

112TH CONGRESS
1ST SESSION

H. R. 2424

To amend the Small Business Act to ensure that certain Federal contracts are set aside for small businesses, to enhance services to small businesses that are disadvantaged, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2011

Mr. RUSH introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committees on Financial Services, Oversight and Government Reform, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Small Business Act to ensure that certain Federal contracts are set aside for small businesses, to enhance services to small businesses that are disadvantaged, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Opportuni-
5 ties for Main Street Act of 2011”.

1 **TITLE I—SMALL BUSINESS**
2 **ADMINISTRATION**

3 **SEC. 101. CONTRACT OPPORTUNITIES FOR SMALL BUSI-**
4 **NESS CONCERNS.**

5 (a) DEFINITIONS.—In this section—

6 (1) the term “eligible contract” means any con-
7 tract for the acquisition of goods or services that is
8 in an amount (including options) of more than
9 \$3,000 and less than \$500,000; and

10 (2) the term “small business concern” has the
11 meaning given that term under section 3(a) of the
12 Small Business Act (15 U.S.C. 632(a)).

13 (b) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, a Federal department or agency shall, to the
15 extent practicable, award to a small business concern each
16 eligible contract let by the department or agency.

17 (c) SOLE SOURCE CONTRACTS.—A Federal depart-
18 ment or agency may award an eligible contract as a sole
19 source contract to a small business concern if at least 1
20 small business concern submits an offer with respect to
21 the eligible contract.

22 (d) AWARD TO SMALL BUSINESS NOT PRAC-
23 TICABLE.—

24 (1) IN GENERAL.—If a contracting officer of a
25 Federal department or agency determines that

1 awarding an eligible contract to a small business
2 concern under subsection (b) is not practicable, the
3 contracting officer shall make available to the Ad-
4 ministrator of the Small Business Administration
5 and the public—

6 (A) the determination and reasoning of
7 such officer with respect to the eligible contract;
8 and

9 (B) the name of each small business con-
10 cern that submitted an offer with respect to the
11 eligible contract.

12 (2) REVIEW.—The Administrator of the Small
13 Business Administration shall—

14 (A) review a determination under para-
15 graph (1); and

16 (B) if the Administrator determines it is
17 appropriate, open the eligible contract oppor-
18 tunity for the submission of additional offers
19 and award the contract.

20 **SEC. 102. ENHANCEMENT OF SERVICES TO SMALL BUSI-**
21 **NESSES THAT ARE DISADVANTAGED.**

22 (a) NET WORTH.—Section 8(a)(6)(A) of the Small
23 Business Act (15 U.S.C. 637(a)(6)(A)) is amended by in-
24 serting after “disadvantaged individual.” the following:
25 “For purposes of this section, an individual having a net

1 worth of more than \$1,500,000 is not economically dis-
2 advantaged.”.

3 (b) TIME LIMIT ON PARTICIPATION.—Section
4 7(j)(15) of the Small Business Act (15 U.S.C. 636(j)(15))
5 is amended—

6 (1) by redesignating subparagraphs (A) and
7 (B) as clauses (i) and (ii), respectively;

8 (2) by inserting “(A)” after “(15)”; and

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

10 “(B) No time limitation relating to the period that
11 a small business concern may receive developmental assist-
12 ance under the Program and contracts under section 8(a)
13 shall apply to a small business concern that has not com-
14 pleted a contract under section 8(a).”.

15 **SEC. 103. SURETY BOND GUARANTEES.**

16 (a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of
17 the Small Business Investment Act of 1958 (15 U.S.C.
18 694b(a)(1)) is amended by striking “(1)” and all that fol-
19 lows and inserting the following: “(1)(A) The Administra-
20 tion may, upon such terms and conditions as it may pre-
21 scribe, guarantee and enter into commitments to guar-
22 antee any surety against loss resulting from a breach of
23 the terms of a bid bond, payment bond, performance bond,
24 or bonds ancillary thereto, by a principal on any total work

1 order or contract amount at the time of bond execution
2 that does not exceed \$5,000,000.

3 “(B) The Administrator may guarantee a surety
4 under subparagraph (A) for a total work order or contract
5 amount that does not exceed \$10,000,000, if a contracting
6 officer of a Federal agency certifies that such a guarantee
7 is necessary.”.

8 (b) DENIAL OF LIABILITY.—Section 411 of the Small
9 Business Investment Act of 1958 (15 U.S.C. 694b) is
10 amended—

11 (1) by striking subsection (e) and inserting the
12 following:

13 “(e) REIMBURSEMENT OF SURETY; CONDITIONS.—
14 Pursuant to any such guarantee or agreement, the Admin-
15 istration shall reimburse the surety, as provided in sub-
16 section (c) of this section, except that the Administration
17 shall be relieved of liability (in whole or in part within
18 the discretion of the Administration) if—

19 “(1) the surety obtained such guarantee or
20 agreement, or applied for such reimbursement, by
21 fraud or material misrepresentation;

22 “(2) the total contract amount at the time of
23 execution of the bond or bonds exceeds \$5,000,000;

24 “(3) the surety has breached a material term or
25 condition of such guarantee agreement; or

1 “(4) the surety has substantially violated the
2 regulations promulgated by the Administration pur-
3 suant to subsection (d).”;

4 (2) by striking subsection (k); and

5 (3) by adding after subsection (i) the following:

6 “(j) DENIAL OF LIABILITY.—For bonds made or exe-
7 cuted with the prior approval of the Administration, the
8 Administration shall not deny liability to a surety based
9 upon material information that was provided as part of
10 the guaranty application.”.

11 **SEC. 104. BUNDLED CONTRACTS.**

12 (a) DEFINITIONS.—Section 3(o) of the Small Busi-
13 ness Act (15 U.S.C. 632(o)) is amended to read as follows:

14 “(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-
15 QUIREMENTS AND RELATED TERMS.—In this Act:

16 “(1) BUNDLED CONTRACT.—

17 “(A) IN GENERAL.—The term ‘bundled
18 contract’ means a contract or order that is en-
19 tered into to meet procurement requirements
20 that are consolidated in a bundling of contract
21 requirements, without regard to how the pro-
22 curing agency has designated the contract or
23 order or whether a study of the effects of the
24 solicitation on civilian or military personnel has
25 been made.

1 “(B) EXCEPTIONS.—The term does not in-
2 clude—

3 “(i) a contract or order with an aggre-
4 gate dollar value below the dollar thresh-
5 old; or

6 “(ii) a contract or order that is en-
7 tered into to meet an exempted require-
8 ment.

9 “(2) BUNDLING OF CONTRACT REQUIRE-
10 MENTS.—

11 “(A) IN GENERAL.—The term ‘bundling of
12 contract requirements’ means the use of any
13 bundling methodology to satisfy 2 or more pro-
14 curement requirements for goods or services
15 previously supplied or performed under separate
16 smaller contracts or orders, or to satisfy 2 or
17 more procurement requirements for construc-
18 tion services of a type historically performed
19 under separate smaller contracts or orders, that
20 is likely to be unsuitable for award to a small
21 business concern due to—

22 “(i) the diversity, size, or specialized
23 nature of the elements of the performance
24 specified;

1 “(ii) the aggregate dollar value of the
2 anticipated award;

3 “(iii) the geographical dispersion of
4 the contract or order performance sites; or

5 “(iv) any combination of the factors
6 described in clauses (i), (ii), and (iii).

7 “(B) INCLUSION OF NEW FEATURES OR
8 FUNCTIONS.—A combination of contract re-
9 quirements that would meet the definition of a
10 bundling of contract requirements but for the
11 addition of a procurement requirement with at
12 least 1 new good or service shall be considered
13 to be a bundling of contract requirements un-
14 less the new features or functions substantially
15 transform the goods or services and will provide
16 measurably substantial benefits to the Federal
17 Government in terms of quality, performance,
18 or price.

19 “(C) EXCEPTIONS.—The term ‘bundling of
20 contract requirements’ does not include—

21 “(i) the use of a bundling method-
22 ology for an anticipated award with an ag-
23 gregate dollar value below the dollar
24 threshold; or

1 “(ii) the use of a bundling method-
2 ology to meet an exempted requirement.

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

5 “(A) a solicitation to obtain offers for a
6 single contract or order, or a multiple award
7 contract or order; or

8 “(B) a solicitation of offers for the
9 issuance of a task or a delivery order under an
10 existing single or multiple award contract or
11 order.

12 “(4) SEPARATE SMALLER CONTRACT.—The
13 term ‘separate smaller contract’, with respect to
14 bundling of contract requirements, means a contract
15 or order that has been performed by 1 or more small
16 business concerns or was suitable for award to 1 or
17 more small business concerns.

18 “(5) DOLLAR THRESHOLD.—The term ‘dollar
19 threshold’ means—

20 “(A) \$65,000,000, in the case of a con-
21 tract or order that is solely for construction
22 services; and

23 “(B) \$5,000,000 for a contract or order
24 not described in subparagraph (A).

1 “(6) EXEMPTED REQUIREMENT.—The term
2 ‘exempted requirement’ means a procurement re-
3 quirement solely for items that are not commercial
4 items (as the term ‘commercial item’ is defined in
5 section 103 of title 41, United States Code).

6 “(7) PROCUREMENT REQUIREMENT.—The term
7 ‘procurement requirement’ means a determination
8 by a Federal agency that a specified good or service
9 is needed to satisfy the mission of the Federal agen-
10 cy.”.

11 (b) PROPOSED PROCUREMENT REQUIREMENTS.—
12 Section 15(a) of the Small Business Act (15 U.S.C.
13 644(a)) is amended—

14 (1) in the third sentence, by striking “necessary
15 and justified” and inserting “necessary and justified,
16 and identifying information on the incumbent con-
17 tract holders, a description of the industries that
18 might be interested in bidding on the contract re-
19 quirements, and the number of small businesses list-
20 ed in the industry categories that could be excluded
21 from future bidding if the contract is combined or
22 packaged”; and

23 (2) by striking the sixth sentence and inserting
24 the following: “Whenever the Administration and the
25 contracting procurement agency fail to agree, the

1 Administrator may review the proposed procurement
2 or delay the solicitation process for not more than
3 10 days to make recommendations, and the matter
4 shall be submitted to the Director of the Office of
5 Management and Budget to mediate the disagree-
6 ment.”.

7 **SEC. 105. FEDERAL CONTRACTING GOALS.**

8 (a) INCREASE IN CERTAIN GOALS.—Section 15(g)(1)
9 of the Small Business Act (15 U.S.C. 644(g)(1)) is
10 amended—

11 (1) by striking “not less than 23 percent” and
12 inserting “not less than 25 percent”; and

13 (2) by striking “not less than 5 percent” each
14 place it appears and inserting “not less than 10 per-
15 cent”.

16 (b) LIMITATION ON NUMBER OF CATEGORIES FOR
17 WHICH A BUSINESS MAY QUALIFY.—Section 15(g) of the
18 Small Business Act (15 U.S.C. 644(g)) is amended by
19 adding at the end the following:

20 “(3) A Federal agency may not include a business
21 concern in more than 2 specified categories for purposes
22 of determining whether the Federal agency has met the
23 Government-wide goals under this subsection for the
24 award of contracts to business concerns in specified cat-
25 egories. In this paragraph, the term ‘specified category’

1 means small business concerns, small business concerns
2 owned and controlled by service-disabled veterans, quali-
3 fied HUBZone small business concerns, small business
4 concerns owned and controlled by socially and economi-
5 cally disadvantaged individuals, and small business con-
6 cerns owned and controlled by women.”.

7 **SEC. 106. IMPLEMENTATION OF SUBCONTRACTING PLANS.**

8 Section 8(d) of the Small Business Act (15 U.S.C.
9 637(d)) is amended by adding at the end the following:

10 “(13) In the case of any contract containing a sub-
11 contracting plan included pursuant to paragraph (4) or
12 (5)—

13 “(A) the Federal agency awarding the contract
14 shall include in the contract a clause providing that,
15 if the contractor does not achieve the percentage
16 goal for the utilization of small business concerns
17 owned and controlled by socially and economically
18 disadvantaged individuals as set forth in the subcon-
19 tracting plan, the Federal agency shall withhold not
20 less than—

21 “(i) \$5,000, if the contract amount is not
22 more than \$100,000;

23 “(ii) 3 percent of the contract amount, if
24 the contract amount is more than \$100,000
25 and not more than \$5,000,000; and

1 “(iii) 5 percent of the contract amount, if
2 the contract amount is more than \$5,000,000;
3 and

4 “(B) the Federal agency awarding the contract
5 shall require the contractor to provide written jus-
6 tification to the agency whenever the contractor, in
7 performing the contract, does not enter into a sub-
8 contract with, or substitutes another subcontractor
9 for, a specific small business concern identified in
10 the subcontracting plan.

11 “(14) The Administration shall establish a telephone
12 line or other electronic means of communication through
13 which a small business concern identified in a subcon-
14 tracting plan by an offeror or bidder may communicate
15 to the Administration any concerns regarding major devi-
16 ations by prime contractors from the use of small business
17 concerns as subcontractors under the prime contract as
18 described in the subcontracting plan.”.

1 **SEC. 107. REQUIREMENT TO CONSIDER USE OF SMALL**
 2 **BUSINESS CONCERNS OWNED AND CON-**
 3 **TROLLED BY SOCIALLY AND ECONOMICALLY**
 4 **DISADVANTAGED INDIVIDUALS WHEN CON-**
 5 **SIDERING PAST COMPLIANCE WITH SUBCON-**
 6 **TRACTING PLANS.**

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

9 (1) in paragraph (4)(C), in the second sentence,
 10 by inserting “, especially compliance with the goal
 11 set forth in such plans for the utilization of small
 12 business concerns owned and controlled by socially
 13 and economically disadvantaged individuals,” after
 14 “other such subcontracting plans”; and

15 (2) in paragraph (5)(B), in the second sentence,
 16 by inserting “, especially compliance with the goal
 17 set forth in such plans for the utilization of small
 18 business concerns owned and controlled by socially
 19 and economically disadvantaged individuals,” after
 20 “other such subcontracting plans”.

21 **TITLE II—MINORITY BUSINESS**
 22 **DEVELOPMENT AGENCY**

23 **SEC. 201. DEFINITIONS.**

24 In this title:

25 (1) **HISTORICALLY DISADVANTAGED INDI-**
 26 **VIDUAL.**—The term “historically disadvantaged indi-

1 vidual” means any individual who is a member of a
2 group that is designated as eligible to receive assist-
3 ance under section 1400.1 of title 15, Code of Fed-
4 eral Regulations, as in effect on January 1, 2009.

5 (2) PRINCIPAL.—The term “principal” means
6 any person that the Director determines to exercise
7 significant control over the regular operations of a
8 business entity.

9 (3) PROGRAM.—The term “Program” means
10 the Minority Business Development Program estab-
11 lished under section 202.

12 **SEC. 202. MINORITY BUSINESS DEVELOPMENT PROGRAM.**

13 The National Director of the Minority Business De-
14 velopment Agency shall establish the Minority Business
15 Development Program to assist qualified minority busi-
16 nesses. The Program shall provide to such businesses the
17 following:

18 (1) Technical assistance under section 204.

19 (2) Loan guarantees under section 205.

20 (3) Contract procurement assistance under sec-
21 tion 206.

22 **SEC. 203. QUALIFIED MINORITY BUSINESS.**

23 (a) CERTIFICATION.—For purposes of the Program,
24 the National Director of the Minority Business Develop-

1 ment Agency may certify as a qualified minority business
2 any entity that satisfies each of the following:

3 (1) Not less than 51 percent of the entity is di-
4 rectly and unconditionally owned or controlled by
5 historically disadvantaged individuals.

6 (2) Each officer or other individual who exer-
7 cises control over the regular operations of the entity
8 is a historically disadvantaged individual.

9 (3) The net worth of each principal of the enti-
10 ty is not greater than \$2,000,000. (The equity of a
11 disadvantaged owner in a primary personal residence
12 shall not be considered in this calculation.)

13 (4) The principal place of business of the entity
14 is in the United States.

15 (5) Each principal of the entity maintains good
16 character in the determination of the National Di-
17 rector.

18 (6) The entity engages in competitive and bona
19 fide commercial business operations in not less than
20 one sector of industry that has a North American
21 Industry Classification System code.

22 (7) The entity submits reports to the National
23 Director at such time, in such form, and containing
24 such information as the National Director may re-
25 quire.

1 (8) Such other requirements as the National
2 Director considers appropriate.

3 (b) **TERM OF CERTIFICATION.**—A certification under
4 this section shall be for a term of 5 years and may not
5 be renewed.

6 **SEC. 204. TECHNICAL ASSISTANCE.**

7 (a) **IN GENERAL.**—In carrying out the Program, the
8 National Director of the Minority Business Development
9 Agency may provide to qualified minority businesses tech-
10 nical assistance with regard to the following:

11 (1) Writing business plans.

12 (2) Marketing.

13 (3) Management.

14 (4) Securing sufficient financing for business
15 operations.

16 (b) **CONTRACT AUTHORITY.**—The National Director
17 may enter into agreements with persons to provide tech-
18 nical assistance under this section.

19 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated \$200,000,000 to the
21 National Director to carry out this section. Such sums
22 shall remain available until expended.

23 **SEC. 205. LOAN GUARANTEES.**

24 (a) **IN GENERAL.**—Subject to subsection (b), the Na-
25 tional Director of the Minority Business Development

1 Agency may guarantee up to 90 percent of the amount
2 of a loan made to a qualified minority business to be used
3 for business purposes, including the following:

4 (1) Purchasing essential equipment.

5 (2) Payroll expenses.

6 (3) Purchasing facilities.

7 (4) Renovating facilities.

8 (b) TERMS AND CONDITIONS.—

9 (1) IN GENERAL.—The National Director may
10 make guarantees under this section for projects on
11 such terms and conditions as the National Director
12 determines appropriate, after consultation with the
13 Secretary of the Treasury, in accordance with this
14 section.

15 (2) REPAYMENT.—No guarantee shall be made
16 under this section unless the National Director de-
17 termines that there is reasonable prospect of repay-
18 ment of the principal and interest on the obligation
19 by the borrower.

20 (3) DEFAULTS.—

21 (A) PAYMENT BY NATIONAL DIRECTOR.—

22 (i) IN GENERAL.—If a borrower de-
23 faults on the obligation (as defined in reg-
24 ulations promulgated by the National Di-
25 rector and specified in the guarantee con-

1 tract), the holder of the guarantee shall
2 have the right to demand payment of the
3 unpaid amount from the National Direc-
4 tor.

5 (ii) PAYMENT REQUIRED.—Within
6 such period as may be specified in the
7 guarantee or related agreements, the Na-
8 tional Director shall pay to the holder of
9 the guarantee the unpaid interest on, and
10 unpaid principal of the obligation as to
11 which the borrower has defaulted, unless
12 the National Director finds that there was
13 no default by the borrower in the payment
14 of interest or principal or that the default
15 has been remedied.

16 (iii) FORBEARANCE.—Nothing in this
17 paragraph precludes any forbearance by
18 the holder of the obligation for the benefit
19 of the borrower which may be agreed upon
20 by the parties to the obligation and ap-
21 proved by the Director.

22 (B) SUBROGATION.—

23 (i) IN GENERAL.—If the National Di-
24 rector makes a payment under subpara-
25 graph (A), the National Director shall be

1 subrogated to the rights of the recipient of
2 the payment as specified in the guarantee
3 or related agreements including, where ap-
4 propriate, the authority (notwithstanding
5 any other provision of law) to—

6 (I) complete, maintain, operate,
7 lease, or otherwise dispose of any
8 property acquired pursuant to such
9 guarantee or related agreements; or

10 (II) permit the borrower, pursu-
11 ant to an agreement with the National
12 Director, to continue to pursue the
13 purposes of the project if the National
14 Director determines this to be in the
15 public interest.

16 (ii) SUPERIORITY OF RIGHTS.—The
17 rights of the National Director, with re-
18 spect to any property acquired pursuant to
19 a guarantee or related agreements, shall be
20 superior to the rights of any other person
21 with respect to the property.

22 (iii) TERMS AND CONDITIONS.—A
23 guarantee agreement shall include such de-
24 tailed terms and conditions as the National
25 Director determines appropriate to—

1 (I) protect the interests of the
2 United States in the case of default;
3 and

4 (II) have available all the patents
5 and technology necessary for any per-
6 son selected, including the National
7 Director, to complete and operate the
8 project.

9 (C) PAYMENT OF PRINCIPAL AND INTER-
10 EST BY NATIONAL DIRECTOR.—With respect to
11 any obligation guaranteed under this section,
12 the National Director may enter into a contract
13 to pay, and pay, holders of the obligation, for
14 and on behalf of the borrower, from funds ap-
15 propriated for that purpose, the principal and
16 interest payments which become due and pay-
17 able on the unpaid balance of the obligation if
18 the National Director finds that—

19 (i)(I) the borrower is unable to meet
20 the payments and is not in default;

21 (II) it is in the public interest to per-
22 mit the borrower to continue to pursue the
23 purposes of the project; and

24 (III) the probable net benefit to the
25 Federal Government in paying the prin-

1 cipal and interest will be greater than that
2 which would result in the event of a de-
3 fault;

4 (ii) the amount of the payment that
5 the National Director is authorized to pay
6 shall be no greater than the amount of
7 principal and interest that the borrower is
8 obligated to pay under the agreement
9 being guaranteed; and

10 (iii) the borrower agrees to reimburse
11 the National Director for the payment (in-
12 cluding interest) on terms and conditions
13 that are satisfactory to the National Direc-
14 tor.

15 (D) ACTION BY ATTORNEY GENERAL.—

16 (i) NOTIFICATION.—If the borrower
17 defaults on an obligation, the National Di-
18 rector shall notify the Attorney General of
19 the default.

20 (ii) RECOVERY.—On notification, the
21 Attorney General shall take such action as
22 is appropriate to recover the unpaid prin-
23 cipal and interest due from—

1 (I) such assets of the defaulting
2 borrower as are associated with the
3 obligation; or

4 (II) any other security pledged to
5 secure the obligation.

6 (4) FEES.—

7 (A) IN GENERAL.—The National Director
8 shall charge and collect fees for guarantees in
9 amounts the National Director determines are
10 sufficient to cover applicable administrative ex-
11 penses, not to exceed 1 percent of the amount
12 guaranteed.

13 (B) AVAILABILITY.—Fees collected under
14 this paragraph shall—

15 (i) be deposited by the National Di-
16 rector into the Treasury; and

17 (ii) remain available until expended,
18 subject to such other conditions as are con-
19 tained in annual appropriations Acts.

20 (c) CREDIT REQUIREMENTS.—To receive a loan
21 guaranteed under this section a qualified minority busi-
22 ness shall—

23 (1) be in good standing with regard to the cred-
24 it of that business in the determination of the Na-
25 tional Director;

1 (2) have received technical assistance under sec-
2 tion 104; and

3 (3) submit reports, at such time, in such form,
4 and containing such information as the National Di-
5 rector may require regarding the credit of the busi-
6 ness.

7 (d) LIMITS ON GUARANTEE AMOUNTS.—

8 (1) MAXIMUM AMOUNT OF GUARANTEE.—The
9 National Director may not guarantee more than
10 \$450,000 of any loan under this section.

11 (2) MAXIMUM GROSS LOAN AMOUNT.—A loan
12 guaranteed under this section may not be for a gross
13 loan amount in excess of \$500,000.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the National Director
16 not more than \$500,000,000 to carry out this section dur-
17 ing fiscal years 2012 through 2016.

18 **SEC. 206. SET-ASIDE CONTRACTING OPPORTUNITIES.**

19 (a) IN GENERAL.—The National Director of the Mi-
20 nority Business Development Agency may enter into
21 agreements with the United States Government and any
22 department, agency, or officer thereof having procurement
23 powers for purposes of providing for the fulfillment of pro-
24 curement contracts and providing opportunities for quali-
25 fied minority businesses with regard to such contracts.

1 (b) QUALIFICATIONS ON PARTICIPATION.—The Na-
2 tional Director shall by rule establish requirements for
3 participation under this section by a qualified minority
4 business in a contract.

5 (c) ANNUAL LIMIT ON NUMBER OF CONTRACTS PER
6 QUALIFIED MINORITY BUSINESS.—A qualified minority
7 business may not participate under this section in con-
8 tracts in an amount that exceeds \$10,000,000 for goods
9 and services each fiscal year.

10 (d) LIMITS ON CONTRACT AMOUNTS.—

11 (1) GOODS AND SERVICES.—Except as provided
12 in paragraph (2), a contract for goods and services
13 under this section may not exceed \$6,000,000.

14 (2) MANUFACTURING AND CONSTRUCTION.—A
15 contract for manufacturing and construction services
16 under this section may not exceed \$10,000,000.

17 **SEC. 207. TERMINATION FROM PROGRAM.**

18 The National Director of the Minority Business De-
19 velopment Agency may terminate a qualified minority
20 business from the Program for any violation of a require-
21 ment of sections 203 through 206 by that qualified minor-
22 ity business, including the following:

23 (1) Conduct by a principal of the qualified mi-
24 nority business that indicates a lack of business in-
25 tegrity.

1 (2) Willful failure to comply with applicable
2 labor standards and obligations.

3 (3) Consistent failure to tender adequate per-
4 formance with regard to contracts under the Pro-
5 gram.

6 (4) Failure to obtain and maintain relevant cer-
7 tifications.

8 (5) Failure to pay outstanding obligations owed
9 to the Federal Government.

10 **SEC. 208. REPORTS.**

11 (a) REPORT OF THE DIRECTOR.—Not later than Oc-
12 tober 1, 2012, and annually thereafter, the National Di-
13 rector of the Minority Business Development Agency shall
14 submit to the Committee on Commerce, Science, and
15 Transportation of the Senate and the Committee on En-
16 ergy and Commerce of the House of Representatives a re-
17 port describing the activities of the National Director dur-
18 ing the preceding year with respect to the Program.

19 (b) REPORT OF THE SECRETARY OF COMMERCE.—
20 Not later than October 1, 2012, and annually thereafter,
21 the Secretary of Commerce shall submit to the Committee
22 on Commerce, Science, and Transportation of the Senate
23 and the Committee on Energy and Commerce of the
24 House of Representatives a report describing the activities

1 the Secretary engaged in during the preceding year to
2 build wealth among historically disadvantaged individuals.

3 **SEC. 209. MINORITY BUSINESS DEVELOPMENT AGENCY**
4 **DATABASE.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the National Director of the Minority
7 Business Development Agency shall establish a database
8 to assist prime contractors in identifying historically dis-
9 advantaged firms for subcontracting.

10 **TITLE III—COMMUNITY ECO-**
11 **NOMIC DEVELOPMENT PRO-**
12 **VISIONS**

13 **SEC. 301. TARGETED HIRING REQUIREMENT FOR CERTAIN**
14 **CONSTRUCTION JOBS.**

15 (a) **CONTRACTS SUBJECT TO THIS SECTION.**—The
16 requirements of this section shall apply to all contracts
17 for construction and rehabilitation of facilities and infra-
18 structure funded directly by or assisted in whole or in part
19 by or through the Federal Government in fiscal year 2012.

20 (b) **EMPLOYMENT OF TARGETED WORKERS.**—

21 (1) **PROJECT WORK HOURS REQUIREMENT.**—

22 The Secretary of Labor shall establish a minimum
23 percentage of construction work hours to be per-
24 formed by targeted workers for each contract subject
25 to this section in each labor market area.

1 (2) UTILIZATION OF APPRENTICESHIP PRO-
2 GRAMS.—

3 (A) CONTRACTOR PARTICIPATION RE-
4 QUIREMENTS.—Each contractor and subcon-
5 tractor that seeks to provide construction serv-
6 ices on contracts subject to this section shall
7 submit adequate assurances with its bid or pro-
8 posal that it participates in a qualified appren-
9 ticeship program, with a written arrangement
10 with a qualified pre-apprenticeship program, as
11 defined by the Secretary of Labor, for each
12 craft or trade classification of worker that the
13 contractor or subcontractor intends to employ
14 to perform work on the project.

15 (B) CERTIFICATION OF OTHER PROGRAMS
16 IN CERTAIN LOCALITIES.—In the event that the
17 Secretary of Labor certifies that a qualified ap-
18 prenticeship program (as defined in subpara-
19 graph (A)) for a craft or trade classification
20 that a prospective contractor or subcontractor
21 intends to employ, is not operated in the local-
22 ity where the contract or subcontract will be
23 performed, an apprenticeship or other training
24 program that is not an employee welfare benefit
25 plan (as defined in such section) may be cer-

1 tified by the Secretary as a qualified appren-
2 ticeship or other training program provided it is
3 registered with the Department of Labor, Office
4 of Apprenticeship, or a State apprenticeship
5 agency recognized by the Office of Apprentice-
6 ship for Federal purposes.

7 (C) APPRENTICE UTILIZATION.—Each con-
8 tractor and subcontractor performing work on
9 contracts subject to this section shall employ
10 apprentices or trainees enrolled in qualified ap-
11 prenticeship programs to the maximum extent
12 permitted in the program’s written standards,
13 and shall submit adequate assurances that it is
14 not party to contractual agreements that pre-
15 clude its ability to meet the targeted hiring re-
16 quirements set forth in paragraph (1).

17 (3) DEFINITIONS.—For purposes of this sec-
18 tion—

19 (A) the term “labor market area” has the
20 meaning given such term in section 101(18) of
21 the Workforce Investment Act of 1998 (29
22 U.S.C. 2801(18));

23 (B) the term “qualified apprenticeship pro-
24 gram” means an apprenticeship or other train-
25 ing program that qualifies as an “employee wel-

1 fare benefit plan” as defined in section 3(1) of
2 the Employee Retirement Income Security Act
3 of 1974 (29 U.S.C. 1002(1)); and

4 (C) the term “targeted workers” means in-
5 dividuals who reside in the same labor market
6 area as the applicable project and who—

7 (i)(I) are members of families that re-
8 ceived a total income, that during the 2-
9 year period prior to employment on the
10 project or admission to the pre-apprentice-
11 ship program, did not exceed 200 percent
12 of the Federal poverty guidelines (exclusive
13 of unemployment compensation, child sup-
14 port payments, payments described in 29
15 United States Code section 2801(25)(A),
16 and old-age and survivors insurance bene-
17 fits received under section 202 of the So-
18 cial Security Act (42 U.S.C. 402)); and

19 (II) reside in a census tract in which
20 not less than 20 percent of the households
21 have income below the Federal poverty
22 guidelines;

23 (ii) are members of a targeted group,
24 within the meaning of section 51 of the In-
25 ternal Revenue Code of 1986; or

1 (iii) qualify as “displaced home-
2 makers” as such term is defined in section
3 3(10) of the Carl D. Perkins Career and
4 Technical Education Act of 2006 (20
5 U.S.C. 2302(10)).

6 (c) FACILITATING COMPLIANCE AND PROJECT EFFI-
7 CIENCY.—In order to achieve the purposes of this section
8 and to promote prompt completion of construction projects
9 undertaken pursuant to this Act, the Secretary of Labor
10 may require that contractors and subcontractors per-
11 forming construction work under a contract subject to this
12 section enter into an agreement consistent with the stand-
13 ards set forth in section 4 of Executive Order 13502 and
14 the requirements of subsection (b)(1) of this section.

15 (d) IMPLEMENTATION.—

16 (1) IN GENERAL.—No law or regulation gov-
17 erning the operations or activities of any agency re-
18 sponsible for implementing provisions of this section
19 shall be interpreted to prohibit Federal agencies,
20 funding recipients, contractors, or subcontractors,
21 from advancing the purposes of this section through
22 additional project requirements or actions. The Sec-
23 retary of Labor shall be responsible for ensuring the
24 implementation and enforcement of this section, in-
25 cluding investigating noncompliance, and shall, not

1 later than 180 days after the date of enactment of
2 this Act, adopt such rules, regulations, and guid-
3 ance, and issue such orders as the Secretary deter-
4 mines necessary and appropriate to achieve the pur-
5 poses of this section.

6 (2) COMPLIANCE.—In the event of material
7 noncompliance with this section by a recipient, con-
8 tractor, or subcontractor, the Secretary of Labor
9 shall have the authority to assess and collect pen-
10 alties from such recipient, contractor, or subcon-
11 tractor of not more than 5 percent of the contract
12 amount. The Secretary shall allow for reduction or
13 avoidance of penalty assessments for non-compliance
14 with the targeted hiring requirements of subsection
15 (b)(1) only where the entity in question dem-
16 onstrates that—

17 (A) compliance was impossible because of a
18 shortage of targeted workers in the local labor
19 market; and

20 (B) the employer utilized all specified
21 measures to obtain targeted workers.

22 The Secretary may specify measures required to be
23 taken to obtain targeted workers.

24 (e) DEDICATED RESOURCES FOR TRAINING AND RE-
25 CRUITMENT.—In order to facilitate the objectives of this

1 section, not less than 1 percent of any funds authorized
2 and appropriated or otherwise allocated for construction
3 for fiscal year 2012 shall be set aside to—

4 (1) provide pre-apprenticeship training and
5 other support services through programs that have
6 strong track records of placing targeted workers into
7 sustained employment in the construction trades and
8 that have written agreements with qualified appren-
9 ticeship programs;

10 (2) provide support to community-based organi-
11 zations that have written agreements with programs
12 described in subsection (b)(2) to participate in such
13 programs by recruiting targeted workers; or

14 (3) provide support to contractors either—

15 (A) that are community-based nonprofit
16 organizations that both—

17 (i) have a governing body in which a
18 majority the members qualify as targeted
19 workers; and

20 (ii) have less than one million dollars
21 in annual revenue from construction work
22 of any type, or

23 (B) in which such a community-based non-
24 profit organization has a 100 percent control-
25 ling interest for work relating to such Act to

1 meet the cost of participating in apprenticeship
2 programs.

3 (f) **SENSE OF CONGRESS REGARDING PARTICIPATION**
4 **OF SOCIALLY AND ECONOMICALLY DISADVANTAGED**
5 **BUSINESSES.**—It is the sense of Congress that each agen-
6 cy responsible for implementing provisions relating to con-
7 struction contracting and subcontracting in fiscal year
8 2012 should ensure that any regulation, policy, or funding
9 disbursement made provides for the inclusive participation
10 by socially and economically disadvantaged small business
11 concerns, as defined under section 8(a) of the Small Busi-
12 ness Act (15 U.S.C. 637(a)), including through bidding
13 credits, program eligibility standards, and other means.

14 **SEC. 302. 2-YEAR EXTENSION OF NEW MARKETS TAX CRED-**
15 **IT NATIONAL LIMITATION.**

16 (a) **IN GENERAL.**—Subparagraph (G) of section
17 45D(f)(1) of the Internal Revenue Code of 1986 is amend-
18 ed by striking “2010 and 2011” and inserting “2010,
19 2011, 2012, and 2013”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 this section shall apply to investments made after Decem-
22 ber 31, 2011.

1 **SEC. 303. EXTENSION OF EMPOWERMENT ZONE DESIGNA-**
2 **TION.**

3 (a) IN GENERAL.—Clause (i) of section
4 1391(d)(1)(A) of the Internal Revenue Code of 1986 is
5 amended by striking “December 31, 2011” and inserting
6 “December 31, 2013”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to periods after December 31,
9 2011.

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