

[DISCUSSION DRAFT]

116TH CONGRESS
2D SESSION

H. R. _____

To codify the Minority Business Development Administration as an independent agency of the Federal Government, to provide emergency grants to non-profits that support minority business enterprises, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To codify the Minority Business Development Administration as an independent agency of the Federal Government, to provide emergency grants to non-profits that support minority business enterprises, 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 “Minority Business De-
5 velopment Administration Act”.

1 **SEC. 2. CODIFICATION OF THE MINORITY BUSINESS DEVELOP-**
2 **MENT ADMINISTRATION.**

3 (a) DEFINITIONS.—In this section:

4 (1) ADMINISTRATION.—The term “Administra-

5 tion” means the Minority Business Development Ad-

6 ministration.

7 (2) ADMINISTRATOR.—The term “Adminis-

8 trator” means the Administrator of the Minority

9 Business Development Administration.

10 (3) COVERED ENTITY.—The term “covered en-

11 tity” means a private nonprofit organization that—

12 (A) is described in section 501(c)(3) of the

13 Internal Revenue Code of 1986 and exempt

14 from tax under section 501(a) of such Code;

15 (B) can demonstrate to the Administration

16 that—

17 (i) the primary mission of the organi-

18 zation is to provide services to minority

19 business enterprises, whether through edu-

20 cation, making grants, or other similar ac-

21 tivities; and

22 (ii) the organization is unable to pay

23 financial obligations incurred by the orga-

24 nization, including payroll obligations; and

25 (C) due to the effects of COVID–19, is un-

26 able to engage in the same level of fundraising

1 in the year in which this Act is enacted, as
2 compared with the year preceding the year in
3 which this Act is enacted, including through
4 events or the collection of fees.

5 (4) MINORITY.—The term “minority” has the
6 meaning given the term in section 308(b) of the Fi-
7 nancial Institutions Reform, Recovery, and Enforce-
8 ment Act of 1989 and includes any indigenous per-
9 son in the United States or the territories of the
10 United States.

11 (5) MINORITY BUSINESS DEVELOPMENT CEN-
12 TER.—The term “minority business development
13 center” means a Business Center of the Administra-
14 tion, including its Specialty Center Program.

15 (6) MINORITY BUSINESS ENTERPRISE.—The
16 term “minority business enterprise” means a for-
17 profit business enterprise—

18 (A) that is not less than 51 percent-owned
19 by 1 or more minority individuals; and

20 (B) the management and daily business
21 operations of which are controlled by 1 or more
22 minority individuals.

23 (b) MINORITY BUSINESS DEVELOPMENT ADMINIS-
24 TRATION.—

25 (1) ESTABLISHMENT.—

1 (A) IN GENERAL.—The Minority Business
2 Development Administration is hereby estab-
3 lished.

4 (B) TRANSFER OF FUNCTIONS.—All func-
5 tions that, immediately before the date of enact-
6 ment of this Act, were functions of the Minority
7 Business Development Agency of the Depart-
8 ment of Commerce shall be functions of the Ad-
9 ministration.

10 (C) TRANSFER OF ASSETS.—So much of
11 the personnel, property, records, and unex-
12 pended balances of appropriations, allocations,
13 and other funds employed, used, held, available,
14 or to be made available in connection with a
15 function transferred under subparagraph (B)
16 shall be available to the Administration for use
17 in connection with the functions transferred.

18 (D) REFERENCES.—Any reference in any
19 other Federal law, Executive order, rule, regula-
20 tion, or delegation of authority, or any docu-
21 ment of or pertaining to the Minority Business
22 Development Agency of the Department of
23 Commerce is deemed to refer to the Adminis-
24 tration.

25 (2) ADMINISTRATOR.—

1 (A) APPOINTMENT AND DUTIES.—The Ad-
2 ministration shall be headed by an Adminis-
3 trator, who shall be—

4 (i) appointed by the President, by and
5 with the advice and consent of the Senate;
6 and

7 (ii) except as otherwise expressly pro-
8 vided, responsible for the administration of
9 this Act.

10 (B) COMPENSATION.—The Administrator
11 shall be compensated at an annual rate of basic
12 pay prescribed for level IV of the Executive
13 Schedule under section 5315 of title 5, United
14 States Code.

15 (C) TRANSITION PERIOD.—The individual
16 serving as the Director of the Minority Busi-
17 ness Development Agency on the day before the
18 date of enactment of this Act shall serve as the
19 Administrator of the Administration until such
20 time as the first Administrator is confirmed by
21 the Senate pursuant to subparagraph (A).

22 (3) REPORT TO CONGRESS.—Not later than
23 120 days after the date of enactment of this Act, the
24 Administrator shall submit to Congress a report that

1 describes the organizational structure of the Admin-
2 istration.

3 (4) ADMINISTRATIVE POWERS AND OTHER POW-
4 ERS OF THE ADMINISTRATION; MISCELLANEOUS
5 PROVISIONS.—

6 (A) IN GENERAL.—In carrying out the du-
7 ties and the responsibilities of the Administra-
8 tion, the Administrator may—

9 (i) hold hearings, sit and act, and
10 take testimony as the Administrator may
11 determine to be necessary or appropriate;

12 (ii) acquire, in any lawful manner,
13 any property that the Administrator may
14 determine to be necessary or appropriate;

15 (iii) make advance payments under
16 grants, contracts, and cooperative agree-
17 ments awarded by the Administration;

18 (iv) enter into agreements with other
19 Federal agencies;

20 (v) coordinate with the heads of the
21 Offices of Small and Disadvantaged Busi-
22 ness Utilization of Federal agencies;

23 (vi) require a coordinated review of all
24 training and technical assistance activities
25 that are proposed to be carried out by

1 Federal agencies in direct support of the
2 development of minority business enter-
3 prises to—

4 (I) assure consistency with the
5 purposes of this Act; and

6 (II) avoid duplication of existing
7 efforts; and

8 (vii) prescribe such rules, regulations,
9 and procedures as the Administration may
10 determine to be necessary or appropriate.

11 (B) EMPLOYMENT OF CERTAIN EXPERTS
12 AND CONSULTANTS.—

13 (i) IN GENERAL.—The Administrator
14 may employ experts and consultants or or-
15 ganizations that are composed of experts
16 or consultants, as authorized under section
17 3109 of title 5, United States Code.

18 (ii) RENEWAL OF CONTRACTS.—The
19 Administrator may annually renew a con-
20 tract for employment of an individual em-
21 ployed under clause (i).

22 (C) DONATION OF PROPERTY.—

23 (i) IN GENERAL.—Subject to clause
24 (ii), the Administrator may, without cost
25 (except for costs of care and handling), do-

1 nate for use by any public sector entity, or
2 by any recipient nonprofit organization, for
3 the purpose of the development of minority
4 business enterprises, any real or tangible
5 personal property acquired by the Adminis-
6 tration.

7 (ii) TERMS, CONDITIONS, RESERVA-
8 TIONS, AND RESTRICTIONS.—The Adminis-
9 trator may impose reasonable terms, condi-
10 tions, reservations, and restrictions upon
11 the use of any property donated under
12 clause (i).

13 (c) EMERGENCY GRANTS TO NON-PROFITS THAT
14 SUPPORT MINORITY BUSINESS ENTERPRISES.—

15 (1) ESTABLISHMENT.—Not later than 15 days
16 after the date of enactment of this Act, the Adminis-
17 tration shall establish a grant program for covered
18 entities—

19 (A) in order to help those covered entities
20 continue the necessary work of supporting mi-
21 nority business enterprises; and

22 (B) under which the Administration shall
23 make grants to covered entities as expeditiously
24 as possible.

25 (2) APPLICATION.—

1 (A) IN GENERAL.—A covered entity desir-
2 ing a grant under this subsection shall submit
3 to the Administration an application at such
4 time, in such manner, and containing such in-
5 formation as the Administration may require.

6 (B) PRIORITY.—The Administration
7 shall—

8 (i) establish selection criteria to en-
9 sure that, if the amounts made available to
10 carry out this subsection are not sufficient
11 to make a grant under this subsection to
12 every covered entity that submits an appli-
13 cation under subparagraph (A), the cov-
14 ered entities that are the most severely af-
15 fected by the effects of COVID–19 receive
16 priority with respect to those grants; and

17 (ii) give priority with respect to the
18 grants made under this subsection to a
19 covered entity that proposes to use the
20 grant funds for—

21 (I) providing paid sick leave to
22 employees of the covered entity who
23 are unable to work due to the direct
24 effects of COVID–19;

1 (II) continuing to make payroll
2 payments in order to retain employees
3 of the covered entity during an eco-
4 nomic disruption with respect to
5 COVID-19;

6 (III) making rent or mortgage
7 payments with respect to obligations
8 of the covered entity; or

9 (IV) repaying non-Federal obliga-
10 tions that the covered entity cannot
11 satisfy because of revenue losses that
12 are attributable to the effects of
13 COVID-19.

14 (3) AMOUNT OF GRANT.—

15 (A) IN GENERAL.—A grant made under
16 this subsection shall be in an amount that is
17 not more than \$500,000.

18 (B) SINGLE AWARD.—No covered entity
19 may receive, or directly benefit from, more than
20 1 grant made under this subsection.

21 (4) USE OF FUNDS.—A covered entity that re-
22 ceives a grant under this subsection may use the
23 grant funds to address the effects of COVID-19 on
24 the covered entity, including by making payroll pay-
25 ments, making a transition to the provision of online

1 services, and addressing issues raised by an inability
2 to raise funds.

3 (5) PROCEDURES.—The Administration shall
4 establish procedures to discourage and prevent
5 waste, fraud, and abuse by applicants for, and re-
6 cipients of, grants made under this subsection.

7 (6) NON-DUPLICATION.—The Administration
8 shall ensure that covered entities do not receive
9 grants under both this subsection and section 1108
10 of the CARES Act.

11 (7) GAO AUDIT.—Not later than 180 days
12 after the date on which the Administration begins
13 making grants under this subsection, the Comp-
14 troller General of the United States shall—

15 (A) conduct an audit of grants made under
16 this subsection, which shall seek to identify any
17 discrepancies or irregularities with respect to
18 the grants; and

19 (B) submit to Congress a report regarding
20 the audit conducted under subparagraph (A).

21 (8) UPDATES TO CONGRESS.—Not later than
22 30 days after the date of enactment of this Act, and
23 once every 30 days thereafter until the date de-
24 scribed in paragraph (11), the Administrator shall
25 submit to Congress a report that contains—

1 (A) the number of grants made under this
2 subsection during the period covered by the re-
3 port; and

4 (B) with respect to the grants described in
5 subparagraph (A), the geographic distribution
6 of those grants by State and county.

7 (9) TERMINATION.—The authority to make
8 grants under this subsection shall terminate on Sep-
9 tember 30, 2021.

10 (d) OUTREACH TO BUSINESS CENTERS.—

11 (1) IN GENERAL.—Not later than 10 days after
12 the date of enactment of this Act, the Administra-
13 tion shall conduct outreach to the business center
14 network of the Administration to provide guidance
15 to those centers regarding other Federal programs
16 that are available to provide support to minority
17 business enterprises, including programs at the De-
18 partment of the Treasury, the Small Business Ad-
19 ministration, and the Economic Development Ad-
20 ministration of the Department of Commerce.

21 (2) OUTREACH TO NATIVE COMMUNITIES.—

22 (A) IN GENERAL.—In carrying out this
23 subsection, the Administration shall ensure that
24 outreach is conducted in American Indian,

1 Alaska Native, and Native Hawaiian commu-
2 nities.

3 (B) DIRECT OUTREACH TO CERTAIN MI-
4 NORITY BUSINESS ENTERPRISES.—If the Ad-
5 ministrator determines that a particular Amer-
6 ican Indian, Alaska Native, or Native Hawaiian
7 community does not receive sufficient grant
8 amounts under subsection (c) or section 1108
9 of the CARES Act, the Administrator shall
10 carry out additional outreach directly to minor-
11 ity business enterprises located in that commu-
12 nity to provide guidance regarding Federal pro-
13 grams that are available to provide support to
14 minority business enterprises.

15 (3) USE OF APPROPRIATED FUNDS.—If, after
16 carrying out this subsection, there are remaining
17 funds made available to carry out this subsection
18 from the amount appropriated under subsection (e),
19 the Administration may use those remaining funds
20 to carry out other responsibilities of the Administra-
21 tion under subsection (c).

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to the Administration, in
24 additional to any other amounts so authorized, for the fis-

1 cal year ending September 30, 2020, to remain available
2 until September 30, 2021, \$60,000,000, of which—

3 (1) \$10,000,000 are authorized for carrying out
4 subsection (c);

5 (2) \$5,000,000 are authorized for carrying out
6 subsection (d); and

7 (3) \$10,000,000 are authorized to be allocated
8 to the White House Initiative on Asian Americans
9 and Pacific Islanders.

10 (f) AUDITS.—

11 (1) RECORDKEEPING REQUIREMENT.—Each re-
12 cipient of assistance under this section shall keep
13 such records as the Administrator shall prescribe,
14 including records that fully disclose, with respect to
15 the assistance received by the recipient under this
16 section—

17 (A) the amount and nature of that assist-
18 ance;

19 (B) the disposition by the recipient of the
20 proceeds of that assistance;

21 (C) the total cost of the undertaking for
22 which the assistance is given or used;

23 (D) the amount and nature of the portion
24 of the cost of the undertaking described in sub-

1 paragraph (C) that is supplied by a source
2 other than the Administration; and

3 (E) any other records that will facilitate an
4 effective audit of the assistance.

5 (2) ACCESS BY GOVERNMENT OFFICIALS.—The
6 Administrator and the Comptroller General of the
7 United States shall have access, for the purpose of
8 audit, investigation, and examination, to any book,
9 document, paper, record, or other material of a re-
10 cipient of assistance.

11 (g) REVIEW AND REPORT BY COMPTROLLER GEN-
12 ERAL.—Not later than 4 years after the date of enactment
13 of this Act, the Comptroller General of the United States
14 shall—

15 (1) conduct a thorough review of the programs
16 carried out under this section; and

17 (2) submit to Congress a detailed report of the
18 findings of the Comptroller General under the review
19 carried out under paragraph (1), which shall in-
20 clude—

21 (A) an evaluation of the effectiveness of
22 the programs in achieving the purposes of this
23 section;

24 (B) a description of any failure by any re-
25 cipient of assistance under this section to com-

1 ply with the requirements under this section;
2 and

3 (C) recommendations for any legislative or
4 administrative action that should be taken to
5 improve the achievement of the purposes of this
6 section.

7 (h) ANNUAL REPORTS; RECOMMENDATIONS.—

8 (1) ANNUAL REPORT.—Not later than 90 days
9 after the last day of each fiscal year, the Adminis-
10 trator shall submit to Congress, and publish on the
11 website of the Administration, a report of each activ-
12 ity of the Administration carried out under this sec-
13 tion during the fiscal year preceding the date on
14 which the report is submitted.

15 (2) RECOMMENDATIONS.—The Administrator
16 shall periodically submit to Congress and the Presi-
17 dent recommendations for legislation or other ac-
18 tions that the Administrator determines to be nec-
19 essary or appropriate to promote the purposes of
20 this section.

21 (i) EXECUTIVE ORDER 11625.—The powers and du-
22 ties of the Administration shall be determined—

23 (1) in accordance with this section and the re-
24 quirements of this section; and

1 (2) without regard to Executive Order 11625
2 (36 Fed. Reg. 19967; relating to prescribing addi-
3 tional arrangements for developing and coordinating
4 a national program for minority business enter-
5 prise).

6 (j) AMENDMENT TO THE FEDERAL ACQUISITION
7 STREAMLINING ACT OF 1994.—Section 7104(c) of the
8 Federal Acquisition Streamlining Act of 1994 (15 U.S.C.
9 644a(c)) is amended by striking paragraph (2) and insert-
10 ing the following:

11 “(2) The Administrator of the Minority Busi-
12 ness Development Administration.”.