

(2) The geographic areas served by the SBA Los Angeles and Santa Ana District Offices will be treated as one designated SBA district for the purposes of this section.

(3) If the contracting officer determines that there is not a reasonable expectation of receiving at least two responsible offers from VSB concerns headquartered within the geographic area served by the applicable designated SBA district, he or she must include in the contract file the reason(s) for this determination, and solicit the procurement pursuant to the provisions of 48 CFR 19.502–2. SBA may appeal such determination using the same procedure described in 48 CFR 19.505.

(4) If the contracting officer receives only one acceptable offer from a responsible VSB concern in response to a VSB set-aside, the contracting officer will make an award to that firm. If the contracting officer receives no acceptable offers from responsible VSB concerns, he or she will withdraw the procurement and, if still valid, must resolicit it pursuant to the provisions of 48 CFR 19.502–2.

(d) Where a procurement is set aside for VSB concerns, only those VSB concerns whose headquarters are located within the geographic area served by the applicable designated SBA district are eligible to submit offers in response to the solicitation.

(e) Nothing in this section shall be construed to alter in any way the procedures by which procuring activities award contracts under the SBA's 8(a) Business Development program (see 13 CFR part 124).

(f) This pilot program terminates on September 30, 2000. Any award under this program must be made on or before this date.

[63 FR 46642, Sept. 2, 1998]

## PART 126—HUBZONE PROGRAM

### Subpart A—Provisions of General Applicability

Sec.

- 126.100 What is the purpose of the HUBZone program?  
 126.101 Which government departments or agencies are affected directly by the HUBZone program?

126.102 What is the effect of the HUBZone program on the section 8(d) subcontracting program?

126.103 What definitions are important in the HUBZone program?

### Subpart B—Requirements to be a Qualified HUBZone SBC

126.200 What requirements must a concern meet to receive SBA certification as a qualified HUBZone SBC?

126.201 For this purpose, who does SBA consider to own a HUBZone SBC?

126.202 Who does SBA consider to control a HUBZone SBC?

126.203 What size standards apply to HUBZone SBCs?

126.204 May a qualified HUBZone SBC have affiliates?

126.205 May WOBs, 8(a) participants or SDBs be qualified HUBZone SBCs?

126.206 May non-manufacturers be certified as qualified HUBZone SBCs?

126.207 May a qualified HUBZone SBC have offices or facilities in another HUBZone or outside a HUBZone?

### Subpart C—Certification

126.300 How may a concern be certified as a qualified HUBZone SBC?

126.301 Is there any other way for a concern to obtain certification?

126.302 When may a concern apply for certification?

126.303 Where must a concern file its certification?

126.304 What must a concern submit to SBA?

126.305 What format must the certification to SBA take?

126.306 How will SBA process the certification?

126.307 Where will SBA maintain the List of qualified HUBZone SBCs?

126.308 What happens if SBA inadvertently omits a qualified HUBZone SBC from the List?

126.309 How may a declined or de-certified concern seek certification at a later date?

### Subpart D—Program Examinations

126.400 Who will conduct program examinations?

126.401 What will SBA examine?

126.402 When may SBA conduct program examinations?

126.403 May SBA require additional information from a HUBZone SBC?

126.404 What happens if SBA is unable to verify a qualified HUBZone SBC's eligibility?

126.405 What happens if SBA verifies eligibility?

## Small Business Administration

## § 126.101

### Subpart E—Maintaining HUBZone Status

- 126.500 How does a qualified HUBZone SBC maintain HUBZone status?
- 126.501 What are a qualified HUBZone SBC's ongoing obligations to SBA?
- 126.502 Is there a limit to the length of time a qualified HUBZone SBC may be on the List?
- 126.503 When is a concern removed from the List?

### Subpart F—Contractual Assistance

- 126.600 What are HUBZone contracts?
- 126.601 What additional requirements must a qualified HUBZone SBC meet to bid on a contract?
- 126.602 Must a qualified HUBZone SBC maintain the employee residency percentage during contract performance?
- 126.603 Does HUBZone certification guarantee receipt of HUBZone contracts?
- 126.604 Who decides if a contract opportunity for HUBZone set-aside competition exists?
- 126.605 What requirements are not available for HUBZone contracts?
- 126.606 May a contracting officer request that SBA release an 8(a) requirement for award as a HUBZone contract?
- 126.607 When must a contracting officer set aside a requirement for qualified HUBZone SBCs?
- 126.608 Are there HUBZone contracting opportunities below the simplified acquisition threshold?
- 126.609 What must the contracting officer do if a contracting opportunity does not exist for competition among qualified HUBZone SBCs?
- 126.610 May SBA appeal a contracting officer's decision not to reserve a procurement for award as a HUBZone contract?
- 126.611 What is the process for such an appeal?
- 126.612 When may a contracting officer award sole source contracts to a qualified HUBZone SBC?
- 126.613 How does a price evaluation preference affect the bid of a qualified HUBZone SBC in full and open competition?
- 126.614 How does a contracting officer treat a concern that is both a qualified HUBZone SBC and an SDB in a full and open competition?
- 126.615 May a large business participate on a HUBZone contract?
- 126.616 What requirements must a joint venture satisfy to bid on a HUBZone contract?

### Subpart G—Contract Performance Requirements

- 126.700 What are the subcontracting percentages requirements under this program?
- 126.701 Can these subcontracting percentages requirements change?
- 126.702 How can the subcontracting percentage requirements be changed?
- 126.703 What are the procedures for requesting changes in subcontracting percentages?

### Subpart H—Protests

- 126.800 Who may protest the status of a qualified HUBZone SBC?
- 126.801 How does one file a HUBZone status protest?
- 126.802 Who decides a HUBZone status protest?
- 126.803 How will SBA process a HUBZone status protest?
- 126.804 Will SBA decide all HUBZone status protests?
- 126.805 What are the procedures for appeals of HUBZone status determinations?

### Subpart I—Penalties

- 126.900 What penalties may be imposed under this part?

AUTHORITY: 15 U.S.C. 632(a); Pub. L. 105-135 sec. 601 *et seq.*, 111 Stat. 2592.

SOURCE: 63 FR 31908, June 11, 1998, unless otherwise noted.

## Subpart A—Provisions of General Applicability

### § 126.100 What is the purpose of the HUBZone program?

The purpose of the HUBZone program is to provide federal contracting assistance for qualified SBCs located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in such areas.

### § 126.101 Which government departments or agencies are affected directly by the HUBZone program?

- (a) Until September 30, 2000, the HUBZone program applies only to procurements by the following departments and agencies:
  - (1) Department of Agriculture;
  - (2) Department of Defense;
  - (3) Department of Energy;
  - (4) Department of Health and Human Services;

**§ 126.102**

**13 CFR Ch. I (1–1–02 Edition)**

- (5) Department of Housing and Urban Development;
- (6) Department of Transportation;
- (7) Department of Veterans Affairs;
- (8) Environmental Protection Agency;
- (9) General Services Administration; and
- (10) National Aeronautics and Space Administration.

(b) After September 30, 2000, the HUBZone program will apply to all federal departments and agencies which employ one or more contracting officers as defined by 41 U.S.C. 423(f)(5).

(c) The HUBZone program does not apply to contracts awarded by state and local governments. However, state and local governments may use the List of qualified HUBZone SBCs to identify qualified HUBZone SBCs for similar programs authorized under state or local law.

[63 FR 31908, June 11, 1998, as amended at 66 FR 4645, Jan. 18, 2001]

**§ 126.102 What is the effect of the HUBZone program on the section 8(d) subcontracting program?**

The HUBZone Act of 1997 amended the section 8(d) subcontracting program to include qualified HUBZone SBCs in the formal subcontracting plans described in § 125.3 of this title.

**§ 126.103 What definitions are important in the HUBZone program?**

*Administrator* means the Administrator of the United States Small Business Administration (SBA).

*AA/8(a)BD* means SBA's Associate Administrator for 8(a) Business Development.

*AA/HUB* means SBA's Associate Administrator for the HUBZone Program.

*ADA/GC&8(a)BD* means SBA's Associate Deputy Administrator for Government Contracting and 8(a) Business Development.

*Certify* means the process by which SBA determines that a HUBZone SBC is qualified for the HUBZone program and entitled to be included in SBA's "List of Qualified HUBZone SBCs."

*Citizen* means a person born or naturalized in the United States. SBA does not consider holders of permanent visas and resident aliens to be citizens.

*Concern* means a firm which satisfies the requirements in §§ 121.105(a) and (b) of this title.

*Contract opportunity* means a situation in which a requirement for a procurement exists, none of the exclusions from § 126.605 applies, and any applicable conditions in § 126.607 are met.

*County* means the political subdivisions recognized as a county by a state or commonwealth or which is an equivalent political subdivision such as a parish, borough, independent city, or *municipio*, where such subdivisions are not subdivisions within counties.

*County unemployment rate* is the rate of unemployment for a county based on the most recent data available from the United States Department of Labor, Bureau of Labor Statistics. The appropriate data may be found in the DOL/BLS publication titled "Supplement 2, Unemployment in States and Local Areas." This publication is available for public inspection at the Department of Labor, Bureau of Labor Statistics, Division of Local Area Unemployment Statistics located at 2 Massachusetts Ave., NE, Room 4675, Washington D.C. 20212. A copy is also available at SBA, Office of AA/HUB, 409 3rd Street, SW, Washington D.C. 20416.

*De-certify* means the process by which SBA determines that a concern is no longer a qualified HUBZone SBC and removes that concern from its List.

*Employee* means a person (or persons) employed by a HUBZone SBC on a full-time (or full-time equivalent), permanent basis. Full-time equivalent includes employees who work 30 hours per week or more. Full-time equivalent also includes the aggregate of employees who work less than 30 hours a week, where the work hours of such employees add up to at least a 40 hour work week. The totality of the circumstances, including factors relevant for tax purposes, will determine whether persons are employees of a concern. Temporary employees, independent contractors or leased employees are not employees for these purposes.

*Example 1:* 4 employees each work 20 hours per week; SBA will regard that circumstance as 2 full-time equivalent employees.

*Example 2:* 1 employee works 20 hours per week and 1 employee works 15 hours per

week; SBA will regard that circumstance as not a full-time equivalent.

*Example 3:* 1 employee works 15 hours per week, 1 employee works 10 hours per week, and 1 employee works 20 hours per week; SBA will regard that circumstance as 1 full-time equivalent employee.

*Example 4:* 1 employee works 30 hours per week and 2 employees each work 15 hours per week; SBA will regard that circumstance as 1 full-time equivalent employee.

*HUBZone* means a historically underutilized business zone, which is an area located within one or more qualified census tracts, qualified non-metropolitan counties, or lands within the external boundaries of an Indian reservation. See other definitions in this section for further details.

*HUBZone small business concern (HUBZone SBC)* means a concern that is small as defined by §126.203, is exclusively owned and controlled by persons who are United States citizens, and has its principal office located in a HUBZone.

*HUBZone 8(a) concern* means a concern that is certified as an 8(a) program participant and which is also a qualified HUBZone SBC.

*Indian reservation* has the meaning used by the Bureau of Indian Affairs in 25 CFR 151.2(f). This definition refers generally to land over which a “tribe” has jurisdiction, and “tribe” includes Alaska Native entities under 25 CFR 81.1(w).

*Interested party* means any concern that submits an offer for a specific HUBZone sole source or set-aside contract, any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone SBC, the contracting activity’s contracting officer, or SBA.

*Lands within the external boundaries of an Indian reservation* includes all lands within the outside perimeter of an Indian reservation, whether tribally owned and governed or not. For example, land that is individually owned and located within the outside perimeter of an Indian reservation is “lands within the external boundaries of an Indian reservation.” By contrast, an Indian-owned parcel of land that is located outside the perimeter of an Indian reservation is not “lands within the exter-

nal boundaries of an Indian reservation.”

*List* refers to the database of qualified HUBZone SBCs that SBA has certified.

*Median household income* has the meaning used by the Bureau of the Census, United States Department of Commerce, in its publication titled, “1990 Census of Population, Social and Economic Characteristics,” Report Number CP-2, pages B-14 and B-17. This publication is available for inspection at any local Federal Depository Library. For the location of a Federal Depository library, call toll-free (888) 293-6498 or contact the Bureau of the Census, Income Statistics Branch, Housing and Economic Statistics Division, Washington D.C. 20233-8500.

*Metropolitan statistical area* means an area as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986, (Title 26 of the United States Code).

*Non-metropolitan* has the meaning used by the Bureau of the Census, United States Department of Commerce, in its publication titled, “1990 Census of Population, Social and Economic Characteristics,” Report Number CP-2, page A-9. This publication is available for inspection at any local Federal Depository Library. For the location of a Federal Depository Library, call toll-free (888) 293-6498 or contact the Bureau of the Census, Population Distribution Branch, Population Division, Washington D.C. 20233-8800.

*Person* means a natural person. Pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1626(e), Alaska Native Corporations and any direct or indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation are deemed to be owned and controlled by Natives, and are thus persons.

*Principal office* means the location where the greatest number of the concern’s employees at any one location perform their work. However, for those concerns whose “primary industry” (see 13 CFR 121.107) is service or construction (see 13 CFR 121.201), the determination of principal office excludes the concern’s employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

**§ 126.200**

*Qualified census tract* has the meaning given that term in section 42(d)(5)(C)(ii)(I) of the Internal Revenue Code (Title 26 of the United States Code).

*Qualified HUBZone SBC* means a HUBZone SBC that SBA certifies as qualified for federal contracting assistance under the HUBZone program.

*Qualified non-metropolitan county* means any county that:

(1) Based on the most recent data available from the Bureau of the Census of the Department of Commerce—

(i) Is not located in a metropolitan statistical area; and

(ii) In which the median household income is less than 80 percent of the non-metropolitan State median household income; or

(2) Based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140 percent of the statewide average unemployment rate for the State in which the county is located.

*Reside* means to live in a primary residence at a place for at least 180 days, or as a currently registered voter, and with intent to live there indefinitely.

*Small disadvantaged business* (SDB) means a concern that is small pursuant to part 121 of this title, and is owned and controlled by socially and economically disadvantaged individuals, tribes, Alaska Native Corporations, Native Hawaiian Organizations, or Community Development Corporations.

*Statewide average unemployment rate* is the rate based on the most recent data available from the Bureau of Labor Statistics, United States Department of Labor, Division of Local Area Unemployment Statistics, 2 Massachusetts Ave., NE., Room 4675, Washington, D.C. 20212. A copy is also available at SBA, Office of AA/HUB, 409 3rd Street, SW., Washington DC 20416.

*Women-owned business* (WOB) means a concern that is small pursuant to part 121 of this title, and is at least 51 percent owned and controlled by women.

[63 FR 31908, June 11, 1998, as amended at 66 FR 4645, Jan. 18, 2001]

**13 CFR Ch. I (1-1-02 Edition)**

**Subpart B—Requirements to be a Qualified HUBZone SBC**

**§ 126.200 What requirements must a concern meet to receive SBA certification as a qualified HUBZone SBC?**

(a) The concern must be a HUBZone SBC as defined in § 126.103; and

(b) At least 35 percent of the concern's employees must reside in a HUBZone, and the HUBZone SBC must certify that it will attempt to maintain this percentage during the performance of any HUBZone contract it receives. When determining the percentage of employees that reside in a HUBZone, if the percentage results in a fraction round up to the nearest whole number,

*Example 1:* A concern has 25 employees, 35 percent or 8.75 employees must reside in a HUBZone. Thus, 9 employees must reside in a HUBZone.

*Example 2:* A concern has 95 employees, 35 percent or 33.25 employees must reside in a HUBZone. Thus, 34 employees must reside in a HUBZone.

and

(c) The HUBZone SBC must certify that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

**§ 126.201 For this purpose, who does SBA consider to own a HUBZone SBC?**

An owner of a HUBZone SBC is a person who owns any legal or equitable interest in such HUBZone SBC. More specifically:

(a) *Corporations.* SBA will consider any person who owns stock, whether voting or non-voting, to be an owner. SBA will consider options to purchase stock to have been exercised. SBA will consider the right to convert debentures into voting stock to have been exercised.

(b) *Partnerships.* SBA will consider a partner, whether general or limited, to be an owner if that partner owns an equitable interest in the partnership.

(c) *Sole proprietorships.* The proprietor is the owner.

## Small Business Administration

## § 126.300

(d) *Limited liability companies.* SBA will consider each member to be an owner of a limited liability company.

*Example 1:* All stock of a corporation is owned by U.S. citizens. The president of the corporation, a non-U.S. citizen, owns no stock in the corporation, but owns options to purchase stock in the corporation. SBA will consider the option exercised, and the corporation is not eligible to be a qualified HUBZone SBC.

*Example 2:* A partnership is owned 99.9 percent by persons who are U.S. citizens, and 0.1 percent by someone who is not. The partnership is not eligible because it is not 100 percent owned by U.S. citizens.

### § 126.202 Who does SBA consider to control a HUBZone SBC?

Control means both the day-to-day management and long-term decision-making authority for the HUBZone SBC. Many persons share control of a concern, including each of those occupying the following positions: officer, director, general partner, managing partner, and manager. In addition, key employees who possess critical licenses, expertise or responsibilities related to the concern's primary economic activity may share significant control of the concern. SBA will consider the control potential of such key employees on a case by case basis.

### § 126.203 What size standards apply to HUBZone SBCs?

(a) *At time of application for certification.* A HUBZone SBC must meet SBA's size standards for its primary industry classification as defined in § 121.201 of this title. If SBA is unable to verify that a concern is small, SBA may deny the concern status as a qualified HUBZone SBC, or SBA may request a formal size determination from the responsible Government Contracting Area Director or designee.

(b) *At time of contract offer.* A HUBZone SBC must be small within the size standard corresponding to the SIC code assigned to the contract.

### § 126.204 May a qualified HUBZone SBC have affiliates?

A concern may have affiliates provided that the aggregate size of the concern and all its affiliates is small as defined in part 121 of this title.

[66 FR 4645, Jan. 18, 2001]

### § 126.205 May WOBs, 8(a) participants or SDBs be qualified HUBZone SBCs?

Yes. WOBs, 8(a) participants, and SDBs can qualify as HUBZone SBCs if they meet the additional requirements in this part.

### § 126.206 May non-manufacturers be certified as qualified HUBZone SBCs?

Non-manufacturers (referred to in the HUBZone Act of 1997 as "regular dealers") may be certified as qualified HUBZone SBCs if they meet all of the requirements set forth in § 126.200. For purposes of this part, a "non-manufacturer" is defined in § 121.406(b)(1)(i) and (ii) of this title.

[66 FR 4645, Jan. 18, 2001]

### § 126.207 May a qualified HUBZone SBC have offices or facilities in another HUBZone or outside a HUBZone?

Yes. A qualified HUBZone SBC may have offices or facilities in another HUBZone or even outside a HUBZone and still be a qualified HUBZone SBC. However, in order to qualify, the concern's principal office must be located in a HUBZone.

## Subpart C—Certification

### § 126.300 How may a concern be certified as a qualified HUBZone SBC?

A concern must apply to SBA for certification. The application must include a representation that it meets the eligibility requirements described in § 126.200 and must submit relevant supporting information. SBA will consider the information provided by the concern in order to determine whether the concern qualifies. SBA, in its sole discretion, may rely solely upon the information submitted to establish eligibility, or may request additional information, or may verify the information before making a determination. If SBA determines that the concern is a qualified HUBZone SBC, it will issue a certification to that effect and add the concern to the List.

## § 126.301

## 13 CFR Ch. I (1–1–02 Edition)

### § 126.301 Is there any other way for a concern to obtain certification?

No. SBA certification is the only way to qualify for HUBZone program status.

### § 126.302 When may a concern apply for certification?

A concern may apply to SBA and submit the required information whenever it can represent that it meets the eligibility requirements, subject to § 126.309. All representations and supporting information contained in the application must be complete and accurate as of the date of submission. The application must be signed by an officer of the concern who is authorized to represent the concern.

### § 126.303 Where must a concern file its certification?

The concern must file its certification with the AA/HUB, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

### § 126.304 What must a concern submit to SBA?

(a) To be certified by SBA as a qualified HUBZone SBC, a concern must represent to SBA that under the definitions set forth in § 126.103:

(1) It is a small business concern that is both owned only by United States citizens and controlled only by United States citizens;

(2) Its principal office is located in a HUBZone;

(3) Not less than 35 percent of its employees reside in a HUBZone;

(4) It will use good faith efforts to ensure that a minimum percentage of 35 percent of its employees continue to reside in a HUBZone so long as SBA certifies it as qualified and during the performance of any contract awarded to it on the basis of its status as a qualified HUBZone SBC; and

(5) It will ensure that, where it enters into subcontracts to aid in performance of any prime contracts awarded to it because of its status as a qualified HUBZone SBC, it will incur not less than a certain minimum percentage of certain contract costs as set forth in § 126.700.

(b) If the concern is applying for HUBZone status based on a location

within the external boundaries of an Indian reservation, the concern must submit with its application for certification official documentation from the appropriate Bureau of Indian Affairs (BIA) Land Titles and Records Office with jurisdiction over the concern's area, confirming that it is located within the external boundaries of an Indian reservation. BIA lists the Land Titles and Records Offices and their jurisdiction in 25 CFR 150.4 and 150.5. In cases where BIA is unable to verify whether the business is located within the external boundaries of an Indian reservation, applicants should contact the AA/HUB and SBA will assist them.

(c) In addition to these representations, the concern must submit the forms, attachments, and any additional information required by SBA.

### § 126.305 What format must the certification to SBA take?

A concern must submit the required information in either a written or electronic application form provided by SBA. An electronic application must be sufficiently authenticated for enforcement purposes.

### § 126.306 How will SBA process the certification?

(a) The AA/HUB is authorized to approve or decline certifications. SBA will receive and review all certifications, but SBA will not process incomplete packages. SBA will make its determination within 30 calendar days after receipt of a complete package whenever practicable. The decision of the AA/HUB is the final agency decision.

(b) SBA will base its certification on facts existing on the date of submission. SBA, in its sole discretion, may request additional information or clarification of information contained in the submission at any time.

(c) If SBA approves the application, SBA will send a written notice to the concern and automatically enter it on the List described in § 126.307.

(d) A decision to deny eligibility must be in writing and state the specific reasons for denial.

## Small Business Administration

## § 126.404

### § 126.307 Where will SBA maintain the List of qualified HUBZone SBCs?

SBA maintains the List at its Internet website at <http://www.sba.gov/HUB>. Requesters also may obtain a copy of the List by writing to the AA/HUB at U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416 or via e-mail at [aahub@sba.gov](mailto:aahub@sba.gov).

### § 126.308 What happens if SBA inadvertently omits a qualified HUBZone SBC from the List?

A HUBZone SBC that has received SBA's notice of certification, but is not on the List within 10 business days thereafter should immediately notify the AA/HUB in writing at U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416 or via e-mail at [aahub@sba.gov](mailto:aahub@sba.gov). The concern must appear on the List to be eligible for HUBZone contracts.

### § 126.309 How may a declined or de-certified concern seek certification at a later date?

A concern that SBA has declined or de-certified may seek certification no sooner than one year from the date of decline or de-certification if it believes that it has overcome all reasons for decline through changed circumstances, and is currently eligible.

## Subpart D—Program Examinations

### § 126.400 Who will conduct program examinations?

SBA field staff or others designated by the AA/HUB will conduct program examinations.

### § 126.401 What will SBA examine?

(a) *Eligibility.* Examiners will verify that the qualified HUBZone SBC met the requirements set forth in § 126.200 at the time of its application for certification and at the time of examination.

(b) *Scope of review.* Examiners may review any information related to the HUBZone SBC qualifying requirements, including documentation related to the location and ownership of the concern, the employee percentage requirements, and the concern's attempt to maintain this percentage. The qualified HUBZone SBC must docu-

ment each employee's residence address through employment records. The examiner also may review property tax, public utility or postal records, and other relevant documents. The concern must retain documentation demonstrating satisfaction of the employee residence and other qualifying requirements for 6 years from date of submission to SBA.

### § 126.402 When may SBA conduct program examinations?

SBA may conduct a program examination at the time the concern certifies to SBA that it meets the requirements of the program or at any other time while the concern is on the List or subsequent to receipt of HUBZone contract benefits. For example, SBA may conduct a program examination to verify eligibility upon notification of a material change under § 126.501. Additionally, SBA, in its sole discretion, may perform random program examinations to determine continuing compliance with program requirements, or it may conduct a program examination in response to credible information calling into question the HUBZone status of a small business concern. For protests to the HUBZone status of a small business concern in regard to a particular procurement, see § 126.800.

### § 126.403 May SBA require additional information from a HUBZone SBC?

Yes. At the discretion of the AA/HUB, SBA has the right to require that a HUBZone SBC submit additional information as part of the certification process, or at any time thereafter. If SBA finds a HUBZone SBC is not qualified, SBA will de-certify the concern and delete its name from the List. SBA may choose to pursue penalties against any concern that has made material misrepresentations in its submissions to SBA in accordance with § 126.900.

### § 126.404 What happens if SBA is unable to verify a qualified HUBZone SBC's eligibility?

(a) Authorized SBA headquarters personnel will first notify the concern in writing of the reasons why it is no longer eligible.

## § 126.405

(b) The concern will have 10 business days from the date that it receives notification to respond.

(c) The AA/HUB will consider the reasons for proposed de-certification and the concern's response before making a decision whether to de-certify. The AA/HUB's decision is the final agency decision.

### § 126.405 What happens if SBA verifies eligibility?

If SBA verifies that the concern is eligible, it will amend the date of certification on the List to reflect the date of verification.

## Subpart E—Maintaining HUBZone Status

### § 126.500 How does a qualified HUBZone SBC maintain HUBZone status?

(a) Any qualified HUBZone SBC wishing to remain on the List must self-certify annually to SBA that it remains a qualified HUBZone SBC.

(b) Concerns wishing to remain in the program without any interruption must self-certify their continued eligibility to SBA within 30 calendar days after each annual anniversary of their date of certification. Failure to do so will result in SBA de-certifying the concern. The concern then would have to submit a new application for certification under §§ 126.300 through 126.306.

(c) The self-certification to SBA must be in writing and must represent that the circumstances relative to eligibility which existed on the date of certification showing on the List have not materially changed.

### § 126.501 What are a qualified HUBZone SBC's ongoing obligations to SBA?

The concern must immediately notify SBA of any material change which could affect its eligibility. The notification must be in writing, and must be sent or delivered to the AA/HUB to comply with this requirement. Failure of a qualified HUBZone SBC to notify SBA of such a material change will result in immediate de-certification and removal from the List, and SBA may seek the imposition of penalties under § 126.900. If the concern later becomes

## 13 CFR Ch. I (1–1–02 Edition)

eligible for the program, the concern must apply for certification pursuant to §§ 126.300 through 126.309 and must include with its application for certification a full explanation of why it failed to notify SBA of the material change. If SBA is not satisfied with the explanation provided, SBA may decline to certify the concern pursuant to § 126.306.

### § 126.502 Is there a limit to the length of time a qualified HUBZone SBC may be on the List?

There is no limit to the length of time a qualified HUBZone SBC may remain on the List so long as it continues to follow the provisions of §§ 126.200, 126.500, and 126.501.

### § 126.503 When is a concern removed from the List?

If SBA determines at any time that a HUBZone SBC is not qualified, SBA may de-certify the HUBZone SBC, remove the concern from the List, and seek imposition of penalties pursuant to § 126.900. An adverse finding in the resolution of a protest also may result in de-certification and removal from the List, and the imposition of penalties pursuant to § 126.900. Failure to notify SBA of a material change which could affect a concern's eligibility will result in immediate de-certification, removal from the List, and SBA may seek the imposition of penalties under § 126.900.

## Subpart F—Contractual Assistance

### § 126.600 What are HUBZone contracts?

HUBZone contracts are contracts awarded to a qualified HUBZone SBC through any of the following procurement methods:

(a) Sole source awards to qualified HUBZone SBCs;

(b) Set-aside awards based on competition restricted to qualified HUBZone SBCs; or

(c) Awards to qualified HUBZone SBCs through full and open competition after a price evaluation preference in favor of qualified HUBZone SBCs.

**§ 126.601 What additional requirements must a qualified HUBZone SBC meet to bid on a contract?**

(a) In order to submit an offer on a specific HUBZone contract, a concern must be small under the size standard corresponding to the SIC code assigned to the contract.

(b) At the time a qualified HUBZone SBC submits its offer on a specific contract, it must certify to the contracting officer that

(1) It is a qualified HUBZone SBC which appears on SBA's List;

(2) There has been no material change in its circumstances since the date of certification shown on the List which could affect its HUBZone eligibility; and

(3) It is small under the SIC code assigned to the procurement.

(c) If bidding as a joint venture, each qualified HUBZone SBC must make the certifications in paragraphs (b)(1), (2), and (3) of this section separately under its own name.

(d) A qualified HUBZone SBC which is a non-manufacturer may submit an offer on a HUBZone contract for supplies if it meets the requirements of the non-manufacturer rule set forth at § 121.406(b)(1)(i) and (ii) of this title, and if the small manufacturer providing the end item for the contract is also a qualified HUBZone SBC. However, for HUBZone contracts at or below \$25,000 in total value, a qualified HUBZone SBC may supply the end item of any manufacturer, including a large business.

[63 FR 31908, June 11, 1998, as amended at 66 FR 4645, Jan. 18, 2001]

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

The qualified HUBZone SBC must attempt to maintain the required percentage of employees who reside in a HUBZone during the performance of any contract awarded to the concern on the basis of HUBZone status. "Attempt to maintain" means making substantive and documented efforts to maintain that percentage such as written offers of employment, published advertisements seeking employees, and attendance at job fairs. HUBZone con-

tracts are described more fully in § 126.600. Enforcement of this paragraph will be the responsibility of SBA, which will monitor the requirement in accordance with §§ 126.400 through 126.405.

**§ 126.603 Does HUBZone certification guarantee receipt of HUBZone contracts?**

No. Qualified HUBZone SBCs should market their capabilities to appropriate procuring agencies in order to increase their prospects of having a requirement set aside for HUBZone contract award.

**§ 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 that requirement or SBA has accepted that requirement for performance under the authority of the section 8(a) program, unless SBA has consented to release of the requirement from the section 8(a) program; or

(c) The requirement is at or below the micropurchase threshold.

**§ 126.606 May a contracting officer request that SBA release an 8(a) requirement for award as a HUBZone contract?**

Yes. However, SBA will grant its consent only where neither the incumbent nor any other 8(a) participant(s) can perform the requirement, and where the section 8(a) program will not be adversely affected. The SBA official authorized to grant such consent is the AA/8(a)BD.

**§ 126.607**

**§ 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) The contracting officer must identify qualified HUBZone 8(a) concerns and other 8(a) concerns. The contracting officer must give first priority to qualified HUBZone 8(a) concerns.

(c) After determining that neither paragraph (a) or (b) of this section apply, the contracting officer must set aside the requirement for competition restricted to qualified HUBZone SBCs if the contracting officer:

(1) Has 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) Determines that award can be made at fair market price.

**§ 126.608 Are there HUBZone contracting opportunities below the simplified acquisition threshold?**

Yes. If the requirement is below the simplified acquisition threshold, the contracting officer should set-aside the requirement for consideration among qualified HUBZone SBCs using simplified acquisition procedures.

**§ 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.

**13 CFR Ch. I (1-1-02 Edition)**

**§ 126.610 May SBA appeal a contracting officer's decision not to reserve a procurement for award as a HUBZone contract?**

The Administrator may appeal a contracting officer's decision not to make a particular requirement available for award as a HUBZone sole source or a HUBZone set-aside contract.

**§ 126.611 What is the process for such an appeal?**

(a) *Notice of appeal.* When the contracting officer rejects a recommendation by SBA's Procurement Center Representative to make a requirement available for award as a HUBZone contract, he or she must notify the Procurement Center Representative as soon as practicable. If the Administrator intends to appeal the decision, SBA must notify the contracting officer no later than five business days after receiving notice of the contracting officer's decision.

(b) *Suspension of action.* Upon receipt of notice of SBA's intent to appeal, the contracting officer must suspend further action regarding the procurement until the head of the contracting activity issues a written decision on the appeal, unless the head of the contracting activity makes a written determination that urgent and compelling circumstances which significantly affect the interests of the United States compel award of the contract.

(c) *Deadline for appeal.* Within 15 business days of SBA's notification to the contracting officer, SBA must file its formal appeal with the head of the contracting activity or that agency may consider the appeal withdrawn.

(d) *Decision.* The contracting activity must specify in writing the reasons for a denial of an appeal brought under this section.

**§ 126.612 When may a contracting officer award sole source contracts to a qualified HUBZone SBC?**

A contracting officer may award a sole source contract to a qualified HUBZone SBC only when the contracting officer determines that:

(a) None of the provisions of §§ 126.605 or 126.607 apply;

## Small Business Administration

## § 126.616

(b) The anticipated award price of the contract, including options, will not exceed:

(1) \$5,000,000 for a requirement within the SIC codes for manufacturing; or

(2) \$3,000,000 for a requirement within all other SIC codes;

(c) Two or more qualified HUBZone SBCs are not likely to submit offers;

(d) A qualified HUBZone SBC is a responsible contractor able to perform the contract; and

(e) Contract award can be made at a fair and reasonable price.

### **§ 126.613 How does a price evaluation preference affect the bid of a qualified HUBZone SBC in full and open competition?**

Where a contracting officer will award a contract on the basis of full and open competition, the contracting officer must deem the price offered by a qualified HUBZone SBC to be lower than the price offered by another offeror (other than another small business concern) if the price offered by the qualified HUBZone SBC is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

*Example:* In a full and open competition, a qualified HUBZone SBC submits an offer of \$98; another small business concern submits an offer of \$100; and a large business submits an offer of \$93. The lowest, responsive, responsible offeror would be the large business. However, the contracting officer must apply the HUBZone price evaluation preference. If the qualified HUBZone SBC's offer is not more than 10 percent higher than the large business's offer, the contracting officer must deem the qualified HUBZone SBC's price as lower than the price of the large business. In this example, the qualified HUBZone SBC's price is not more than 10 percent higher than the large business's price and, consequently, the qualified HUBZone SBC displaces the large business as the lowest, responsive, and responsible offeror. If the HUBZone SBC offer were \$101, the award would go to the large business at \$93. If the HUBZone SBC will not benefit from the preference, the preference is not applied to change an offer.

### **§ 126.614 How does a contracting officer treat a concern that is both a qualified HUBZone SBC and an SDB in a full and open competition?**

A concern that is both a qualified HUBZone SBC and an SDB must receive the benefit of both the HUBZone price evaluation preference described in § 126.614 and the SDB price evaluation preference described in 10 U.S.C. 2323 and the Federal Acquisition Streamlining Act, section 7102(a)(1)(B), Public Law 103-355, in a full and open competition.

### **§ 126.615 May a large business participate on a HUBZone contract?**

A large business may not participate as a prime contractor on a HUBZone award but may participate as a subcontractor to an otherwise qualified HUBZone SBC, subject to the contract performance requirements set forth in § 126.700.

### **§ 126.616 What requirements must a joint venture satisfy to bid on a HUBZone contract?**

A joint venture may bid on a HUBZone contract if the joint venture meets all of the following requirements:

(a) *HUBZone joint venture.* A qualified HUBZone SBC may enter into a joint venture with one or more other qualified HUBZone SBCs, 8(a) participants, or WOBs for the purpose of performing a specific HUBZone contract.

(b) *Size of concerns.* A joint venture of at least one qualified HUBZone SBC and an 8(a) participant or a woman-owned small business concern may submit an offer for a HUBZone contract so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(1) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the SIC code assigned to the contract; and

(2) For a procurement having an employee-based size standard, the procurement exceeds \$10 million.

**§ 126.700**

(c) *Performance of work.* The aggregate of the qualified HUBZone SBCs to the joint venture, not each concern separately, must perform the applicable percentage of work required by § 126.700.

**Subpart G—Contract Performance Requirements**

**§ 126.700 What are the subcontracting percentages requirements under this program?**

(a) *Subcontracting percentage requirements.* A qualified HUBZone SBC prime contractor can subcontract part of a HUBZone contract provided:

(1) In the case of a contract for services (except construction), the qualified HUBZone SBC spends at least 50 percent of the cost of the contract performance incurred for personnel on the concern's employees or on the employees of other qualified HUBZone SBCs;

(2) In the case of a contract for general construction, the qualified HUBZone SBC spends at least 15 percent of the cost of contract performance incurred for personnel on the concern's employees or the employees of other qualified HUBZone SBCs;

(3) In the case of a contract for construction by special trade contractors, the qualified HUBZone SBC spends at least 25 percent of the cost of contract performance incurred for personnel on the concerns' employees or the employees of other qualified HUBZone SBCs; and

(4) In the case of a contract for procurement of supplies (other than a procurement from a regular dealer in such supplies) the qualified HUBZone SBC spends at least 50 percent of the manufacturing cost (excluding the cost of materials) on performing the contract in a HUBZone. One or more qualified HUBZone SBCs may combine to meet this subcontracting percentage requirement.

(b) *Definitions.* Many definitions applicable to this section can be found in § 125.6 of this title.

**§ 126.701 Can these subcontracting percentages requirements change?**

Yes. The Administrator may change the subcontracting percentage requirements if the Administrator determines

**13 CFR Ch. I (1-1-02 Edition)**

that such action is necessary to reflect conventional industry practices.

**§ 126.702 How can the subcontracting percentage requirements be changed?**

Representatives of a national trade or industry group (as defined by two-digit Major Group industry codes) may request a change in subcontracting percentage requirements for that industry. Changes in subcontracting percentage requirements may be requested only for categories defined by two-digit Major Group industry codes in the Standard Industry Classification (SIC) Code system. SBA will not consider requests from anyone other than a representative of a national trade or industry group or requests for changes for four-digit SIC Code categories.

**§ 126.703 What are the procedures for requesting changes in subcontracting percentages?**

(a) *Format of request.* There is no prescribed format, but the requester should try to demonstrate to the Administrator that a change in percentage is necessary to reflect conventional industry practices, and should support its request with information including, but not limited to:

(1) Information relative to the economic conditions and structure of the entire national industry;

(2) Market data, technical changes in the industry and industry trends;

(3) Specific reasons and justifications for the change in the subcontracting percentage;

(4) The effect such a change would have on the federal procurement process; and

(5) Information demonstrating how the proposed change would promote the purposes of the HUBZone Program.

(b) *Notice to public.* Upon an adequate preliminary showing to SBA, SBA will publish in the FEDERAL REGISTER a notice of its receipt of a request that it consider a change in the subcontracting percentage requirements for a particular industry for HUBZone contracts. The notice will identify the group making the request, and give the public an opportunity to submit to the Administrator information and arguments in both support and opposition.

(c) *Comments.* Once SBA has published a notice in the FEDERAL REGISTER, it will afford a period of not less than 60 days for public comment.

(d) *Decision.* SBA will render its decision after the close of the comment period. If it decides against a change, it will publish notice of its decision in the FEDERAL REGISTER. Concurrent with the notice, SBA will advise the requester of its decision in writing. If it decides in favor of a change, SBA will propose an appropriate change to this part in accordance with proper rule-making procedures.

### Subpart H—Protests

#### § 126.800 Who may protest the status of a qualified HUBZone SBC?

(a) *For sole source procurements.* SBA or the contracting officer may protest the proposed awardee's qualified HUBZone SBC status.

(b) *For all other procurements.* Any interested party may protest the apparent successful offeror's qualified HUBZone SBC status.

#### § 126.801 How does one file a HUBZone status protest?

(a) *General.* The protest procedures described in this part are separate from those governing size protests and appeals. All protests relating to whether a qualified HUBZone SBC is a "small" business for purposes of any Federal program are subject to part 121 of this title and must be filed in accordance with that part. If a protester protests both the size of the HUBZone SBC and whether the concern meets the HUBZone qualifying requirements set forth in § 126.200, SBA will process each protest concurrently, under the procedures set forth in part 121 of this title and this part.

(b) *Format.* Protests must be in writing and state all specific grounds for the protest. A protest merely asserting that the protested concern is not a qualified HUBZone SBC, without setting forth specific facts or allegations, is insufficient.

(c) *Filing.* (1) An interested party other than a contracting officer or SBA must submit its written protest to the contracting officer.

(2) A contracting officer and SBA must submit their protest to the AA/HUB.

(3) Protestors may deliver their protests in person, by facsimile, by express delivery service, or by U.S. mail (post-marked within the applicable time period).

(d) *Timeliness.* (1) An interested party must submit its protest by close of business on the fifth business day after bid opening (in sealed bid acquisitions) or by close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror (in negotiated acquisitions).

(2) Any protest received after the time limits is untimely.

(3) Any protest received prior to bid opening or notification of intended award, whichever applies, is premature.

(e) *Referral to SBA.* The contracting officer must forward to SBA any non-premature protest received, notwithstanding whether he or she believes it is sufficiently specific or timely. The contracting officer must send protests to AA/HUB, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

#### § 126.802 Who decides a HUBZone status protest?

The AA/HUB or designee will determine whether the concern has qualified HUBZone status.

#### § 126.803 How will SBA process a HUBZone status protest?

(a) *Notice of receipt of protest.* (1) SBA immediately will notify the contracting officer and the protestor of the date SBA receives a protest and whether SBA will process the protest or dismiss it in accordance with § 126.804.

(2) If SBA determines the protest is timely and sufficiently specific, SBA will notify the protested HUBZone SBC of the protest and the identity of the protestor. The protested HUBZone SBC may submit information responsive to the protest within 5 business days.

(b) *Time period for determination.* (1) SBA will determine the HUBZone status of the protested HUBZone SBC within 15 business days after receipt of a protest.

## § 126.804

## 13 CFR Ch. I (1–1–02 Edition)

(2) If SBA does not contact the contracting officer within 15 business days, the contracting officer may award the contract, unless the contracting officer has granted SBA an extension.

(3) The contracting officer may award the contract after receipt of a protest if the contracting officer determines in writing that an award must be made to protect the public interest.

(c) *Notice of determination.* SBA will notify the contracting officer, the protestor, and the protested concern of its determination.

(d) *Effect of determination.* The determination is effective immediately and is final unless overturned on appeal by the ADA/GC&8(a)BD, pursuant to § 126.805. If SBA upholds the protest, SBA will de-certify the concern as a qualified HUBZone SBC. If SBA denies the protest, after considering the merits of the protest, SBA will amend the date of certification on the List to reflect the date of protest decision.

### § 126.804 Will SBA decide all HUBZone status protests?

SBA will decide all protests not dismissed as premature, untimely or non-specific.

### § 126.805 What are the procedures for appeals of HUBZone status determinations?

(a) *Who may appeal.* The protested HUBZone SBC, the protestor, or the contracting officer may file appeals of protest determinations with SBA's ADA/GC&8(a)BD.

(b) *Timeliness of appeal.* SBA's ADA/GC&8(a)BD must receive the appeal no later than 5 business days after the date of receipt of the protest determination. SBA will dismiss any appeal received after the five-day period.

(c) *Method of Submission.* The party appealing the decision may deliver its appeal in person, by facsimile, by express delivery service, or by U.S. mail (postmarked within the applicable time period).

(d) *Notice of appeal.* The party bringing an appeal must provide notice of the appeal to the contracting activity contracting officer and either the protested HUBZone SBC or original protestor, as appropriate.

(e) *Grounds for appeal.* (1) SBA will re-examine a protest determination only if there was a clear and significant error in the processing of the protest or if the AA/HUB failed completely to consider a significant fact contained within the information supplied by the protestor or the protested HUBZone SBC.

(2) SBA will not consider additional information or changed circumstances that were not disclosed at the time of the AA/HUB's decision or that are based on disagreement with the findings and conclusions contained in the determination.

(f) *Contents of appeal.* The appeal must be in writing. The appeal must identify the protest determination being appealed and set forth a full and specific statement as to why the decision is erroneous or what significant fact the AA/HUB failed to consider.

(g) *Completion of appeal after award.* An appeal may proceed to completion even after award of the contract that prompted the protest, if so desired by the protested HUBZone SBC, or where SBA determines that a decision on appeal is meaningful.

(h) *Decision.* The ADA/GC&8(a)BD will make its decision within 5 business days of its receipt, if practicable, and will base its decision only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protestor, and the protested HUBZone SBC, consistent with law. The ADA/GC&8(a)BD's decision is the final agency decision.

## Subpart I—Penalties

### § 126.900 What penalties may be imposed under this part?

(a) *Suspension or debarment.* The Agency debarring official may suspend or debar a person or concern pursuant to the procedures set forth in part 145 of this title. The contracting agency debarring official may debar or suspend a person or concern under the Federal Acquisition Regulation, 48 CFR Part 9, subpart 9.4.

(b) *Civil penalties.* Persons or concerns are subject to civil remedies under the False Claims Act, 31 U.S.C. 3729–3733,

## Small Business Administration

## § 130.110

and under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801-3812, and any other applicable laws.

(c) *Criminal penalties.* Persons or concerns are subject to severe criminal penalties for knowingly misrepresenting the HUBZone status of a small business concern in connection with procurement programs pursuant to section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as amended; 18 U.S.C. 1001; and 31 U.S.C. 3729-3733. Persons or concerns also are subject to criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct "continuing representations" that are no longer true.

### PART 130—SMALL BUSINESS DEVELOPMENT CENTERS

- Sec.
- 130.100 Introduction.
  - 130.110 Definitions.
  - 130.200 Eligible entities.
  - 130.300 Small Business Development Centers (SBDCs). [Reserved]
  - 130.310 Area of service.
  - 130.320 Location of lead centers and SBDC service providers.
  - 130.330 Operating requirements.
  - 130.340 SBDC services and restrictions on service.
  - 130.350 Specific program responsibilities.
  - 130.360 SBDC advisory boards.
  - 130.400 Application procedure. [Reserved]
  - 130.410 New applications.
  - 130.420 Renewal applications.
  - 130.430 Application decisions.
  - 130.440 Maximum grant.
  - 130.450 Matching funds.
  - 130.460 Budget justification.
  - 130.470 Fees.
  - 130.480 Program income.
  - 130.500 Funding.
  - 130.600 Cooperative agreement. [Reserved]
  - 130.610 General terms.
  - 130.620 Revisions and amendments to cooperative agreement.
  - 130.630 Dispute resolution procedures.
  - 130.700 Suspension, termination and non-renewal.
  - 130.800 Oversight of the SBDC program.
  - 130.810 SBA review authority.
  - 130.820 Reports and recordkeeping.
  - 130.830 Audits and investigations.

AUTHORITY: Sections 5(b)(6) and 21 of the Small Business Act, as amended, 15 U.S.C. 634(b)(6) and 648; Pub. L. 101-515, 101 Stat.

2101; Pub. L. 101-574, 104 Stat. 2814; Pub. L. 102-366, 106 Stat. 986; and Pub. L. 102-395, 106 Stat. 1828.

SOURCE: 60 FR 31056, June 13, 1995, unless otherwise noted.

#### § 130.100 Introduction.

(a) *Objective.* The SBDC Program creates a broad-based system of assistance for the small business community by linking the resources of Federal, State and local governments with the resources of the educational community and the private sector. Although SBA is responsible for the general management and oversight of the SBDC Program, a partnership exists between SBA and the recipient organization for the delivery of assistance to the small business community.

(b) *Incorporation of amended references.* All references in these regulations to OMB Circulars, other SBA regulations, Standard Operating Procedures, and other sources of SBA policy guidance incorporate all ensuing changes or amendments to such sources.

#### § 130.110 Definitions.

*Applicant organization.* An entity, described in §130.200(a), which applies to establish and operate an SBDC network.

*Application.* The written submission by a new applicant organization or an existing recipient organization explaining its projected SBDC activities for the upcoming budget period and requesting SBA funding for use in its operations.

*Area of Service.* The State or territory, or portion of a State or territory (when there is more than one SBDC in a State or territory), or the District of Columbia, in which an applicant organization proposes to provide services or in which a recipient organization provides services.

*Budget period.* The 12-month period in which expenditure obligations are incurred by an SBDC network, coinciding with either the calendar year or the Federal fiscal year.

*Cash Match.* Non-Federal funds allocated specifically to the operation of the SBDC network equalling no less than fifty percent of the Federal funds.