

The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional development, credit or finance corporation, any women's business center operating pursuant to section 29, any public or private institution of higher education, to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any one or more of the above entities (herein referred to as "applicants") to assist in establishing small business development centers and to any such body for: small business development centers; management and technical assistance regarding small business participation in international markets, export promotion and technology transfer, delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts. Provided, That after December 31, 1990, the Administration shall not make a grant to any applicant other than an institution of higher education or a women's business center operating pursuant to section 29 as a Small Business Development Center unless the applicant was receiving a grant (including a contract or cooperative agreement) on such date. The Administration shall require any applicant for a small business development center grant with performance commencing on or after January 1, 1992 to have its own budget and to primarily utilize institutions of higher education and women's business centers operating pursuant to section 29 to provide services to the small business community. The term of such grants shall be made on a calendar year basis or to coincide with the Federal fiscal year.

(2) The Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.

(3) The Small Business Development Center Program shall be under the general management and oversight of the Administration, for the delivery of programs and services to the small business community. Such programs and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration.

(A) Small business development centers are authorized to form an association to pursue matters of common concern. If more than a majority of the small business development centers which are operating pursuant to agreements with the Administration are members of such an association, the Administration is authorized and directed to recognize the existence and activities of such an association and to consult with it and develop documents (i) announcing the annual scope of activities pursuant to this section, (ii) requesting proposals to deliver assistance as provided in this section and (iii) governing the general operations and administration of the Small Business Development Center Program, specifically including the development of regulations and a uniform negotiated cooperative agreement for use on an annual basis when entering into individual negotiated agreements with small business development centers.

(B) Provisions governing audits, cost principles and administrative requirements for Federal grants, contracts and cooperative agreements which are included in uniform requirements of Office of Management and Budget (OMB) Circulars shall be incorporated by reference and shall not be set forth in summary or other form in regulations.

(C) On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.

(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

(C) FUNDING FORMULA.—

(i) IN GENERAL.—Subject to clause (iii), the amount of a formula grant received by a State under this subparagraph shall be equal to an amount determined in accordance with the following formula:

(I) The annual amount made available under section 20(a) for the Small Business Development Center Program, less any reductions made for expenses authorized by clause (v) of this subparagraph, shall be divided on a pro rata basis, based on the percentage of the population of each State, as compared to the population of the United States.

(II) If the pro rata amount calculated under subclause (I) for any State is less than the minimum funding level under clause (iii), the Administration shall determine the aggregate amount necessary to achieve that minimum funding level for each such State.

(III) The aggregate amount calculated under subclause (II) shall be deducted from the amount calculated under subclause (I) for States eligible to receive more than the minimum funding level. The deductions shall be made on a pro rata basis, based on the population of each such State, as compared to the total population of all such States.

(IV) The aggregate amount deducted under subclause (III) shall be added to the grants of those States that are not eligible to receive more than the minimum funding level in order to achieve the minimum funding level for each such State, except that the eligible amount of a grant to any State shall not be reduced to an amount below the minimum funding level.

(ii) GRANT DETERMINATION.—The amount of a grant that a State is eligible to apply for under this subparagraph shall be the amount determined under clause (i), subject to any modifications required under clause (iii), and shall be based on the amount available for the fiscal year in which performance of the grant commences, but not including amounts distributed in accordance with clause (iv). The amount of a grant received by a State under any provision of this subparagraph shall not exceed the amount of matching funds from sources other than the Federal Government, as required under subparagraph (A).

(iii) MINIMUM FUNDING LEVEL.—The amount of the minimum funding level for each State shall be determined for each fiscal year based on the amount made available for that fiscal year to carry out this section, as follows:

(I) If the amount made available is not less than \$81,500,000 and not more than \$90,000,000, the minimum funding level shall be \$500,000.

(II) If the amount made available is less than \$81,500,000, the minimum funding level shall be the remainder of \$500,000 minus a percentage of \$500,000 equal to the percentage amount by which the amount made available is less than \$81,500,000.

(III) If the amount available is more than \$90,000,000, the minimum funding level shall be the sum of \$500,000 Plus a percentage of \$500,000 equal to the percentage amount by which the amount made available exceeds \$90,000,000.

(iv) DISTRIBUTIONS.—Subject to clause (iii), if any State does not apply for, or use, its full funding eligibility for a fiscal year, the Administration shall distribute the remaining funds as follows:

(I) If the grant to any State is less than the amount received by that State in Fiscal year 2000, the Administration shall distribute such remaining funds, on a pro rata bases, based on the percentage of shortage of each such State, as compared to the total amount of such remaining funds available, to the extent necessary in order to increase the amount of the grant to the amount received by that State in fiscal year 2000, or until such funds are exhausted, whichever first occurs.

(II) If any funds remain after the application of subclause (I), the remaining amount may be distributed as supplemental grants to any State, as the Administration determines, in its discretion, to be appropriate, after consultation with the association referred to in subsection (a)(3)(A).

(v) USE OF AMOUNTS.

(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section—

(aa) not more than \$500,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section

20(a)(1); and

(bb) not more than \$500,000 may be used by the Administration to pay the examination expenses enumerated in section 20(a)(1)(E).

(II) LIMITATION.—No funds described in subclause (I) may be used for examination expenses under section 20(a)(1)(E) if the usage would

reduce the amount of grants made available under clause (i)(I) of this subparagraph to less than \$85,000,000 (after excluding any amounts provided in appropriations Acts, or accompanying report language, for specific institutions or for purposes other than the general small business development center program) or would further reduce the amount of such grants below such amount.

(vi) EXCLUSIONS.—Grants provided to a State by the Administration or another Federal agency to carry out subsection (a)(6) or (c)(3)(G), or for supplemental grants set forth in clause (iv)(II) of this subparagraph, shall not be included in the calculation of maximum funding for a State under clause (ii) of this subparagraph.

(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph—

(I) \$130,000,000 for fiscal year 2005; and

(II) \$135,000,000 for fiscal year 2006.

(viii) LIMITATION.—From the funds appropriated pursuant to clause (vii), the Administration shall reserve not less than \$1,000,000 in each fiscal year to develop portable assistance for startup and sustainability non-matching grant programs to be conducted by eligible small business development centers in communities that are economically challenged as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability. A non-matching grant under this clause shall not exceed \$100,000, and shall be used for small business development center personnel expenses and related small business programs and services.

(ix) STATE DEFINED.—In this subparagraph, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

(A) IN GENERAL.—Subject to the conditions set forth in subparagraph (B), a small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns.

(B) CONTRACT PREREQUISITES.—Before bidding on a contract described in subparagraph (A), a small business development center shall receive approval from the Associate Administrator of the small business development center program of the subject and general scope of the contract. Each approval under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph shall not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).

(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist—

(A) with the development and enhancement of exports by small business concerns;

(B) in technology transfer; and

(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, HUBZone small business concerns, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities;

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a \$15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be \$100,000.

(7) PRIVACY REQUIREMENTS.—

(A) IN GENERAL.—A small business development center, consortium of small business development centers, or contractor or agent of a small business development center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

(i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency;

or

(ii) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a small business development center, but a disclosure under this clause shall be limited to the information necessary for such audit.

(B) ADMINISTRATOR USE OF INFORMATION.—This section shall not—

(i) restrict Administrator access to program activity data; or

(ii) prevent the Administrator from using client information to conduct client surveys.

(C) REGULATIONS.—

(i) IN GENERAL.—The Administrator shall issue regulations to establish standards—

(I) for disclosures with respect to financial audits under subparagraph (A)(ii); and

(II) for client surveys under subparagraph (B)(ii), including standards for oversight of such surveys and for dissemination and use of client

information.



(ii) MAXIMUM PRIVACY PROTECTION.—Regulations under this subparagraph, [sic] shall, to the extent practicable, provide for the maximum amount of privacy protection.

(iii) INSPECTOR GENERAL.—Until the effective date of regulations under this subparagraph, any client survey and the use of such information shall be approved by the Inspector General who shall include such approval in his semi-annual report.

(b) (1) Financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a Plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

(2) An applicant may apply to participate in the program by submitting to the Administration for approval a Plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a Plan or combination of Plans submitted. In all cases, the Administration shall review Plans for conformity with the Plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

(c) (1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. The facilities and staff of each Small Business Development Center shall be located in such places as to provide maximum accessibility and benefits to the small business which the center is intended to serve. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have—

(A) a full-time staff, including a full-time director who shall have the authority to make expenditures under the center's budget and who shall manage the program activities;

(B) access to business analysts to counsel, assist, and inform small business clients;

(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

(D) access to information specialists to assist in providing information searches and referrals to small business;

(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

(F) access to laboratory and adaptive engineering facilities.

(3) Services provided by a small business development center shall include, but shall not be limited to --

(A) furnishing one-to-one individual counseling to small businesses, including—

(i) working with individuals to increase awareness of basic credit practices and credit requirements;

(ii) working with individuals to develop business Plans, financial packages, credit applications, and contract proposals;

(iii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business startup Planning, existing business expansion, and export Planning; and

(iv) working with individuals referred by the local offices of the Administration and Administration participating lenders;

(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;

(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center and the Administration may work in cooperation with the State to establish a State international trade center for these purposes;

(D) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

(E) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more readily available to small business firms doing business, or attempting to develop business, in foreign markets;

(F) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;

(G) assisting small businesses to develop and implement strategic business Plans to timely and effectively respond to the Planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

(i) by developing broad economic assessments of the adverse impacts of—

(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

(iii) by conducting appropriate programs to inform the affected small business community regarding the anticipated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

(iv) by assisting small business concerns to develop and implement an individualized transition business Plan.

(H) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

(I) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

(J) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

(K) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

(L) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality;

(M) in cooperation with the Department of Commerce, the Administration and other relevant Federal agencies, actively assisting rural small businesses in exporting by identifying and developing potential export markets for rural small businesses, facilitating export transactions for rural small businesses, developing linkages between United States' rural small businesses and prescreened foreign buyers, assisting rural small businesses to participate in international trade shows, assisting rural small businesses in obtaining export financing and developing marketing and production strategies;

(N) assisting rural small businesses—

(i) in developing marketing and production strategies that will enable them to better compete in the domestic market—

(ii) by providing technical assistance needed by rural small businesses;

(iii) by making available managerial assistance to rural small business concerns; and

(iv) by providing information and assistance in obtaining financing for business startups and expansion;

(O) in conjunction with the United States Travel and Tourism Administration, assist rural small business in developing the tourism potential of rural communities by—

(i) identifying the cultural, historic, recreational, and scenic resources of such communities;

(ii) providing assistance to small businesses in developing tourism marketing and promotion Plans relating to tourism in rural areas; and

(iii) assisting small business concerns to obtain capital for starting or expanding businesses primarily serving tourists;

(P) maintaining lists of local and regional private consultants to whom small businesses can be referred;

(Q) providing information to small business concerns regarding compliance with regulatory requirements;

(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312 (a) of the Small Business Regulatory Enforcement Fairness Act of 1996;

(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program; and

(T) providing information and assistance to small business concerns with respect to establishing drug-free workplace programs on or before October 1, 2006.

(4) A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

(5) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as described in this subsection to small businesses on behalf of such small business development center.

(6) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under subsection (a)(1) to such center or the date the Administration notifies the grantee funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), whichever date occurs last, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

(7) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

(8) The Associate Administrator for Small Business Development Centers, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system. Subject to amounts approved in advance in appropriations Acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants or cooperative agreements under this paragraph. The system shall

(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and



(B) provide information central to technology transfer.

(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive Plan for enhancing the export potential of small businesses located within the State. This Plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performances of small businesses within the State.

(e) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

(f) The National Science Foundation is authorized and directed to cooperate with the Administration and with the Small Business Development Centers in developing and establishing programs to support the centers.

(g) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) APPOINTMENT AND COMPENSATION.—The Administrator shall appoint an Associate Administrator for Small Business Development Centers who shall report to an official who is not more than one level below the Office of the Administrator and who shall serve without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

(2) DUTIES.—

(A) IN GENERAL.—The sole responsibility of the Associate Administrator for Small Business Development Centers shall be to administer the small business development center program. Duties of the position shall include recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section.

(B) CONSULTATION REQUIREMENTS.—In carrying out the duties described in this subsection, the Associate Administrator shall confer with and seek the advice of the Board established by subsection (i) and Administration officials in areas served by the small business development centers; however, the Associate Administrator shall be responsible for the management and administration of the program and shall not be subject to the approval or concurrence of such Administration officials.

(i) (1) There is established a National Small Business Development Center Advisory Board (herein referred to as "Board") which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose terms shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

(2) The Board shall elect a Chairman and advise, counsel, and confer with the Associate Administrator for Small Business Development Centers in carrying out the duties described in this section. The Board shall meet at least semiannually and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of their per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

(j) (1) Each small business development center shall establish an advisory board.

(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

(k) PROGRAM EXAMINATION AND ACCREDITATION.—

(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biennial programmatic and financial examination of each small business development center established pursuant to this section.

(2) ACCREDITATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center accreditation program.

(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and accreditation program conducted pursuant to paragraphs (1) and (2).

(B) ACCREDITATION REQUIREMENT.—After September 30, 2000, the Administration may not renew or extend any cooperative agreement with a small business development center unless the center has been approved under the accreditation program conducted pursuant to this subsection, except that the Associate Administrator for Small Business Development Centers may waive such accreditation requirement, in the discretion of the Associate Administrator, upon a showing that the center is making a good faith effort to obtain certification.

(l) CONTRACT AUTHORITY.—The authority to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the administration [sic] has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under the provisions of chapter 5 of title 5, United States Code. If any contract or cooperative agreement under this section with an entity that is covered by this section is not renewed or extended, any award of a successor contract or cooperative agreement under this section to another entity shall be made on a competitive basis.

(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section.

§ 29. WOMEN'S BUSINESS CENTER PROGRAM.

(a) DEFINITIONS - In this section—

- (1) the term "Assistant Administrator" means the Assistant Administrator of the Office of Women's Business Ownership established under subsection (g);
- (2) the term "private nonprofit organization" means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;
- (3) the term "small business concern owned and controlled by women", either startup or existing, includes any small business concern—
  - (A) that is not less than 51 percent owned by 1 or more women; and
  - (B) the management and daily business operations of which are controlled by 1 or more women; and
- (4) the term "women's business center site" means the location of—
  - (A) a women's business center; or
  - (B) 1 or more women's business centers, established in conjunction with another women's business center in another location within a State or region—
    - (i) that reach a distinct population that would otherwise not be served;
    - (ii) whose services are targeted to women; and
    - (iii) whose scope, function, and activities are similar to those of the primary women's business center or centers in conjunction with which it was

established.

(b) AUTHORITY.—The Administration may provide financial assistance to private nonprofit organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

- (1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;
- (2) management assistance, including training and counseling in how to Plan, organize, staff, direct, and control each major activity and function of a small business concern; and
- (3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing Plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

(c) CONDITIONS OF PARTICIPATION—

(1) NON-FEDERAL CONTRIBUTIONS.—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

- (A) in the first and second years, 1 non-Federal dollar for each 2 Federal dollars; and
- (B) in the third, fourth, and fifth years, 1 non-Federal dollar for each Federal dollar.

(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

(3) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

(4) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration, and prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

(d) CONTRACT AUTHORITY.—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

(e) SUBMISSION OF 5-YEAR PLAN.—Each applicant organization initially shall submit a 5-year Plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center site.

(f) CRITERIA.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

- (1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;
- (2) the present ability of the applicant to commence a project within a minimum amount of time;
- (3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and
- (4) the location for the women's business center site proposed by the applicant.

(g) OFFICE OF WOMEN'S BUSINESS OWNERSHIP—

(1) ESTABLISHMENT.—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

(2) ASSISTANT ADMINISTRATOR OF THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP—

- (A) QUALIFICATIONS.—The position of Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United



States Code. The Assistant Administrator shall serve as a noncareer appointee (as defined in section 3132(a)(7) of that title).

(B) RESPONSIBILITIES AND DUTIES—

(i) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

- (I) starting and operating a small business;
- (II) development of management and technical skills;
- (III) seeking Federal procurement opportunities; and
- (IV) increasing the opportunity for access to capital.

(ii) DUTIES.—The Assistant Administrator shall—

- (I) administer and manage the Women's Business Center program;
- (II) recommend the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Center program);
- (III) establish appropriate funding levels therefore;
- (IV) review the annual budgets submitted by each applicant for the Women's Business Center program;
- (V) select applicants to participate in the program under this section
- (VI) implement this section;
- (VII) maintain a clearinghouse to provide for the dissemination and exchange of information between women's business centers;
- (VIII) serve as the vice chairperson of the Interagency Committee on Women's Business Enterprise;
- (IX) serve as liaison for the National Women's Business Council; and
- (X) advise the Administrator on appointments to the Women's Business Council.

(C) CONSULTATION REQUIREMENTS - In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the women's business centers.

(h) PROGRAM EXAMINATION.—

(1) IN GENERAL.—The Administration shall—

(A) develop and implement an annual programmatic and financial examination of each women's business center established pursuant to this section, pursuant to which each such center shall provide to the Administration—

- (i) an itemized cost breakdown of actual expenditures for costs incurred during the preceding year; and
- (ii) documentation regarding the amount of matching assistance from non-Federal sources obtained and expended by the center during the preceding year in order to meet the requirements of subsection (c) and, with respect to any in-kind contributions described in subsection (c)(2) that were used to satisfy the requirements of subsection (c), verification of the existence and valuation of those contributions; and

(B) analyze the results of each such examination and, based on that analysis, make a determination regarding the programmatic and financial viability of each women's business center.

(2) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to award a contract (as a sustainability grant) under subsection (1) or to renew a contract (either as a grant or cooperative agreement) under this section with a women's business center, the Administration—

(A) shall consider the results of the most recent examination of the center under paragraph (1); and

(B) may withhold such award or renewal, if the Administration determines that—

(i) the center has failed to provide any information required to be provided under clause (i) or (ii) of paragraph (1)(A), or the information provided by the center is inadequate; or

(ii) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subsection (j), or the information provided by the center is inadequate.

(i) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administrator has entered into a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administrator provides the applicant with written notification setting forth the reasons therefore and affords the applicant an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

(j) MANAGEMENT REPORT.—

(1) IN GENERAL.—The Administration shall prepare and submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of all projects conducted under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include information concerning, with respect to each women's business center established pursuant to this section—

- (A) the number of individuals receiving assistance;
- (B) the number of startup business concerns formed;
- (C) the gross receipts of assisted concerns;
- (D) the employment increases or decreases of assisted concerns;

(E) to the maximum extent practicable, increases or decreases in profits of assisted concerns; and

(F) the most recent analysis, as required under subsection (h)(1)(B), and the subsequent determination made by the Administration under that subsection.

(k) AUTHORIZATION OF APPROPRIATIONS—

(1) IN GENERAL.—There is authorized to be appropriated, to remain available until the expiration of the pilot program under subsection (l)—

(A) \$12,000,000 for fiscal year 2000;

(B) \$12,800,000 for fiscal year 2001;

(C) \$13,700,000 for fiscal year 2002; and

(D) \$14,500,000 for fiscal year 2003.

(2) USE OF AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made available under this subsection for fiscal year 1999, and each fiscal year thereafter, may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section.

(B) EXCEPTIONS.—Of the amount made available under this subsection for a fiscal year, the following amounts shall be available for selection panel costs, post-award conference costs, and costs related to monitoring and oversight:

(i) For fiscal year 2000, 2 percent.

(ii) For fiscal year 2001, 1.9 percent.

(iii) For fiscal year 2002, 1.9 percent.

(iv) For fiscal year 2003, 1.6 percent.

(3) EXPEDITED ACQUISITION.—Notwithstanding any other provision of law, the Administrator, acting through the Assistant Administrator, may use such expedited acquisition methods as the Administrator determines to be appropriate to carry out this section, except that the Administrator shall ensure that all small business sources are provided a reasonable opportunity to submit proposals.

(4) RESERVATION OF FUNDS FOR SUSTAINABILITY PILOT PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), of the total amount made available under this subsection for a fiscal year, the following amounts shall be reserved for sustainability grants under subsection (l):

(i) For fiscal year 2000, 17 percent.

(ii) For fiscal year 2001, 18.8 percent.

(iii) For fiscal year 2002, 30.2 percent.

(iv) For fiscal year 2003, 30.2 percent.

(B) USE OF UNAWARDED FUNDS FOR SUSTAINABILITY PILOT PROGRAM GRANTS.—If the amount reserved under subparagraph (A) for any fiscal year is not fully awarded to private nonprofit organizations described in subsection (l)(1)(B), the Administration is authorized to use the unawarded amount to fund additional women's business center sites or to increase funding of existing women's business center sites under subsection (b).

(l) SUSTAINABILITY PILOT PROGRAM.—

(1) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award grants (referred to in this section as "sustainability grants") on a competitive basis for an additional 5-year project under this section to any private nonprofit organization (or a division thereof)—

(A) that has received financial assistance under this section pursuant to a grant, contract, or cooperative agreement; and

(B) that—

(i) is in the final year of a 5-year project; or

(ii) has completed a project financed under this section (or any predecessor to this section) and continues to provide assistance to women entrepreneurs.

(2) CONDITIONS FOR PARTICIPATION.—In order to receive a sustainability grant, an organization described in paragraph (1) shall submit to the Administration an application, which shall include—

(A) a certification that the applicant—

(i) is a private nonprofit organization;

(ii) employs a full-time executive director or program manager to manage the center; and

(iii) as a condition of receiving a sustainability grant, agrees—

(I) to a site visit as part of the final selection process and to an annual programmatic and financial examination; and

(II) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a sustainability grant is sought, including the ability to fundraise;

(C) information relating to assistance provided by the women's business center site for which a sustainability grant is sought in the area in which the site is located, including—

(i) the number of individuals assisted;



(ii) the number of hours of counseling, training, and workshops provided; and

(iii) the number of startup business concerns formed;

(D) information demonstrating the effective experience of the applicant in—

(i) conducting financial, management, and marketing assistance programs, as described in paragraphs (1), (2), and (3) of subsection (b), designed to impart or upgrade the business skills of women business owners or potential owners;

(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged;

(iii) using resource partners of the Administration and other entities, such as universities;

(iv) complying with the cooperative agreement of the applicant; and

(v) the prudent management of finances and staffing, including the manner in which the performance of the applicant compared to the business Plan of the applicant and the manner in which grant funds awarded under subsection (b) were used by the applicant; and

(E) a 5-year Plan that projects the ability of the women's business center site for which a sustainability grant is sought—

(i) to serve women business owners or potential owners in the future by improving fundraising and training activities; and

(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged.

(3) REVIEW OF APPLICATIONS.—

(A) IN GENERAL.—The Administration shall—

(i) review each application submitted under paragraph (2) based on the information provided in subparagraphs (D) and (E) of that paragraph, and the criteria set forth in subsection (f);

(ii) as part of the final selection process, conduct a site visit at each women's business center for which a sustainability grant is sought; and

(iii) approve or disapprove applications for sustainability grants simultaneously with applications for grants under subsection (b).

(B) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (j), each women's business center site that is awarded a sustainability grant shall, to the maximum extent practicable, collect information relating to—

(i) the number of individuals assisted;

(ii) the number of hours of counseling and training provided and workshops conducted;

(iii) the number of startup business concerns formed;

(iv) any available gross receipts of assisted concerns; and

(v) the number of jobs created, maintained, or lost at assisted concerns.

(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

(4) NON-FEDERAL CONTRIBUTION.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a sustainability grant, an organization described in paragraph (1) shall agree to obtain, after its application has been approved under paragraph (3) and notice of award has been issued, cash and in-kind contributions from non-Federal sources for each year of additional program participation in an amount equal to 1 non-Federal dollar for each Federal dollar.

(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than 50 percent of the non-Federal assistance obtained for purposes of subparagraph (A) may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

(5) TIMING OF REQUESTS FOR PROPOSALS.—In carrying out this subsection, the Administration shall issue requests for proposals for women's business centers applying for the pilot program under this subsection simultaneously with requests for proposals for grants under subsection (b).