

is a similarly situated entity shall not be considered subcontracted for purposes of determining whether the covered small business concern has violated a requirement established under subsection (a) or (d).

(c) Modifications of percentages

The Administrator may change, by rule (after providing notice and an opportunity for public comment), a percentage specified in paragraphs (1) through (4) of subsection (a) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

(d) Other contracts

(1) In general

With respect to a category of contracts to which a requirement under subsection (a) does not apply, the Administrator is authorized to establish, by rule (after providing notice and an opportunity for public comment), a requirement that a covered small business concern may not expend on subcontractors more than a specified percentage of the amount paid to the concern under a contract in that category.

(2) Uniformity

A requirement established under paragraph (1) shall apply to all covered small business concerns.

(3) Construction projects

The Administrator shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such paragraph. The percentage applicable to any such requirement shall be determined in accordance with paragraph (1).

(e) Definitions

In this section, the following definitions apply:

(1) Covered small business concern

The term “covered small business concern” means a business concern that—

(A) with respect to a contract awarded under section 637(a) of this title, is a small business concern eligible to receive contracts under that section;

(B) with respect to a contract awarded under section 637(m) of this title—

(i) is a small business concern owned and controlled by women (as defined in that section); or

(ii) is a small business concern owned and controlled by women (as defined in that section) that is not less than 51 percent owned by 1 or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law);

(C) with respect to a contract awarded under section 644(a) of this title, is a small business concern;

(D) with respect to a contract awarded under section 657a of this title, is a qualified HUBZone small business concern; or

(E) with respect to a contract awarded under section 657f of this title, is a small business concern owned and controlled by service-disabled veterans.

(2) Similarly situated entity

The term “similarly situated entity” means a subcontractor that—

(A) if a subcontractor for a small business concern, is a small business concern;

(B) if a subcontractor for a small business concern eligible to receive contracts under section 637(a) of this title, is such a concern;

(C) if a subcontractor for a small business concern owned and controlled by women (as defined in section 637(m) of this title), is such a concern;

(D) if a subcontractor for a small business concern owned and controlled by women (as defined in section 637(m) of this title) that is not less than 51 percent owned by 1 or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law), is such a concern;

(E) if a subcontractor for a qualified HUBZone small business concern, is such a concern; or

(F) if a subcontractor for a small business concern owned and controlled by service-disabled veterans, is such a concern.

(Pub. L. 85-536, §2[46], as added Pub. L. 112-239, div. A, title XVI, §1651, Jan. 2, 2013, 126 Stat. 2079; amended Pub. L. 114-92, div. A, title VIII, §864(b), Nov. 25, 2015, 129 Stat. 927.)

AMENDMENTS

2015—Subsec. (a)(4). Pub. L. 114-92 substituted “which is principally for supplies from a regular dealer in such supplies, and which is not a contract principally for services or construction” for “for supplies from a regular dealer in such supplies” in introductory provisions.

INAPPLICABILITY OF REQUIREMENT TO REVIEW AND JUSTIFY CERTAIN CONTRACTS

Pub. L. 113-66, div. A, title XVI, §1615, Dec. 26, 2013, 127 Stat. 950, provided that: “In the case of a contract to which the provisions of section 46 of the Small Business Act (15 U.S.C. 657s) apply, the requirements under section 802 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1824; 10 U.S.C. 2304 note) do not apply.”

CHAPTER 14B—SMALL BUSINESS INVESTMENT PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
661. Congressional declaration of policy.
662. Definitions.

SUBCHAPTER II—SMALL BUSINESS INVESTMENT DIVISION OF SMALL BUSINESS ADMINISTRATION

671. Establishment; Associate Administrator; appointment and compensation.
672. Repealed.

SUBCHAPTER III—INVESTMENT DIVISION PROGRAMS

PART A—SMALL BUSINESS INVESTMENT COMPANIES

681. Organization.
682. Capital requirements.
683. Borrowing operations.
684. Equity capital for small-business concerns.

- Sec. 685. Long-term loans to small-business concerns.
- 686. Aggregate limitations on amount of assistance to any single enterprise.
- 687. Operation and regulation of companies.
- 687a. Revocation and suspension of licenses; cease and desist orders.
- 687b. Investigations and examinations; power to subpoena and take oaths and affirmations; aid of courts; examiners; reports.
- 687c. Injunctions and other orders.
- 687d. Conflicts of interest.
- 687e. Removal or suspension of management officials.
- 687f. Unlawful acts and omissions by officers, directors, employees, or agents.
- 687g. Penalties and forfeitures.
- 687h. Jurisdiction and service of process.
- 687i, 687j. Repealed.
- 687k. Guaranteed obligations not eligible for purchase by Federal Financing Bank.
- 687l. Issuance and guarantee of trust certificates.
- 687m. Periodic issuance of guarantees and trust certificates.
- 688. Repealed.

PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

- 689. Definitions.
- 689a. Purposes.
- 689b. Establishment.
- 689c. Selection of New Markets Venture Capital companies.
- 689d. Debentures.
- 689e. Issuance and guarantee of trust certificates.
- 689f. Fees.
- 689g. Operational assistance grants.
- 689h. Bank participation.
- 689i. Federal Financing Bank.
- 689j. Reporting requirement.
- 689k. Examinations.
- 689l. Injunctions and other orders.
- 689m. Additional penalties for noncompliance.
- 689n. Unlawful acts and omissions; breach of fiduciary duty.
- 689o. Removal or suspension of directors or officers.
- 689p. Regulations.
- 689q. Authorization of appropriations.

PART C—RENEWABLE FUEL CAPITAL INVESTMENT PILOT PROGRAM

- 690. Definitions.
- 690a. Purposes.
- 690b. Establishment.
- 690c. Selection of Renewable Fuel Capital Investment companies.
- 690d. Debentures.
- 690e. Issuance and guarantee of trust certificates.
- 690f. Fees.
- 690g. Fee contribution.
- 690h. Operational assistance grants.
- 690i. Bank participation.
- 690j. Federal Financing Bank.
- 690k. Reporting requirement.
- 690l. Examinations.
- 690m. Miscellaneous.
- 690n. Removal or suspension of directors or officers.
- 690o. Regulations.
- 690p. Authorizations of appropriations.
- 690q. Termination.

SUBCHAPTER IV—STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

- 691. Repealed.

SUBCHAPTER IV—A—GUARANTEES

PART A—COMMERCIAL OR INDUSTRIAL LEASE AND QUALIFIED CONTRACT GUARANTEES

- 692. Authority of Administration to guarantee payment of rentals by small business concerns under leases of commercial and industrial property.

- Sec. 693. Powers of Administration respecting loans; liquidation of obligations through creation of new leases, execution of subleases, and assignments of leases.
- 694. Repealed.
- 694-1. Planning design or installation of pollution control facilities.
- 694-2. Revolving fund for qualified contract guarantees; investment of idle funds.

PART B—SURETY BOND GUARANTEES

- 694a. Definitions.
- 694b. Surety bond guarantees.
- 694c. Revolving fund for surety bond guarantees.

SUBCHAPTER V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

- 695. State development companies.
- 696. Loans for plant acquisition, construction, conversion and expansion.
- 697. Development company debentures.
- 697a. Private debenture sales.
- 697b. Pooling of debentures.
- 697c. Restrictions on development company assistance.
- 697d. Accredited Lenders Program.
- 697e. Premier Certified Lenders Program.
- 697f. Prepayment of development company debentures.
- 697g. Foreclosure and liquidation of loans.

SUBCHAPTER I—GENERAL PROVISIONS

§ 661. Congressional declaration of policy

It is declared to be the policy of the Congress and the purpose of this chapter to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this chapter shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country. It is the intention of the Congress that in the award of financial assistance under this chapter, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.

(Pub. L. 85-699, title I, §102, Aug. 21, 1958, 72 Stat. 689; Pub. L. 102-366, title IV, §416, Sept. 4, 1992, 106 Stat. 1019.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 85-699, which enacted this chapter, amended sections 77c, 77ddd, 80a-18, 633 and 636 of this title, and sections 217 [now 212], 218 [now 213], 221 [now 216], 657, 1006 and 1014 of Title 18, Crimes and Criminal Procedure, repealed section 352a of Title 12,