

103D CONGRESS  
1ST SESSION

# H. R. 2662

To amend the Small Business Act to modify the small business and capital ownership development program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1993

Mr. RICHARDSON (for himself, Mr. MACHTLEY, Mr. MFUME, Ms. ROS-LEHTINEN, Mr. ORTIZ, Mr. TORRES, Mr. PASTOR, Mr. TOWNS, Mr. SERRANO, Mr. OBERSTAR, Mr. DELUGO, Mr. HASTINGS, Mr. PETERSON of Minnesota, Mr. LEWIS of California, Mr. BILBRAY, and Mr. MATSUI introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act to modify the small business and capital ownership development program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Business Improvement  
5 Act of 1993”.

6 **SEC. 2. BUSINESS ACTIVITY TARGETS.**

7 Notwithstanding any other provision of law, in ad-  
8 ministering the small business and capital ownership de-

1 velopment program established by section 7(j)(10) of the  
2 Small Business Act, the Administrator of the Small Busi-  
3 ness Administration shall consider any contract awarded  
4 to a program participant before the date of the enactment  
5 of this Act under section 8(a)(1)(D) of such Act to be  
6 a contract awarded other than pursuant to section 8(a)  
7 of such Act for purposes of attainment of business activity  
8 targets under regulations issued pursuant to section  
9 7(j)(10)(I)(iii) of such Act.

10 **SEC. 3. PROCUREMENT PROCEDURES.**

11 Section 8 of the Small Business Act (15 U.S.C. 637)  
12 is amended by inserting after subsection (b) the following  
13 new subsection:

14 “(c)(1) To facilitate the attainment of a participating  
15 agency’s goal regarding the participation of small business  
16 concerns owned and controlled by socially and economi-  
17 cally disadvantaged individuals pursuant to section  
18 15(g)(1), the head of a participating agency may enter  
19 into contracts using—

20 “(A) less than full and open competition by re-  
21 stricting the competition for such awards to such  
22 small business concerns; or

23 “(B) a price evaluation preference of not more  
24 than 10 percent when evaluating an offer received

1 from such a small business concern as the result of  
2 an unrestricted solicitation.

3 “(2) For purposes of this subsection, the term ‘par-  
4 ticipating agency’ means any Federal agency, as defined  
5 in section 3(b), other than the Department of Defense.

6 “(3) The authority provided for in paragraph (1)  
7 shall remain in effect until September 30, 2000.”.

8 **SEC. 4. ELIGIBILITY OF PAST DEVELOPMENT PROGRAM**

9 **PARTICIPANTS FOR SECTION 8(a) CONTRACT**  
10 **AWARDS.**

11 Section (8)(a)(1)(C) of the Small Business Act (15  
12 U.S.C. 637(a)(1)(C)) is amended to read as follows:

13 “(C) to make an award to a small business con-  
14 cern owned and controlled by socially and economi-  
15 cally disadvantaged individuals which has completed  
16 its period of Program Participation as prescribed by  
17 section 7(j)(15) if—

18 “(i) in the case of a competitive award, the  
19 prospective contract awardee was a Program  
20 Participant eligible for award of the contract on  
21 the date specified for receipt of offers contained  
22 in the contract solicitation; and

23 “(ii) in the case of a sole source award, the  
24 prospective contract awardee was a Program  
25 Participant eligible for award of the contract on

1 the date that the prospective awardee submitted  
2 certifications and representations for the con-  
3 tract to the contracting agency.”.

4 **SEC. 5. ELIMINATING COMPETITIVE CONTRACTS UNDER**  
5 **SECTION 8(a).**

6 Section 8(a)(1) of the Small Business Act (15 U.S.C.  
7 637(a)(1)) is amended—

8 (1) in subparagraph (B), by striking the semi-  
9 colon and inserting “; and”; and

10 (2) by striking subparagraph (D).

11 **SEC. 6. CONTINUED ACCESS TO BUSINESS OPPORTUNITIES.**

12 Section 8(a)(3) of the Small Business Act (15 U.S.C.  
13 637(a)(3)) is amended by adding at the end the following:

14 “(E)(i) A contract to furnish products or serv-  
15 ices to a participating agency shall be competed pur-  
16 suant to clause (ii) if—

17 “(I) there is a reasonable expectation of  
18 receiving offers from 2 or more eligible small  
19 business concerns owned and controlled by so-  
20 cially and economically disadvantaged individ-  
21 uals which are capable of performing the con-  
22 tract;

23 “(II) a contract to furnish the same (or  
24 substantially similar) products or services is

1 being performed under a contract awarded pur-  
2 suant to this subsection; and

3 “(III) the contractor currently performing  
4 the contract referred to in subclause (II) will  
5 have graduated from the small business and  
6 capital ownership development program author-  
7 ized by section 7(j)(10) prior to the date of is-  
8 suance of the solicitation for such contract.

9 “(ii) The head of a participating agency shall  
10 restrict the competition for the award of a contract  
11 described in clause (i) to small business concerns  
12 owned and controlled by socially and economically  
13 disadvantaged individuals upon the request of the  
14 small business concern described in clause (i)(III).

15 “(iii) A small business concern described in  
16 clause (i)(III) shall be eligible for award of a con-  
17 tract resulting from a restricted competition de-  
18 scribed in clause (ii) if such small business concern  
19 has entered into (and the contracting officer ac-  
20 cepts) an agreement to subcontract not less than 20  
21 percent and not more than 50 percent of the award  
22 value of the contract to 1 or more small business  
23 concerns in the developmental stage of the minority  
24 small business and capital ownership development  
25 program, as described in section 7(j)(15)(A).

1           “(iv) The head of a participating agency award-  
2           ing a contract pursuant to clause (ii) shall ensure  
3           that, following completion of a contract awarded  
4           pursuant to clause (ii), any follow-on contract for  
5           the same (or substantially similar) products or serv-  
6           ices will be furnished pursuant to a contract award-  
7           ed under the authority of this subsection.

8           “(v) For the purposes of this section, the term  
9           ‘participating agency’ means any Federal agency, as  
10          defined in section 3(b) of this Act.

11          “(vi) For the purposes of this section, the term  
12          ‘small business’ means a business concern with not  
13          more than 1500 employees.”.

14 **SEC. 7. STUDY OF DEVELOPMENT PROGRAM PARTICIPA-**  
15 **TION TERMS BY INDUSTRY SECTOR; SUSPEN-**  
16 **SION OF DEVELOPMENT PROGRAM GRADUA-**  
17 **TIONS.**

18          (a) STUDY.—Section 10 of the Small Business Act  
19          (15 U.S.C. 639) is amended by adding at the end the fol-  
20          lowing:

21          “(i) The Administration shall authorize a short-term  
22          study to determine the appropriate program participation  
23          term by industry sector for small business concerns par-  
24          ticipating in the program authorized by section 7(j)(10)  
25          and transmit the results of such study to the President

1 of the Senate, the Speaker of the House of Representa-  
2 tives, and the Committees on Small Business of the Senate  
3 and the House of Representatives not later than 1 year  
4 after the date of the enactment of this subsection.”.

5 (b) SUSPENSION OF DEVELOPMENT PROGRAM GRAD-  
6 UATIONS.—Section 7(j)(10)(C) of such Act (15 U.S.C.  
7 636(j)(10)(C)) is amended—

8 (1) by redesignating clause (ii) as clause (iii);  
9 and

10 (2) by inserting after clause (i) the following  
11 new clause:

12 “(ii) A small business concern participating in  
13 any program or activity conducted under the author-  
14 ity of this paragraph or eligible for the award of  
15 contracts pursuant to section 8(a) on October 1,  
16 1992, shall be permitted continued participation and  
17 eligibility in such program or activity until the latter  
18 of—

19 “(I) 365 days after the date on which final  
20 regulations are issued to implement a law es-  
21 tablishing appropriate terms for participation in  
22 the Program by industry sector based on the  
23 study conducted pursuant to section 10(i); or



- 1 a 'small business concern owned and controlled by socially
- 2 and economically disadvantaged individuals'.".

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