-
10 ment Centers that would provide the assistance de-
11 scribed in subsection (a);

12 (3) the required amount of grant funding need-
13 ed by the applicant to implement the program; and

14 (4) the extent to which the applicant has con-
15 sulted with local tribal councils.

16 (d) APPLICABILITY OF GRANT REQUIREMENTS.—An
17 applicant for a grant under this section shall comply with
18 all of the requirements applicable to a grantee under sec-
19 tion 21 of the Small Business Act, except that the match-
20 ing funds requirements of subsection (i) of such section
21 shall not apply.

22 (e) MAXIMUM AMOUNT OF GRANTS.—A grantee shall
23 not receive more than \$300,000 in grants under this sec-
24 tion in a fiscal year.

1 (f) **ADVICE OF LOCAL TRIBAL COUNSELS.**—A grant-
2 ee under this section shall request the advice of local tribal
3 councils regarding how best to provide assistance to In-
4 dian tribe members, Native Alaskans, and Native Hawai-
5 ians and where to locate centers to provide such assist-
6 ance.

7 (g) **REGULATIONS.**—After providing notice and an
8 opportunity for comment and after consulting with the as-
9 sociation recognized by the Administrator of the Small
10 Business Administration under section 21(k) of the Small
11 Business Act (but not later than 180 days after the date
12 of enactment of this Act), the Administrator shall issue
13 final regulations to carry out this section, including regu-
14 lations that establish—

15 (1) standards relating to educational, technical,
16 and support services to be provided by grantees
17 under this section; and

18 (2) standards relating to any work plan that
19 the Administrator may require a grantee under this
20 section to develop.

21 (h) **DEFINITIONS.**—For purposes of this section:

22 (1) **INDIAN LANDS.**—The term “Indian lands”
23 has the meaning given the term “Indian country” in
24 section 1151 of title 18, United States Code, the
25 meaning given the term “Indian reservation” in sec-

1 tion 151.2 of title 25, Code of Federal Regulations
2 (as in effect on the date of enactment of this para-
3 graph), and the meaning given the term “reserva-
4 tion” in section 4 of the Indian Child Welfare Act
5 of 1978 (25 U.S.C. 1903).

6 (2) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given such term in section 4(e) of
8 the Indian Self-Determination and Education Assist-
9 ance Act.

10 (3) INDIAN TRIBE MEMBER.—The term “Indian
11 tribe member” means a member of an Indian tribe
12 (other than a Native Alaskan).

13 (4) NATIVE ALASKAN.—The term “Native Alas-
14 kan” has the meaning given the term “Native” in
15 section 3(b) of the Alaska Native Claims Settlement
16 Act (43 U.S.C. 1602(b)).

17 (5) NATIVE HAWAIIAN.—The term “Native Ha-
18 waiian” means any individual who is a descendant of
19 the aboriginal people who, prior to 1778, occupied
20 and exercised sovereignty in the area that now con-
21 stitutes the State of Hawaii.

22 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this section
24 \$7,000,000 for each of fiscal years 2004 through 2006.

1 (j) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—
2 Funding under this section shall not be taken into account
3 under subsections (h), (i), and (j) of section 21 of the
4 Small Business Act.

5 (k) LIMITATION ON USE OF FUNDS.—The Adminis-
6 trator may carry out this section only with amounts appro-
7 priated specifically to carry out this section.

8 **SEC. 306. TEMPORARY SMALL BUSINESS DEVELOPMENT**
9 **CENTER ASSISTANCE FOR VOCATIONAL AND**
10 **TECHNICAL ENTREPRENEURSHIP DEVELOP-**
11 **MENT.**

12 (a) IN GENERAL.—The Administrator of the Small
13 Business Administration (hereafter in this section referred
14 to as the Administrator) may award a grant under this
15 section to any grantee under section 21 of the Small Busi-
16 ness Act. A grant under this section shall be used solely
17 to provide, on a statewide basis, technical assistance to
18 secondary schools, or to postsecondary vocational or tech-
19 nical schools, for the development and implementation of
20 curricula designed to promote vocational and technical en-
21 trepreneurship.

22 (b) MINIMUM GRANT.—The Administrator shall not
23 make a grant under this section in an amount less than
24 \$200,000.

1 (c) APPLICATION.—Each applicant for a grant under
2 this section shall submit to the Administrator an applica-
3 tion in such form as the Administrator may require. The
4 application shall include information regarding the appli-
5 cant’s goals and objectives for the educational programs
6 to be assisted.

7 (d) REPORT TO ADMINISTRATOR.—The Adminis-
8 trator shall make a condition of each grant under the pro-
9 gram that not later than 18 months after the receipt of
10 the grant the grantee shall transmit to the Administrator
11 a report describing how the grant funds were used.

12 (e) COOPERATIVE AGREEMENTS AND CONTRACTS.—
13 The Administrator may enter into a cooperative agree-
14 ment or contract with any grantee under this section to
15 provide additional assistance that furthers the purposes
16 of this section.

17 (f) APPLICABILITY OF GRANT REQUIREMENTS.—An
18 applicant for a grant under this section shall comply with
19 all of the requirements applicable to a grantee under sec-
20 tion 21 of the Small Business Act, except that the match-
21 ing funds requirements of subsection (i) of such section
22 shall not apply.

23 (g) EVALUATION OF PROGRAM.—Not later than
24 March 31, 2006, the Administrator shall transmit to the

1 Congress a report containing an evaluation of the grant
2 program carried out under this section.

3 (h) CLEARINGHOUSE.—The association recognized by
4 the Administrator under section 21(k) of the Small Busi-
5 ness Act shall act as a clearinghouse of information and
6 expertise regarding vocational and technical entrepreneur-
7 ship education programs. In each fiscal year in which
8 grants are made under the program, the Administrator
9 shall provide additional assistance to such association to
10 carry out the functions described in this subsection.

11 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$7,000,000 for each of fiscal years 2004, 2005, and 2006.

14 (j) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—
15 Funding under this section shall not be taken into account
16 under subsections (h), (i), and (j) of section 21 of the
17 Small Business Act.

18 (k) LIMITATION ON USE OF FUNDS.—The Adminis-
19 trator may carry out this section only with amounts appro-
20 priated specifically to carry out this section.

21 **SEC. 307. VERY SMALL BUSINESS CONCERN CONTRACT**

22 **DATA COLLECTION.**

23 The Administrator of the Small Business Administra-
24 tion and the Administrator of General Services, acting
25 jointly, shall create, within the data collection capabilities

1 of the Federal Procurement Data System, a data element
2 that identifies contract awards to very small business con-
3 cerns, under section 15(t) of the Small Business Act. In
4 carrying out the preceding sentence, the Administrators
5 shall ensure that the data element is in use by all Federal
6 entities with respect to such awards not later than 90 days
7 after the date of the enactment of this section.

8 **SEC. 308. VERY SMALL BUSINESS CONCERN PILOT PRO-**
9 **GRAM FOR COMPETITION AWARD TO HOME-**
10 **BASED BUSINESS.**

11 (a) IN GENERAL.—The Administrator of the Small
12 Business Administration shall establish a pilot program
13 that ensures that at least one award to a very small busi-
14 ness concern resulting from competition under section
15 15(t)(2)(C) of the Small Business Act is made to a home-
16 based business.

17 (b) DEFINITION.—As used in this section, the term
18 “home-based business” means a small business, the head-
19 quarters, main office, and records of which are located at
20 the primary residence of the majority owner.

21 (c) TERM OF PILOT PROGRAM.—The pilot program
22 shall begin not later than 90 days after the date of the
23 enactment of this section and shall end on September 30,
24 2007.

1 **SEC. 309. SOCIALLY AND ECONOMICALLY DISADVANTAGED**
2 **BUSINESS.**

3 Section 7102(c) of the Federal Acquisition Stream-
4 lining Act of 1994 (Public Law 103–355; 15 U.S.C. 644
5 note) is amended by striking “September 30, 2003” and
6 inserting “September 30, 2005”.

7 **SEC. 310. STUDY AND REPORT ON EFFECTIVENESS OF AG-**
8 **GREGATE LIMITATIONS ON AMOUNT OF AS-**
9 **SISTANCE TO ANY SINGLE ENTERPRISE.**

10 (a) **STUDY.**—The Administrator shall conduct a
11 study of whether the aggregate amount limitation under
12 section 306(a) of the Small Business Investment Act of
13 1958 (15 U.S.C. 686(a)) is an impediment to investment
14 in small manufacturers. In conducting the study, the Ad-
15 ministrator shall consult licensees and small manufactur-
16 ers.

17 (b) **REPORT.**—Not later than one year after the date
18 of the enactment of this section, the Administrator shall
19 report the results of the study to the Committee on Small
20 Business of the House of Representatives and the Com-
21 mittee on Small Business and Entrepreneurship of the
22 Senate.

1 **SEC. 311. STUDY AND REPORT ON COORDINATION OF NEW**
2 **MARKETS VENTURE CAPITAL PROGRAM**
3 **WITH NEW MARKETS TAX CREDIT PROGRAM.**

4 (a) IN GENERAL.—The Administrator of the Small
5 Business Administration shall conduct a study to identify
6 an approach to better coordinate the administration of the
7 New Markets Venture Capital Program under part B of
8 title III of the Small Business Investment Act of 1958
9 (15 U.S.C. 689 et seq.) with the New Markets Tax Credit
10 under section 45D of the Internal Revenue Code of 1986.

11 (b) REPORT.—Not later than 90 days after the date
12 of the enactment of this Act, the Administrator shall re-
13 port the results of the study to the Committee on Small
14 Business of the House of Representatives and the Com-
15 mittee on Small Business and Entrepreneurship of the
16 Senate.

17 **SEC. 312. STUDY AND REPORT ON PREMIER CERTIFIED**
18 **LENDERS PROGRAM.**

19 (a) IN GENERAL.—The Administrator of the Small
20 Business Administration shall enter into a contract with
21 a Federal agency experienced in community development
22 lending and financial regulation or with a member of the
23 Federal Financial Institutions Examinations Council to
24 conduct a study and prepare a report regarding—

25 (1) the extent to which statutory requirements
26 have caused overcapitalization in the loss reserves

1 maintained by certified development companies par-
2 ticipating in the Premier Certified Lenders Program
3 under section 508 of the Small Business Investment
4 Act of 1958 (15 U.S.C. 697e); and

5 (2) alternatives for establishing and maintain-
6 ing loss reserves that are sufficient to protect the
7 Government from the risk of loss associated with
8 loans guaranteed under that Program.

9 (b) TRANSMISSION OF REPORT.—Not later than 180
10 days after the enactment of this section, the Administrator
11 shall transmit the report to the Committee on Small Busi-
12 ness of the House of Representatives and the Committee
13 on Small Business and Entrepreneurship of the Senate.

14 (c) LIMITATION.—The amount of the contract under
15 subsection (a) shall not exceed \$75,000.

○