

1 scribed in subparagraphs (D) through (F) of para-
2 graph (1).

3 (3) APPLICABILITY OF TITLE 23, UNITED
4 STATES CODE.—Funds authorized to be appro-
5 priated by paragraph (1) shall—

6 (A) be available for obligation in the same
7 manner as if those funds were apportioned
8 under chapter 1 of title 23, United States Code;

9 (B) remain available until expended; and

10 (C) not be transferable.

11 (c) DISADVANTAGED BUSINESS ENTERPRISES.—

12 (1) FINDINGS.—Congress finds that—

13 (A) while significant progress has occurred
14 due to the establishment of the disadvantaged
15 business enterprise program, discrimination and
16 related barriers continue to pose significant ob-
17 stacles for minority- and women-owned busi-
18 nesses seeking to do business in federally as-
19 sisted surface transportation markets across the
20 United States;

21 (B) the continuing barriers described in
22 subparagraph (A) merit the continuation of the
23 disadvantaged business enterprise program;

24 (C) Congress has received and reviewed
25 testimony and documentation of race and gen-

1 der discrimination from numerous sources, in-
2 cluding congressional hearings and roundtables,
3 scientific reports, reports issued by public and
4 private agencies, news stories, reports of dis-
5 crimination by organizations and individuals,
6 and discrimination lawsuits, which show that
7 race- and gender-neutral efforts alone are insuf-
8 ficient to address the problem;

9 (D) the testimony and documentation de-
10 scribed in subparagraph (C) demonstrate that
11 discrimination across the United States poses a
12 barrier to full and fair participation in surface
13 transportation-related businesses of women
14 business owners and minority business owners
15 and has impacted firm development and many
16 aspects of surface transportation-related busi-
17 ness in the public and private markets; and

18 (E) the testimony and documentation de-
19 scribed in subparagraph (C) provide a strong
20 basis that there is a compelling need for the
21 continuation of the disadvantaged business en-
22 terprise program to address race and gender
23 discrimination in surface transportation-related
24 business.

1 (2) DEFINITIONS.—In this subsection, the fol-
2 lowing definitions apply:

3 (A) SMALL BUSINESS CONCERN.—

4 (i) IN GENERAL.—The term “small
5 business concern” means a small business
6 concern (as the term is used in section 3
7 of the Small Business Act (15 U.S.C.
8 632)).

9 (ii) EXCLUSIONS.—The term “small
10 business concern” does not include any
11 concern or group of concerns controlled by
12 the same socially and economically dis-
13 advantaged individual or individuals that
14 have average annual gross receipts during
15 the preceding 3 fiscal years in excess of
16 \$22,410,000, as adjusted annually by the
17 Secretary for inflation.

18 (B) SOCIALLY AND ECONOMICALLY DIS-
19 ADVANTAGED INDIVIDUALS.—The term “so-
20 cially and economically disadvantaged individ-
21 uals” has the meaning given the term in section
22 8(d) of the Small Business Act (15 U.S.C.
23 637(d)) and relevant subcontracting regulations
24 issued pursuant to that Act, except that women
25 shall be presumed to be socially and economi-

1 cally disadvantaged individuals for purposes of
2 this subsection.

3 (3) AMOUNTS FOR SMALL BUSINESS CON-
4 CERNS.—Except to the extent that the Secretary de-
5 termines otherwise, not less than 10 percent of the
6 amounts made available for any program under title
7 I of this Act and section 403 of title 23, United
8 States Code, shall be expended through small busi-
9 ness concerns owned and controlled by socially and
10 economically disadvantaged individuals.

11 (4) ANNUAL LISTING OF DISADVANTAGED BUSI-
12 NESS ENTERPRISES.—Each State shall annually—

13 (A) survey and compile a list of the small
14 business concerns referred to in paragraph (2)
15 in the State, including the location of the small
16 business concerns in the State; and

17 (B) notify the Secretary, in writing, of the
18 percentage of the small business concerns that
19 are controlled by—

20 (i) women;

21 (ii) socially and economically dis-
22 advantaged individuals (other than
23 women); and

1 (iii) individuals who are women and
2 are otherwise socially and economically dis-
3 advantaged individuals.

4 (5) UNIFORM CERTIFICATION.—

5 (A) IN GENERAL.—The Secretary shall es-
6 tablish minimum uniform criteria for use by
7 State governments in certifying whether a con-
8 cern qualifies as a small business concern for
9 the purpose of this subsection.

10 (B) INCLUSIONS.—The minimum uniform
11 criteria established under subparagraph (A)
12 shall include, with respect to a potential small
13 business concern—

- 14 (i) on-site visits;
15 (ii) personal interviews with personnel;
16 (iii) issuance or inspection of licenses;
17 (iv) analyses of stock ownership;
18 (v) listings of equipment;
19 (vi) analyses of bonding capacity;
20 (vii) listings of work completed;
21 (viii) examination of the resumes of
22 principal owners;
23 (ix) analyses of financial capacity; and
24 (x) analyses of the type of work pre-
25 ferred.

1 (6) REPORTING.—The Secretary shall establish
2 minimum requirements for use by State govern-
3 ments in reporting to the Secretary—

4 (A) information concerning disadvantaged
5 business enterprise awards, commitments, and
6 achievements; and

7 (B) such other information as the Sec-
8 retary determines to be appropriate for the
9 proper monitoring of the disadvantaged busi-
10 ness enterprise program.

11 (7) COMPLIANCE WITH COURT ORDERS.—Noth-
12 ing in this subsection limits the eligibility of an indi-
13 vidual or entity to receive funds made available
14 under title I of this Act and section 403 of title 23,
15 United States Code, if the individual or entity is pre-
16 vented, in whole or in part, from complying with
17 paragraph (2) because a Federal court issues a final
18 order in which the court finds that a requirement or
19 the implementation of paragraph (2) is unconstitu-
20 tional.

21 (d) CONFORMING AMENDMENT.—Section 1101(b) of
22 MAP-21 (Public Law 112-141; 126 Stat. 414) is re-
23 pealed.