

**(e) Incentive allocations to support business enterprises owned and controlled by socially and economically disadvantaged individuals**

Of the amounts appropriated for fiscal year 2021 to carry out the Program, the Secretary shall set aside \$1,000,000,000 for an incentive program under which the Secretary shall increase the second  $\frac{1}{3}$  and last  $\frac{1}{3}$  allocations for States that demonstrate robust support, as determined by the Secretary, for business concerns owned and controlled by socially and economically disadvantaged individuals in the deployment of prior allocation amounts.

**(f) Additional allocations to support very small businesses**

**(1) In general**

Of the amounts appropriated to carry out the Program, the Secretary shall allocate not less than \$500,000,000 to States from funds allocated under this section to be expended for very small businesses.

**(2) Very small business defined**

In this subsection, the term “very small business”—

(A) means a business with fewer than 10 employees; and

(B) may include independent contractors and sole proprietors.

(Pub. L. 111–240, title III, § 3003, Sept. 27, 2010, 124 Stat. 2570; Pub. L. 117–2, title III, § 3301(a)(1)(A), (b), (c), Mar. 11, 2021, 135 Stat. 67, 69, 70.)

**Editorial Notes**

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 117–2, § 3301(a)(1)(A)(i)(I), amended par. (1) generally. Prior to amendment, par. (1) required allocation of funds by 30 days after Sept. 27, 2010.

Subsec. (b)(2). Pub. L. 117–2, § 3301(a)(1)(A)(ii)(II)(bb), substituted “2020” for “2008” wherever appearing.

Pub. L. 117–2, § 3301(a)(1)(A)(i)(II)(aa), substituted “2021” for “2009” in heading and in subpar. (A).

Subsec. (b)(2)(A). Pub. L. 117–2, § 3301(a)(1)(A)(i)(II)(cc), substituted “With respect to States other than Tribal governments, the Secretary” for “The Secretary”.

Subsec. (b)(2)(C). Pub. L. 117–2, § 3301(a)(1)(A)(i)(II)(ee), added subpar. (C) relating to separate allocation for tribal governments.

Subsec. (b)(2)(C)(i). Pub. L. 117–2, § 3301(a)(1)(A)(i)(II)(dd), substituted “2019” for “2007” in cl. (i) of subpar. (C) defining 2020 State employment decline.

Subsec. (b)(2)(D). Pub. L. 117–2, § 3301(a)(1)(A)(i)(II)(ee), added subpar. (D).

Subsec. (b)(3). Pub. L. 117–2, § 3301(a)(1)(A)(i)(III), struck out par. (3) which provided for the 2010 allocation formula.

Subsec. (c)(1)(A)(iii). Pub. L. 117–2, § 3301(a)(1)(A)(ii)(I), inserted before period at end “that have delivered loans or investments to eligible businesses”.

Subsec. (c)(4). Pub. L. 117–2, § 3301(a)(1)(A)(ii)(II), amended par. (4) generally. Prior to amendment, text read as follows: “Any portion of a participating State’s allocated amount that has not been transferred to the State under this section by the end of the 2-year period beginning on the date that the Secretary approves the State for participation may be deemed by the Secretary to be no longer allocated to the State and no longer available to the State and shall be returned to the General Fund of the Treasury.”

Subsecs. (d), (e). Pub. L. 117–2, § 3301(b), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 117–2, § 3301(c), added subsec. (f).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–2 applicable with respect to funds appropriated under section 3301 of Pub. L. 117–2 and funds appropriated on and after Mar. 11, 2021, see section 3301(g) of Pub. L. 117–2, set out as a note under section 5701 of this title.

**§ 5703. Approving States for participation**

**(a) Application**

Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for an allocation of Federal funds under the Program.

**(b) General approval criteria**

The Secretary shall approve a State to be a participating State, if—

(1) a specific department, agency, or political subdivision of the State has been designated to implement a State program and participate in the Program;

(2) all legal actions necessary to enable such designated department, agency, or political subdivision to implement a State program and participate in the Program have been accomplished;

(3) the State has filed an application with the Secretary for approval of a State capital access program under section 5704 of this title or approval as a State other credit support program under section 5705 of this title, in each case within the time period provided in the respective section; and

(4) the State and the Secretary have executed an allocation agreement that—

(A) conforms to the requirements of this chapter;

(B) ensures that the State program complies with such national standards as are established by the Secretary under section 5708(a)(2) of this title;

(C) sets forth internal control, compliance, and reporting requirements as established by the Secretary, and such other terms and conditions necessary to carry out the purposes of this chapter, including an agreement by the State to allow the Secretary to audit State programs;

(D) requires that the State program be fully positioned, within 90 days of the State’s execution of the allocation agreement with the Secretary, to act on providing the kind of credit support that the State program was established to provide; and

(E) includes an agreement by the State to deliver to the Secretary, and update annually, a schedule describing how the State intends to apportion among its State programs the Federal funds allocated to the State.

**(c) Contractual arrangements for implementation of State programs**

A State may be approved to be a participating State, and be eligible for an allocation of Federal funds under the Program, if the State has contractual arrangements for the implementa-

tion and administration of its State program with—

- (1) an existing, approved State program administered by another State; or
- (2) an authorized agent of, or entity supervised by, the State, including for-profit and not-for-profit entities.

**(d) Special permission**

**(1) Circumstances when a municipality may apply directly**

If a State does not, within 60 days after March 11, 2021, file with the Secretary a notice of its intent to apply for approval by the Secretary of a State program or within 9 months after March 11, 2021, file with the Secretary a complete application for approval of a State program, the Secretary may grant to municipalities of that State a special permission that will allow them to apply directly to the Secretary without the State for approval to be participating municipalities.

**(2) Timing requirements applicable to municipalities applying directly**

To qualify for the special permission, a municipality of a State shall be required, within 12 months after March 11, 2021, to file with the Secretary a complete application for approval by the Secretary of a State program.

**(3) Notices of intent and applications from more than 1 municipality**

A municipality of a State may combine with 1 or more other municipalities of that State to file a joint notice of intent to file and a joint application.

**(4) Approval criteria**

The general approval criteria in paragraphs (2) and (4) shall apply.

**(5) Allocation to municipalities**

**(A) If more than 3**

If more than 3 municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to the 3 municipalities with the largest populations.

**(B) If 3 or fewer**

If 3 or fewer municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to each applicant municipality or combination of municipalities.

**(6) Apportionment of allocated amount among participating municipalities**

If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall apportion the full amount of the Federal funds that are allocated to that State to municipalities that are approved under this subsection in amounts pro-

portionate to the population of those municipalities, based on the most recent available decennial census.

**(7) Approving State programs for municipalities**

If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall take into account the additional considerations in section 5705(d) of this title in making the determination under section 5704 or 5705 of this title that the State program or programs to be implemented by the participating municipalities, including a State capital access program, is eligible for Federal contributions to, or for the account of, the State program.

(Pub. L. 111-240, title III, §3004, Sept. 27, 2010, 124 Stat. 2573; Pub. L. 117-2, title III, §3301(a)(1)(B), Mar. 11, 2021, 135 Stat. 69.)

**Editorial Notes**

AMENDMENTS

2021—Subsec. (d)(1), (2). Pub. L. 117-2 substituted “March 11, 2021” for “September 27, 2010” whenever appearing.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-2 applicable with respect to funds appropriated under section 3301 of Pub. L. 117-2 and funds appropriated on and after Mar. 11, 2021, see section 3301(g) of Pub. L. 117-2, set out as a note under section 5701 of this title.

**§ 5704. Approving State capital access programs**

**(a) Application**

A participating State that establishes a new, or has an existing, State capital access program that meets the eligibility criteria in subsection (c) may apply to Secretary to have the State capital access program approved as eligible for Federal contributions to the reserve fund.

**(b) Approval**

The Secretary shall approve such State capital access program as eligible for Federal contributions to the reserve fund if—

(1) within 60 days after March 11, 2021, the State has filed with the Secretary a notice of intent to apply for approval by the Secretary of a State capital access program;

(2) within 9 months after March 11, 2021, the State has filed with the Secretary a complete application for approval by the Secretary of a capital access program;

(3) the State satisfies the requirements of subsections (a) and (b) of section 5703 of this title; and

(4) the State capital access program meets the eligibility criteria in subsection (c).

**(c) Eligibility criteria for State capital access programs**

For a State capital access program to be approved under this section, that program shall be required to be a program of the State that—

(1) provides portfolio insurance for business loans based on a separate loan-loss reserve fund for each financial institution;