§ 126.602 Must a qualified HUBZone SBC maintain the employee residency percentage during contract performance?

Qualified HUBZone SBCs eligible for the program pursuant to §126.200(b) must “attempt to maintain” (See §126.103) the required percentage of employees who reside in a HUBZone during the performance of any contract awarded to the concern on the basis of its HUBZone status. Qualified HUBZone SBCs eligible for the program pursuant to §126.200(a) must have at least 35% of its employees engaged in performing a HUBZone contract residing within any Indian reservation governed by one or more of the concern’s Indian Tribal Government owners or residing within any HUBZone adjoining any such Indian reservation.

To monitor compliance, SBA will conduct program examinations, pursuant to §§126.400 through 126.403, where appropriate.

[69 FR 29425, May 24, 2004]

§ 126.603 Does HUBZone certification guarantee receipt of HUBZone contracts?

HUBZone certification does not guarantee that a qualified HUBZone SBC will receive HUBZone contracts. Qualified HUBZone SBCs should market their capabilities to appropriate contracting activities in order to increase...
the prospect that the contracting activity will adopt an acquisition strategy that includes HUBZone contract opportunities.

[69 FR 29425, May 24, 2004]

§ 126.604 Who decides if a contract opportunity for HUBZone set-aside competition exists?

The contracting officer for the contracting activity makes this decision.

§ 126.605 What requirements are not available for HUBZone contracts?

A contracting activity may not make a requirement available for a HUBZone contract if:

(a) The contracting activity otherwise would fulfill that requirement through award to Federal Prison Industries, Inc. under 18 U.S.C. 4124 or 4125, or to Javits-Wagner-O'Day Act participating non-profit agencies for the blind and severely disabled, under 41 U.S.C. 46 et seq., as amended; or

(b) An 8(a) participant currently is performing the requirement through the 8(a)BD program or SBA has consented to release the requirement from the 8(a)BD program.


§ 126.606 May a CO request that SBA release a requirement from the 8(a)BD program for award as a HUBZone contract?

A CO may request that SBA release an 8(a) requirement for award as a HUBZone contract. However, SBA will grant its consent only where neither the incumbent nor any other 8(a) participant can perform the requirement. The request must be made to the AA/BD, who will make a determination after consulting with the D/HUB.


§ 126.607 When must a contracting officer set aside a requirement for qualified HUBZone SBCs?

(a) The contracting officer first must review a requirement to determine whether it is excluded from HUBZone contracting pursuant to §126.605.

(b) If the contracting officer determines that §126.605 does not apply, the contracting officer shall set aside the requirement for HUBZone, 8(a) or SDVO SBC contracting before setting aside the requirement as a small business set-aside.

(c) If the contracting officer decides to set aside the requirement for competition restricted to qualified HUBZone SBCs, the contracting officer must:

(1) Have a reasonable expectation after reviewing SBA’s list of qualified HUBZone SBCs that at least two responsible qualified HUBZone SBCs will submit offers; and

(2) Determine that award can be made at fair market price.


§ 126.608 Are there HUBZone contract opportunities at or below the simplified acquisition threshold or micropurchase threshold?

A CO may make a requirement available as a HUBZone set-aside if it is at or below the simplified acquisition threshold. In addition, a CO may award a requirement as a HUBZone contract to a qualified HUBZone SBC at or below the micropurchase threshold.

[69 FR 29425, May 24, 2004]

§ 126.609 What must the contracting officer do if a contracting opportunity does not exist for competition among qualified HUBZone SBCs?

If a contract opportunity for competition among qualified SBCs does not exist under the provisions of §126.607, the contracting officer must first consider the possibility of making an award to a qualified HUBZone SBC on a sole source basis, and then to a small business under small business set-aside procedures, in that order of precedence. If the criteria are not met for any of these special contracting authorities, then the contracting officer may solicit the procurement through another appropriate contracting method.