

# ***Minority Business Resiliency Act of 2021***

## **Section-by-Section**

The bill supersedes Executive Order 11625, which created the original Minority Business Development Agency, and codifies the agency to promote and administer programs to assist the development and resiliency of minority business enterprises (MBEs). MBEs are defined as firms that are at least 51 percent owned by one or more socially disadvantaged individuals and whose management and daily business operations are controlled by one or more socially disadvantaged individuals.

Socially disadvantaged individuals are defined as individuals who have been subjected to racial or ethnic prejudice or cultural bias due to their identity of a member of a certain group. Those who identify as Black, Hispanic or Latino, American Indian (including Alaska Native), Asian, and Native Hawaiian or Pacific Islander are all presumed to be socially disadvantaged, as are those that are members of groups that the current MBDA has determined to be socially disadvantaged. Unlike SBA, MBDA has no size restrictions.

A presidentially appointed and Senate-confirmed Assistant Secretary of Commerce for Minority Business Development runs the agency, which is authorized to create offices both within the MBDA and in regional hubs. Not later than 120 days after the enactment of the Act, the Secretary of Commerce is directed to submit to Congress a report that describes:

- the organizational structure of the agency;
- the position of the agency within the Department of Commerce; and
- how the agency will function in relation to the other components of the Department of Commerce.

The bill is broken out into five titles = Existing Initiatives (Title I), New Initiatives to Promote Economic Resiliency for Minority Businesses (Title II), Rural Minority Businesses (Title III), Minority Business Development Grants (IV), and Administrative and Other Powers of the Agency; Miscellaneous Provisions (Title V).

### ***Title I – Existing Initiatives***

#### ***Subtitle A—Market Development, Research, and Information***

***Section 101. Private Sector Development.*** Directs the Assistant Secretary to make available to MBEs (either directly or in cooperation with the private sector) resources related to management, technological assistance, and financial and marketing services. The Assistant Secretary may also encourage joint ventures between different MBEs, as well as between MBEs and other parts of the private sector.

***Section 102. Public Sector Development.*** Directs the Assistant Secretary to consult with other public sector entities, and their leaders, to establish or enhance programming for MBEs and facilitate the efforts of the public sector and Federal agencies to advance the growth of MBEs.

*Section 103. Research and Information.* This section consolidates national information and data about MBEs by directing the Assistant Secretary to:

- collect and analyze data about MBEs;
- perform evaluations of programs created in the private and public sector intended to help MBEs; and
- establish and maintain a database for the collection and dissemination of demographic, economic, financial, managerial, and technical data relating to MBEs.

*Subtitle B—Minority Business Development Agency Business Centers Program*

Subtitle B formally establishes the MBDA Business Center program. It codifies the relationship between MBDA and the MBDCs, including pushing MBDA to act as a bridge between the Centers and other Federal Agencies and resources. The purpose of the Minority Business Development Agency Business Centers (MBDA Business Centers) Program is to create a national network of public-private partnerships that:

- assist minority business enterprises to:
  - access capital and contracts; and
  - create and maintain jobs;
- provide counseling and mentoring to minority business enterprises; and
- facilitate the growth of minority business enterprises by promoting trade.

Much of the integrity of the current program is maintained, including:

- the minimum cooperative agreement amount of \$250,000, with the amount above that at the discretion of the Assistant Secretary;
- cooperative agreement terms of three years with an option to extend;
- a 1/3 non-Federal matching requirement; and
- the application requirements and notification timeline.

Subtitle B also:

- expands the program to cover all regions of the country;
- directs the Assistant Secretary to devise and broadly distribute criteria for selection of MBDA Business Centers; and
- directs the Assistant Secretary to create a biennial programmatic and financial examination.

The Assistant Secretary is directed to ensure that, in establishing the MBDA Business Center Program, disruptions to the existing business centers on the day of enactment is minimized.

The Assistant Secretary is also instructed to use no less than 50 percent of the amount made available to carry out this section.

*Title II – New Initiatives to Promote Economic Resiliency for Minority Businesses*

*Section 201. Annual Diverse Business Forum on Capital Formation.* Instructs the MBDA to create an annual government-business forum within 18 months of the enactment of the Act focused on MBEs. Participants will include other Federal Agencies, such as the Department of

Treasury, as well as minority business organizations. The MBDA must transmit the proceedings and findings of the forum to its participants, Congress, and the public. Federal agencies involved must also review the findings and recommendations and produce a public statement on any that directly relate to their agencies (statements may be joint).

*Section 202. Agency Study on Alternative Financing Solutions.* Directs the Assistant Secretary to study and publicly produce a report on opportunities for providing alternative financing solutions to MBEs.

*Section 203. Educational Development Relating to Management and Entrepreneurship.* Increases MBDA's direct impact by allowing the Assistant Secretary to promote and provide assistance to accredited colleges and universities, leaders in business and industry, and other public and private sector entities to help them provide entrepreneurial development training to minority business owners as well as internship, scholarship, and fellowship opportunities relating to minority businesses. The Assistant Secretary may also sponsor seminars, conferences, and similar activities relating to business for minorities.

This section also establishes the Parren J. Mitchell Entrepreneurship Education Grants Program, authorizing the Assistant Secretary to give grants to historically black colleges and universities (HBCUs) and minority serving institutions (MSIs) in order to help them start entrepreneurship curriculums. MBDA shall report annually on the program.

### ***Title III – Rural Minority Businesses***

*Section 302.* This section directs the Assistant Secretary to establish rural business centers that primarily serve rural minority business enterprises or MBE's that are located more than 50 miles from an MBDC. The agreements are for 3 years, with the opportunity for extension.

This section also directs, within 90 days of this Act's enactment, the Assistant Secretary to issue a Notice of Funding Opportunity requesting applications from eligible rural business centers who wish to enter into MBDA Rural Business Center agreements with the Assistant Secretary.

*Section 303. Report to Congress.* This section directs that, within one year of the enactment of this Act, the Assistant Secretary must submit a report to the appropriate committees that summarizes their efforts to provide services to minority business enterprises located in States that lack an MBDA center and provide recommendations for extending outreach of the agency to underserved agencies.

*Section 304. Study and Report.* This section directs the Assistant Secretary, in coordination with relevant Agency leadership within the Commerce Department and outside of the Commerce, to conduct study that addresses the ways in which minority business enterprises can meet gaps in the supply chain of the United States, with a particular focus on the supply chain of advanced manufacturing and essential goods and services. The Assistant Secretary must submit their findings along with recommendations on how improve effectiveness in a report to the appropriate congressional committees not later than one year after the enactment of this Act.

#### ***Title IV – Minority Business Development Grants***

*Section 401. Grants to Nonprofit Organizations that Support Minority Business Enterprises.* This section directs the Administrator to establish a grant program that makes grants to private nonprofit organizations that provide services to minority business enterprises. These grants are intended to help these nonprofit organizations continue supporting minority business enterprises. The grant program must be established not later than 180 days after the enactment of this Act.

This section also directs the Assistant Secretary to establish procedures to ensure that grants are being administered in a manner that prevents waste, fraud and other abuses. The Inspector General of the Department of Commerce shall conduct an audit of grants made under this section and submit to Congress a report detailing their findings. Additionally, the Assistant Secretary is directed to submit to Congress the number of grants administered and include the geographic distribution of those grants by state and county no later than 90 days after the enactment of this section and every 30 days thereafter.

*Section 402. Minority Business Grants.* This section allows the Assistant Secretary to award grants to minority business enterprises. The purpose of these grants is to incentivize minority business enterprises to either grow or remain in business.

#### ***Title V – Administrative and Other Powers of the Agency; Miscellaneous Provisions***

*Section 501. Administrative Powers.* Gives the Assistant Secretary the power to adopt and use a seal for the agency, hold hearings, acquire property, make advance payments to awardees, enter into agreements with other Federal agencies, donate property, and determine rules, regulations, and procedures as necessary to carry out the Act. The Assistant Secretary is also authorized to hire experts and consultants, as authorized under section 3109 of title five of the United States Code.

*Section 502. Federal Assistance.* Allows the Assistant Secretary to provide financial assistance to carry out sections 201 (private sector development), 202 (public sector development), and 203(a) (research) of the Act in the form of contracts, grants, or cooperative agreements.

Within 120 days before the first day of each fiscal year, MBDA must broadly publish a statement outlining the financial assistance that will or may be available the following fiscal year. This statement must include:

- the actual, or anticipated, amount of federal assistance that will, or may, be made available;
- the types of federal assistance that will, or may, be made available;
- the manner in which federal assistance will be allocated among public sector entities and private sector entities, as applicable; and
- the methodology used by the Assistant Secretary to make allocations under the above bullet.

The section also directs the Assistant Secretary to consult with both public sector entities and private sector entities to decide the amounts and types of federal assistance to make available and publicize all available opportunities for aforementioned federal assistance.

*Section 503. Audits.* Directs recipients of MBDA financial assistance to keep records with respect to the assistance received, including:

- the amount and nature of that assistance;
- how the assistance was spent;
- the total cost of the undertaking for which the assistance is given or used;
- the amount and nature of the portion of the cost of the undertaking described above that is supplied by a source other than the agency; and
- any other records that will facilitate an effective audit of the assistance.

*Section 504. Review and Report by Comptroller General.* Directs the Government Accountability Office (GAO) to conduct a review of the programs carried out under this Act and submit it and its recommendations to Congress not later than 4 years after the enactment of the Act.

*Section 505. Annual Reports; Recommendations.* Directs the Assistant Secretary to submit to Congress and publish on MBDA's website an annual report on its activities not later than 90 days after the last day of the fiscal year. The Assistant Secretary shall also periodically submit to Congress and the President recommendations for legislation or other actions that the Assistant Secretary determines to be necessary or appropriate to promote the purposes of this Act.

*Section 506. Separability.* Ensures that, in the event that a court invalidates any one part of this Act, the entire MBDA is not invalidated.

*Section 507. Executive Order 11625.* This bill supersedes Executive Order 11625.

*Section 508. Amendment to the Federal Acquisition Streamlining Act of 1994.* A conforming amendment to change the mention of the "Director" of the MBDA in the *Federal Acquisition Streamlining Act of 1994* to the "Assistant Secretary of Commerce for Minority Business Development."

*Section 509. Authorization of Appropriations.* Authorizes \$100,000,000 to the Assistant Secretary for fiscal year 2021, and each fiscal year thereafter to carry out this Act.

*Endorsements:* Small Business Majority, National Urban League, US Black Chambers, Association Enterprise for Opportunity (AEO), National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship (National ACE), the Page 30 Coalition, Prosperity Now, and LISC