

Appendix C2: Statues and Regulations Mandating Collection of Information

- A. Women's Business Ownership Act of 1988
- B. Section 29 of the Small Business Act

A. Women's Business Ownership Act of 1988

Public Law 100-533
100th Congress

An Act

To amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes.

Oct. 25, 1988
[H.R. 5050]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, together with the following table of contents, may be cited as the "Women's Business Ownership Act of 1988".

Women's
Business
Ownership Act
of 1988.
15 USC 631 note.

TABLE OF CONTENTS

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

Sec. 101. Findings and purposes.

TITLE II—DEMONSTRATION PROJECTS

Sec. 201. Establishment.
Sec. 202. Technical.
Sec. 203. Authorization.
Sec. 204. Definition.

TITLE III—ACCESS TO CAPITAL

Sec. 301. Amendments to the Consumer Credit Protection Act.
Sec. 302. Form simplification and preferred financing.

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

Sec. 401. Establishment.
Sec. 402. Duties of the Council.
Sec. 403. Membership.
Sec. 404. Director and staff of the Council.
Sec. 405. Powers of the Council.
Sec. 406. Reports.
Sec. 407. Authorization.

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

Sec. 501. Census data.
Sec. 502. Procurement data.
Sec. 503. State of small business report.
Sec. 504. Disadvantaged small business.

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(h)(1) With respect to the programs and activities authorized by this Act, the Congress finds that—

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

"(B) over the past two decades there have been substantial gains in the social and economic status of women as they have sought economic equality and independence;

“(C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their gender;

“(D) such discrimination takes many overt and subtle forms adversely impacting the ability to raise or secure capital, to acquire managerial talents, and to capture market opportunities;

“(E) it is in the national interest to expeditiously remove discriminatory barriers to the creation and development of small business concerns owned and controlled by women;

“(F) the removal of such barriers is essential to provide a fair opportunity for full participation in the free enterprise system by women and to further increase the economic vitality of the Nation;

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

“(H) programs and activities designed to assist small business concerns owned and controlled by women must be implemented in such a way as to remove such discriminatory barriers while not adversely affecting the rights of socially and economically disadvantaged individuals.

Discrimination,
prohibition.

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

“(A) vigorously promote the legitimate interests of small business concerns owned and controlled by women;

“(B) remove, insofar as possible, the discriminatory barriers that are encountered by women in accessing capital and other factors of production; and

“(C) require that the Government engage in a systematic and sustained effort to identify, define and analyze those discriminatory barriers facing women and that such effort directly involve the participation of women business owners in the public/private sector partnership.”

TITLE II—DEMONSTRATION PROJECTS

SEC. 201. ESTABLISHMENT.

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

“(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

“(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

“(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

“(B) it will provide the types of services and assistance to present and potential women owners of small business concerns

as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) Financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash-flow and otherwise manage the financial operations of a business concern.

"(B) Management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) Marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked 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. Such criteria shall include—

Public
information.

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall 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.

Grants.
Contracts.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

Reports.

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to subparagraph (A) shall cover at least a twenty-four-month period and shall be submitted not later than thirty months after the effective date of this paragraph.

Termination date. “(7) This subsection shall cease to be effective after September 30, 1991.”.

SEC. 202. TECHNICAL.

Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

- (1) striking out “and” at the end of paragraph (14);
- (2) striking out “public.” at the end of paragraph (15) and inserting in lieu thereof “public; and”; and
- (3) by adding the following new paragraph:

“(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.”.

15 USC 637 note. **SEC. 203. AUTHORIZATION.**

There is authorized to be appropriated \$10,000,000 to carry out the demonstration projects required pursuant to section 201. The initial projects authorized to be financed by this title shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

15 USC 637 note. **SEC. 204. DEFINITION.**

For the purposes of this title, the term “small business concern owned and controlled by women” means any small business concern—

- (1) that is at least 51 per centum owned by one or more women; and
- (2) whose management and daily business operations are controlled by one or more of such women.

TITLE III—ACCESS TO CAPITAL

SEC. 301. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

Subsection (a) of section 703 of the Consumer Credit Protection Act (15 U.S.C. 1691b(a)) is amended to read as follows:

Regulations. “(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

“(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the application of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

“(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

“(4) Pursuant to Board regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code.

Loans.
Records.

Regulations.

“(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.”

Loans.

SEC. 302. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) **CERTIFIED LOAN PROGRAM.**—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

“(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of \$50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided*, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed \$50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further*, That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And provided further*, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law.”

(b) **REPORTS.**—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall

15 USC 636 note.

be submitted not later than eighteen months after the date of enactment.

15 USC 631 note.

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

SEC. 401. ESTABLISHMENT.

There is established a Council to be known as the "National Women's Business Council" (hereinafter in this title referred to as the Council).

SEC. 402. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the status of women owned business nationwide, including progress made and barriers that remain in order to assist such businesses to enter the mainstream of the American economy;

(2) the role of the Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, women owned business;

(3) data collection procedures and the availability of data relating to (A) women owned businesses; (B) women owned small business, and (C) small business owned and controlled by socially and economically disadvantaged women; and

(4) such other government initiatives as may exist relating to women owned business including, but not limited to, those relating to Federal procurements.

(b) Based upon its review, the Council shall, by December 31, 1989, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to women owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such businesses; and

(3) detailed multiyear plans of action, with specific goals and timetables, for both public and private sector actions needed to overcome discriminatory barriers to full participation in the economic mainstream.

(c) For the purposes of this title the term "small business concern owned and controlled by women" shall have the same meaning as that term is given in section 204 of this Act.

SEC. 403. MEMBERSHIP.

(a) The Council shall be composed of nine members to be selected as follows:

(1) the Administrator of the Small Business Administration, the Secretary of Commerce (or such Secretary's deputy) and the Chairman of the Federal Reserve Board (or such Chairman's designee, who shall be a member of the Board);

(2) two members shall be appointed by the majority leader, and one member shall be appointed by the minority leader of the Senate; and

(3) two members shall be appointed by the Speaker, and one member shall be appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under section (a) (2) and (3) shall be made from individuals who are specially qualified to serve on the Council by virtue of their education, training, and experience and who are

not officers or employees of the Federal Government nor of the Congress.

(2)(A) Of the individuals to be appointed under subsection (a) (2) and (3)—

(i) no more than two members to be appointed under each such paragraph of such subsection shall be of the same political party;

(ii) at least two members appointed under each such paragraph of such subsection shall be women; and

(iii) at least two members to be appointed under each such paragraph of such subsection shall be owners of small business concerns as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence—

(i) appointments under (a)(2) shall be made within ninety days of the effective date of this title; and

(ii) appointments under (a)(3) shall be made within one hundred and twenty days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(C) Members appointed under subsection (a) (2) and (3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(D) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(E) Members of the Council shall serve without pay for such membership, except members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(F)(1) Two members of the Council shall constitute a quorum for the receipt of testimony and other evidence.

(2) A majority of the Council shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 402 or section 406.

(G) The Chairperson and Vice Chairperson of the Council shall be designated by the President. The term of office of the Chairperson and Vice Chairperson shall be at the discretion of the President.

(H) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

President of U.S.

SEC. 404. DIRECTOR AND STAFF OF THE COUNCIL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title

relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 405. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths or affirmations for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Council, the head of such department or agency shall promptly furnish such information to the Council.

Mail.

(d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

SEC. 406. REPORTS.

The Council shall transmit to the President and to each House of the Congress a report no less than once in every twelve-month period. The first such report shall be submitted no later than December 31, 1989. Such reports shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 402.

SEC. 407. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until expended. New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts. This title shall cease to be effective five years after the date of enactment.

Contracts.

Termination
date.

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

SEC. 501. CENSUS DATA.

13 USC 131 note.

(a) **BUREAU OF LABOR STATISTICS.**—The Bureau of Labor Statistics of the Department of Labor shall include in any census report it may prepare on women owned business data on—

- (1) sole proprietorships;
- (2) partnerships; and
- (3) corporations.

(b) **BUREAU OF THE CENSUS.**—The Bureau of the Census of the Department of Commerce shall include in its Business Census for 1992 and each such succeeding census data on the number of corporations which are 51 per centum or more owned by women.

(c) **COMBINED STUDY.**—Not later than one hundred and eighty days after the effective date of this section, the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this subsection as the “Office”) shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

Reports.

SEC. 502. PROCUREMENT DATA.

41 USC 4717a.

(a) **REPORTING.**—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by women and the number of small business concerns owned and controlled by socially and economically disadvantaged businesses, by gender, that are first time recipients of contracts from such agency. The Office of Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) **DEFINITIONS.**—For purposes of this section the terms “small business concern owned and controlled by women” and “small business concerns owned and controlled by socially and economically disadvantaged individuals” shall be given the same meaning as those terms are given under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of this Act.

SEC. 503. STATE OF SMALL BUSINESS REPORT.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding the following new subsection:

15 USC 631b.

“(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

“(1) small business concerns owned and controlled by socially and economically disadvantaged individuals, by gender, as defined pursuant to section 8(d) of the Small Business Act; and

“(2) small business concerns owned and controlled by women.”.

15 USC 631 note. **SEC. 504. DISADVANTAGED SMALL BUSINESSES.**

Nothing contained in this Act is intended to reduce or limit any programs, benefit, or activity that is authorized by law to assist small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)).

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 5050:

HOUSE REPORTS: No. 100-955 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 134 (1988):

- Oct. 3, considered and passed House.
- Oct. 11, considered and passed Senate, amended.
- Oct. 12, House concurred in Senate amendment.

B. Section 29 of the Small Business Act

SMALL BUSINESS ACT

(h) There are authorized to be appropriated to the Small Business Administration \$5 million for each of fiscal years 1992 through 1995 to carry out this section, and such amounts may remain available until expended.

(i) Centers are encouraged to seek funding from Federal and non-Federal sources other than those provided for in this section to assist small businesses in the identification of appropriate technologies to fill their needs, the transfer of technologies from Federal laboratories, public and private universities, and other public and private institutions, the analysis of commercial opportunities represented by such technologies, and such other functions as the development business Planning, market research, and financial packaging required for commercialization. Insofar as such Centers pursue these activities, Federal agencies are encouraged to employ these Centers to interface with small businesses for such purposes as facilitating small business participation in Federal procurement and fostering commercialization of Federally-funded research and development.

§ 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 issue, 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.

SMALL BUSINESS ACT

(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.

(5) **WAIVER ON NON-FEDERAL SHARE RELATING TO TECHNICAL ASSISTANCE AND COUNSELING.**—

(A) **IN GENERAL.**—Upon request by a recipient organization, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for the technical assistance and counseling activities of the recipient organization carried out using financial assistance under this section for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this paragraph for successive fiscal years.

(B) **CONSIDERATIONS.**—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

- (i) the economic conditions affecting the recipient organization;
- (ii) the impact a waiver under this clause would have on the credibility of the women’s business center program under this section;
- (iii) the demonstrated ability of the recipient organization to raise non-Federal funds; and
- (iv) the performance of the recipient organization.

(C) **LIMITATIONS.**—

(i) **IN GENERAL.**—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the women’s business center program under this section.

(ii) **SUNSET.**—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph for fiscal year 2013 or any fiscal year thereafter.

(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

SMALL BUSINESS ACT

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**—

SMALL BUSINESS ACT

(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 (l) 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,

SMALL BUSINESS ACT

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.—

SMALL BUSINESS ACT

(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 (1):

- (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 (1)(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).

(1) SUSTAINABILITY PILOT PROGRAM.—

SMALL BUSINESS ACT

(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;

SMALL BUSINESS ACT

provided; and

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

- (iii) the number of startup business concerns formed;

in—

- (D) information demonstrating the effective experience of the applicant

- (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

SMALL BUSINESS ACT

(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).

(m) CONTINUED FUNDING FOR CENTERS.—

(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

SMALL BUSINESS ACT

(2) **APPLICABILITY.**—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under subsection (b) or (l).

(3) **APPLICATION AND APPROVAL CRITERIA.**—

(A) **CRITERIA.**—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

(B) **CONTENTS.**—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (l), as in effect on the date of enactment of this Act.

(C) **NOTIFICATION.**—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each application.

(4) **AWARD OF GRANTS.**—

(A) **IN GENERAL.**—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the application to each applicant approved under this subsection.

(B) **AMOUNT.**—A grant under this subsection shall be for not more than \$150,000, for each year of that grant.

(C) **FEDERAL SHARE.**—The Federal share under this subsection shall not be more than 50 percent.

(D) **PRIORITY.**—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection or subsection (l) priority over first-time applications under subsection (b).

(5) **RENEWAL.**—

(A) **IN GENERAL.**—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

(B) **UNLIMITED RENEWALS.**—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).

(n) **PRIVACY REQUIREMENTS.**—

SMALL BUSINESS ACT

(1) **IN GENERAL.**—A women’s business 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—

(A) 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

(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a women’s business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

(2) **ADMINISTRATION USE OF INFORMATION.**—This subsection shall not—

(A) restrict Administration access to program activity data; or

(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

(3) **REGULATIONS.**—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under paragraph (1)(B).

(o) **STUDY AND REPORT ON REPRESENTATION OF WOMEN.**—

(1) **STUDY.**—The Administrator shall periodically conduct a study to identify industries, as defined under the North American Industry Classification System, underrepresented by small business concerns owned and controlled by women.

(2) **REPORT.**—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.

§ 30. **OVERSIGHT OF REGULATORY ENFORCEMENT.**

(a) **DEFINITIONS.**—For purposes of this section, the term—

(1) “Board” means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

(2) “Ombudsman” means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

(b) **SBA ENFORCEMENT OMBUDSMAN.**—