

(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

(2) the anticipated award price of the contract (including options) will not exceed—

(A) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(B) \$3,000,000, in the case of any other contract opportunity; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(b) Restricted competition

In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

(c) Relationship to other contracting preferences

A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) of this section if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18 or chapter 85 of title 41.

(d) Enforcement; penalties

Rules similar to the rules of paragraphs (5) and (6) of section 637(m) of this title shall apply for purposes of this section.

(e) Contracting officer

For purposes of this section, the term “contracting officer” has the meaning given such term in section 2101(1) of title 41.

(Pub. L. 85-536, §2[36], as added Pub. L. 108-183, title III, § 308, Dec. 16, 2003, 117 Stat. 2662.)

CODIFICATION

In subsec. (c), “chapter 85 of title 41” substituted for “the Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), “section 2101(1) of title 41” substituted for “section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 2[36] of Pub. L. 85-536 was renumbered section 2[44] and is set out as a note under section 631 of this title.

§ 657g. Participation in federally funded projects

Any small business concern that is certified, or otherwise meets the criteria for participation in any program under section 637(a) of this title, shall not be required by any State, or political subdivision thereof, to meet additional criteria

or certification, unrelated to the capability to provide the requested products or services, in order to participate as a small disadvantaged business in any program or project that is funded, in whole or in part, by the Federal Government.

(Pub. L. 108-447, div. K, title I, §155, Dec. 8, 2004, 118 Stat. 3458.)

CODIFICATION

Section was enacted as part of the Small Business Reauthorization and Manufacturing Assistance Act of 2004, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the Small Business Act which comprises this chapter.

NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS

Pub. L. 109-59, title X, §10201, Aug. 10, 2005, 119 Stat. 1932, provided that: “The Secretary [of Transportation] shall notify each State or political subdivision of a State to which the Secretary awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g [657g]).”

§ 657h. Small business energy efficiency

(a) Definitions

In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “association” means the association of small business development centers established under section 648(a)(3)(A) of this title;

(3) the term “disability” has the meaning given that term in section 12102 of title 42;

(4) the term “Efficiency Program” means the Small Business Energy Efficiency Program established under subsection (c)(1);

(5) the term “electric utility” has the meaning given that term in section 2602 of title 16;

(6) the term “high performance green building” has the meaning given that term in section 17061 of title 42;

(7) the term “on-bill financing” means a low interest or no interest financing agreement between a small business concern and an electric utility for the purchase or installation of equipment, under which the regularly scheduled payment of that small business concern to that electric utility is not reduced by the amount of the reduction in cost attributable to the new equipment and that amount is credited to the electric utility, until the cost of the purchase or installation is repaid;

(8) the term “small business concern” has the same meaning as in section 632 of this title;

(9) the term “small business development center” means a small business development center described in section 648 of this title;

(10) the term “telecommuting” means the use of telecommunications to perform work functions under circumstances which reduce or eliminate the need to commute;

(11) the term “Telecommuting Pilot Program” means the pilot program established under subsection (d)(1)(A); and

(12) the term “veteran” has the meaning given that term in section 101 of title 38.

(b) Implementation of small business energy efficiency program

(1) In general

Not later than 90 days after December 19, 2007, the Administrator shall promulgate final rules establishing the Government-wide program authorized under subsection (d) of section 6307 of title 42 that ensure compliance with that subsection by not later than 6 months after December 19, 2007.

(2) Program required

The Administrator shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business program, to assist small business concerns in—

- (A) becoming more energy efficient;
- (B) understanding the cost savings from improved energy efficiency; and
- (C) identifying financing options for energy efficiency upgrades.

(3) Consultation and cooperation

The program required by paragraph (2) shall be developed and coordinated—

- (A) in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency; and
- (B) in cooperation with any entities the Administrator considers appropriate, such as industry trade associations, industry members, and energy efficiency organizations.

(4) Availability of information

The Administrator shall make available the information and materials developed under the program required by paragraph (2) to—

- (A) small business concerns, including smaller design, engineering, and construction firms; and
- (B) other Federal programs for energy efficiency, such as the Energy Star for Small Business program.

(5) Strategy and report

(A) Strategy required

The Administrator shall develop a strategy to educate, encourage, and assist small business concerns in adopting energy efficient building fixtures and equipment.

(B) Report

Not later than December 31, 2008, the Administrator shall submit to Congress a report containing a plan to implement the strategy developed under subparagraph (A).

(c) Small business sustainability initiative

(1) Authority

The Administrator shall establish a Small Business Energy Efficiency Program to provide energy efficiency assistance to small business concerns through small business development centers.

(2) Small business development centers

(A) In general

In carrying out the Efficiency Program, the Administrator shall enter into agree-

ments with small business development centers under which such centers shall—

- (i) provide access to information and resources on energy efficiency practices, including on-bill financing options;
- (ii) conduct training and educational activities;
- (iii) offer confidential, free, one-on-one, in-depth energy audits to the owners and operators of small business concerns regarding energy efficiency practices;
- (iv) give referrals to certified professionals and other providers of energy efficiency assistance who meet such standards for educational, technical, and professional competency as the Administrator shall establish;
- (v) to the extent not inconsistent with controlling State public utility regulations, act as a facilitator between small business concerns, electric utilities, lenders, and the Administration to facilitate on-bill financing arrangements;
- (vi) provide necessary support to small business concerns to—

(I) evaluate energy efficiency opportunities and opportunities to design or construct high performance green buildings;

(II) evaluate renewable energy sources, such as the use of solar and small wind to supplement power consumption;

(III) secure financing to achieve energy efficiency or to design or construct high performance green buildings; and

(IV) implement energy efficiency projects;

(vii) assist owners of small business concerns with the development and commercialization of clean technology products, goods, services, and processes that use renewable energy sources, dramatically reduce the use of natural resources, and cut or eliminate greenhouse gas emissions through—

(I) technology assessment;

(II) intellectual property;

(III) Small Business Innovation Research submissions under section 638 of this title;

(IV) strategic alliances;

(V) business model development; and

(VI) preparation for investors; and

(viii) help small business concerns improve environmental performance by shifting to less hazardous materials and reducing waste and emissions, including by providing assistance for small business concerns to adapt the materials they use, the processes they operate, and the products and services they produce.

(B) Reports

Each small business development center participating in the Efficiency Program shall submit to the Administrator and the Administrator of the Environmental Protection Agency an annual report that includes—

- (i) a summary of the energy efficiency assistance provided by that center under the Efficiency Program;

(ii) the number of small business concerns assisted by that center under the Efficiency Program;

(iii) statistics on the total amount of energy saved as a result of assistance provided by that center under the Efficiency Program; and

(iv) any additional information determined necessary by the Administrator, in consultation with the association.

(C) Reports to Congress

Not later than 60 days after the date on which all reports under subparagraph (B) relating to a year are submitted, 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 summarizing the information regarding the Efficiency Program submitted by small business development centers participating in that program.

(3) Eligibility

A small business development center shall be eligible to participate in the Efficiency Program only if that center is certified under section 648(k)(2) of this title.

(4) Selection of participating State programs

From among small business development centers submitting applications to participate in the Efficiency Program, the Administrator—

(A) shall, to the maximum extent practicable, select small business development centers in such a manner so as to promote a nationwide distribution of centers participating in the Efficiency Program; and

(B) may not select more than 1 small business development center in a State to participate in the Efficiency Program.

(5) Matching requirement

Subparagraphs (A) and (B) of section 648(a)(4) of this title shall apply to assistance made available under the Efficiency Program.

(6) Grant amounts

Each small business development center selected to participate in the Efficiency Program under paragraph (4) shall be eligible to receive a grant in an amount equal to—

(A) not less than \$100,000 in each fiscal year; and

(B) not more than \$300,000 in each fiscal year.

(7) Evaluation and report

The Comptroller General of the United States shall—

(A) not later than 30 months after the date of disbursement of the first grant under the Efficiency Program, initiate an evaluation of that program; and

(B) not later than 6 months after the date of the initiation of the evaluation under subparagraph (A), submit to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, a report containing—

(i) the results of the evaluation; and

(ii) any recommendations regarding whether the Efficiency Program, with or without modification, should be extended to include the participation of all small business development centers.

(8) Guarantee

To the extent not inconsistent with State law, the Administrator may guarantee the timely payment of a loan made to a small business concern through an on-bill financing agreement on such terms and conditions as the Administrator shall establish through a formal rulemaking, after providing notice and an opportunity for comment.

(9) Implementation

Subject to amounts approved in advance in appropriations Acts and separate from amounts approved to carry out section 648(a)(1) of this title, the Administrator may make grants or enter into cooperative agreements to carry out this subsection.

(10) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to make grants and enter into cooperative agreements to carry out this subsection.

(11) Termination

The authority under this subsection shall terminate 4 years after the date of disbursement of the first grant under the Efficiency Program.

(d) Small business telecommuting

(1) Pilot program

(A) In general

The Administrator shall conduct, in not more than 5 of the regions of the Administration, a pilot program to provide information regarding telecommuting to employers that are small business concerns and to encourage such employers to offer telecommuting options to employees.

(B) Special outreach to individuals with disabilities

In carrying out the Telecommuting Pilot Program, the Administrator shall make a concerted effort to provide information to—

(i) small business concerns owned by or employing individuals with disabilities, particularly veterans who are individuals with disabilities;

(ii) Federal, State, and local agencies having knowledge and expertise in assisting individuals with disabilities, including veterans who are individuals with disabilities; and

(iii) any group or organization, the primary purpose of which is to aid individuals with disabilities or veterans who are individuals with disabilities.

(C) Permissible activities

In carrying out the Telecommuting Pilot Program, the Administrator may—

(i) produce educational materials and conduct presentations designed to raise awareness in the small business commu-

nity of the benefits and the ease of telecommuting;

(ii) conduct outreach—

(I) to small business concerns that are considering offering telecommuting options; and

(II) as provided in subparagraph (B); and

(iii) acquire telecommuting technologies and equipment to be used for demonstration purposes.

(D) Selection of regions

In determining which regions will participate in the Telecommuting Pilot Program, the Administrator shall give priority consideration to regions in which Federal agencies and private-sector employers have demonstrated a strong regional commitment to telecommuting.

(2) Report to Congress

Not later than 2 years after the date on which funds are first appropriated to carry out this subsection, the Administrator shall transmit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing the results of an evaluation of the Telecommuting Pilot Program and any recommendations regarding whether the pilot program, with or without modification, should be extended to include the participation of all regions of the Administration.

(3) Termination

The Telecommuting Pilot Program shall terminate 4 years after the date on which funds are first appropriated to carry out this subsection.

(4) Authorization of appropriations

There is authorized to be appropriated to the Administration \$5,000,000 to carry out this subsection.

(Pub. L. 110-140, title XII, §1203, Dec. 19, 2007, 121 Stat. 1766.)

CODIFICATION

Section is comprised of section 1203 of Pub. L. 110-140. Subsec. (e) of section 1203 of Pub. L. 110-140 amended section 638 of this title.

Section was enacted as part of the Energy Independence and Security Act of 2007, and not as part of the Small Business Act which comprises this chapter.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 657i. Coordination of disaster assistance programs with FEMA

(a) Coordination required

The Administrator shall ensure that the disaster assistance programs of the Administration are coordinated, to the maximum extent practicable, with the disaster assistance programs of the Federal Emergency Management Agency.

(b) Regulations required

The Administrator, in consultation with the Administrator of the Federal Emergency Man-

agement Agency, shall establish regulations to ensure that each application for disaster assistance is submitted as quickly as practicable to the Administration or directed to the appropriate agency under the circumstances.

(c) Completion; revision

The initial regulations shall be completed not later than 270 days after the date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008. Thereafter, the regulations shall be revised on an annual basis.

(d) Report

The Administrator shall include a report on the regulations whenever the Administration submits the report required by section 657o of this title.

(Pub. L. 85-536, §2[37], as added Pub. L. 110-234, title XII, §12062(2), May 22, 2008, 122 Stat. 1407, and Pub. L. 110-246, §4(a), title XII, §12062(2), June 18, 2008, 122 Stat. 1664, 2169.)

REFERENCES IN TEXT

The date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, referred to in subsec. (c), is the date of enactment of subtitle B (§§12051-12091) of title XII of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 2[37] of Pub. L. 85-536 was renumbered section 2[44] and is set out as a note under section 631 of this title.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

§ 657j. Information tracking and follow-up system for disaster assistance

(a) System required

The Administrator shall develop, implement, or maintain a centralized information system to track communications between personnel of the Administration and applicants for disaster assistance. The system shall ensure that whenever an applicant for disaster assistance communicates with such personnel on a matter relating to the application, the following information is recorded:

- (1) The method of communication.
- (2) The date of communication.
- (3) The identity of the personnel.
- (4) A summary of the subject matter of the communication.

(b) Follow-up required

The Administrator shall ensure that an applicant for disaster assistance receives, by telephone, mail, or electronic mail, follow-up communications from the Administration at all critical stages of the application process, including the following: