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§ 9501. Definitions

In this chapter:

(1) Agency

The term “Agency” means the Minority Business Development Agency of the Department of Commerce.

(2) Community-based organization

The term “community-based organization” has the meaning given the term in section 7801 of title 20.

(3) Eligible entity

Except as otherwise expressly provided, the term “eligible entity”—

(A) means—

- (i) a private sector entity;
- (ii) a public sector entity; or
- (iii) a Native entity; and

(B) includes an institution of higher education.

(4) Federal agency

The term “Federal agency” has the meaning given the term “agency” in section 551 of title 5.

(5) Federally recognized area of economic distress

The term “federally recognized area of economic distress” means—

(A) a HUBZone, as that term is defined in section 657a(b) of this title;

(B) an area that—

(i) has been designated as—

(I) an empowerment zone under section 1391 of title 26; or

(II) a Promise Zone by the Secretary of Housing and Urban Development; or

(ii) is a low or moderate income area, as determined by the Department of Housing and Urban Development;

(C) a qualified opportunity zone, as that term is defined in section 1400Z-1 of title 26; or

(D) any other political subdivision or unincorporated area of a State determined by the Under Secretary to be an area of economic distress.

(6) Institution of higher education

The term “institution of higher education” has the meaning given the term in section 1001 of title 20.

(7) MBDA Business Center

The term “MBDA Business Center” means a business center that—

(A) is established by the Agency; and

(B) provides technical business assistance to minority business enterprises consistent with the requirements of this chapter.

(8) MBDA Business Center agreement

The term “MBDA Business Center agreement” means a legal instrument—

(A) reflecting a relationship between the Agency and the recipient of a Federal assistance award that is the subject of the instrument; and

(B) that establishes the terms by which the recipient described in subparagraph (A) shall operate an MBDA Business Center.

(9) Minority business enterprise

(A) In general

The term “minority business enterprise” means a business enterprise—

(i) that is not less than 51 percent-owned by 1 or more socially or economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by 1 or

more socially or economically disadvantaged individuals.

(B) Rule of construction

Nothing in subparagraph (A) may be construed to exclude a business enterprise from qualifying as a “minority business enterprise” under that subparagraph because of—

- (i) the status of the business enterprise as a for-profit or not-for-profit enterprise; or
- (ii) the annual revenue of the business enterprise.

(10) Native entity

The term “Native entity” means—

- (A) a Tribal Government;
- (B) an Alaska Native village or Regional or Village Corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
- (C) a Native Hawaiian organization, as that term is defined in section 7517 of title 20;
- (D) the Department of Hawaiian Home Lands; and
- (E) the Office of Hawaiian Affairs.

(11) Private sector entity

The term “private sector entity”—

- (A) means an entity that is not a public sector entity; and
- (B) does not include—
 - (i) the Federal Government;
 - (ii) any Federal agency; or
 - (iii) any instrumentality of the Federal Government.

(12) Public sector entity

The term “public sector entity” means—

- (A) a State;
- (B) an agency of a State;
- (C) a political subdivision of a State;
- (D) an agency of a political subdivision of a State; or
- (E) a Native entity.

(13) Secretary

The term “Secretary” means the Secretary of Commerce.

(14) Socially or economically disadvantaged business concern

The term “socially or economically disadvantaged business concern” means a for-profit business enterprise—

- (A)(i) that is not less than 51 percent owned by 1 or more socially or economically disadvantaged individuals; or
- (ii) that is socially or economically disadvantaged; or
- (B) the management and daily business operations of which are controlled by 1 or more socially or economically disadvantaged individuals.

(15) Socially or economically disadvantaged individual

(A) In general

The term “socially or economically disadvantaged individual” means an individual who has been subjected to racial or ethnic

prejudice or cultural bias (or the ability of whom to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area) because of the identity of the individual as a member of a group, without regard to any individual quality of the individual that is unrelated to that identity.

(B) Presumption

In carrying out this chapter, the Under Secretary shall presume that the term “socially or economically disadvantaged individual” includes any individual who is—

- (i) Black or African American;
- (ii) Hispanic or Latino;
- (iii) American Indian or Alaska Native;
- (iv) Asian;
- (v) Native Hawaiian or other Pacific Islander; or
- (vi) a member of a group that the Agency determines under part 1400 of title 15, Code of Federal Regulations, as in effect on November 23, 1984, is a socially disadvantaged group eligible to receive assistance.

(16) Specialty center

The term “specialty center” means an MBDA Business Center that provides specialty services focusing on specific business needs, including assistance relating to—

- (A) capital access;
- (B) Federal procurement;
- (C) entrepreneurship;
- (D) technology transfer; or
- (E) any other area determined necessary or appropriate based on the priorities of the Agency.

(17) State

The term “State” means—

- (A) each of the States of the United States;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) the United States Virgin Islands;
- (E) Guam;
- (F) American Samoa;
- (G) the Commonwealth of the Northern Mariana Islands; and
- (H) each Tribal Government.

(18) Tribal Government

The term “Tribal Government” means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of November 15, 2021, pursuant to section 5131 of title 25.

(19) Under Secretary

The term “Under Secretary” means the Under Secretary of Commerce for Minority Business Development, who is appointed as described in section ____ 3(b)¹ to administer this chapter.

(Pub. L. 117–58, div. K, §100002, Nov. 15, 2021, 135 Stat. 1445.)

¹ So in original. See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this division”, meaning div. K of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 1445, which is classified principally to this chapter. For complete classification of division K to the Code, see Short Title note set out below and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (10)(B), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Section ____ 3(b), referred to in par. (19), probably means subsec. (b) of section 100003 of Pub. L. 117–58, which is classified to section 9502 of this title.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 117–58, div. K, §100001, Nov. 15, 2021, 135 Stat. 1445, provided that: “This division [enacting this chapter and amending section 5314 of Title 5, Government Organization and Employees] may be cited as the ‘Minority Business Development Act of 2021’.”

§ 9502. Minority Business Development Agency**(a) In general**

There is within the Department of Commerce the Minority Business Development Agency.

(b) Under Secretary**(1) Appointment and duties**

The Agency shall be headed by the Under Secretary of Commerce for Minority Business Development, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate;

(B) except as otherwise expressly provided, be responsible for the administration of this chapter; and

(C) report directly to the Secretary.

(2) Compensation**(A) In general**

The Under Secretary shall be compensated at an annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5.

(B) Omitted**(3) References**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the Agency shall be deemed to be a reference to the Under Secretary.

(c) Report to Congress

Not later than 120 days after November 15, 2021, the Secretary shall submit to Congress a report that describes—

(1) the organizational structure of the Agency;

(2) the organizational position of the Agency within the Department of Commerce; and

(3) a description of how the Agency shall function in relation to the operations carried out by each other component of the Department of Commerce.

(d) Office of Business Centers**(1) Establishment**

There is established within the Agency the Office of Business Centers.

(2) Director

The Office of Business Centers shall be administered by a Director, who shall be appointed by the Under Secretary.

(e) Offices of the Agency**(1) In general**

In addition to the regional offices that the Under Secretary is required to establish under paragraph (2), the Under Secretary shall establish such other offices within the Agency as are necessary to carry out this chapter.

(2) Regional offices**(A) In general**

In order to carry out this chapter, the Under Secretary shall establish a regional office of the Agency for each of the regions of the United States, as determined by the Under Secretary.

(B) Duties

Each regional office established under subparagraph (A) shall expand the reach of the Agency and enable the Federal Government to better serve the needs of minority business enterprises in the region served by the office, including by—

(i) understanding and participating in the business environment of that region;

(ii) working with—

(I) MBDA Business Centers that are located in that region;

(II) resource and lending partners of other appropriate Federal agencies that are located in that region; and

(III) Federal, State, and local procurement offices that are located in that region;

(iii) being aware of business retention or expansion programs that are specific to that region;

(iv) seeking out opportunities to collaborate with regional public and private programs that focus on minority business enterprises; and

(v) promoting business continuity and preparedness.

(Pub. L. 117–58, div. K, §100003, Nov. 15, 2021, 135 Stat. 1448.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1)(B) and (e)(1), (2)(A), was in the original “this division”, meaning div. K of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 1445, which is classified principally to this chapter. For complete classification of division K to the Code, see Short Title note set out under section 9501 of this title and Tables.

CODIFICATION

Section is comprised of section 100003 of Pub. L. 117–58. Subsec. (b)(2)(B) of section 100003 amended section 5314 of Title 5, Government Organization and Employees.