

Small Business Administration

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§ 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 What happens if SBA is unable to verify a qualified HUBZone SBC's eligibility or determines that the concern is no longer eligible for the program?

If SBA is unable to verify a qualified HUBZone SBC's eligibility or determines it is not eligible for the program, SBA may propose decertification of the concern.

(a) *Proposing Decertification.* Except as set forth in paragraph (c) of this section, the Deputy D/HUB or designee will first notify the qualified HUBZone SBC in writing that SBA is proposing to decertify it, the reasons for the proposed de-certification, and that the SBC must rebut each of the reasons SBA sets forth. The qualified HUBZone SBC will have 30 calendar days from the date that it receives SBA's notification to respond, in writing, to the D/HUB or designee.

(b) *SBA's Decision.* The D/HUB or designee will consider the reasons for proposed decertification and the qualified HUBZone SBC's response before making a written decision whether to decertify. The D/HUB may draw an adverse inference where a qualified HUBZone SBC fails to cooperate with SBA or provide the information requested. The D/HUB's decision is the final agency decision.

(c) *Decertifying Pursuant to a Protest.* SBA will decertify a qualified HUBZone SBC and remove its name from the List without first proposing it for decertification if the D/HUB upholds a protest pursuant to § 126.803 and the D/HUB's decision is not overturned pursuant to § 126.805.

[69 FR 29424, May 24, 2004, as amended at 70 FR 51250, Aug. 30, 2005]

§ 126.504 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, re-

move 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.

[63 FR 31908, June 11, 1998. Redesignated at 69 FR 29424, May 24, 2004]

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) The Federal Acquisition Regulatory Council (FAR Council) has the responsibility of adjusting each acquisition-related dollar threshold on October 1 of each year that is evenly divisible by five. Acquisition-related dollar thresholds are defined as dollar thresholds that are specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency as determined by the FAR Council. 41 U.S.C. 431a(c). Part 126, Subpart F, Contract Assistance, contains acquisition-related dollar thresholds subject to inflationary adjustments. The FAR Council shall publish a notice of the adjusted dollar thresholds in the FEDERAL REGISTER. The adjusted dollar thresholds

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shall take effect on the date of publication.

(b) In order to submit an offer on a specific HUBZone contract, the qualified HUBZone SBC, together with its affiliates, must be small under the size standard corresponding to the NAICS code assigned to the contract.

(c) A firm must be a qualified HUBZone SBC both at the time of its initial offer and at the time of award in order to be eligible for a HUBZone contract.

(d) At the time a qualified HUBZone SBC submits its initial offer, and where applicable its final offer, on a specific HUBZone contract, it must certify to the CO that:

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

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

(3) It is small under the NAICS code assigned to the procurement; and

(4) If the qualified HUBZone SBC was certified pursuant to §126.200(b), it must represent that it will "attempt to maintain" (See §126.103) the required percentage of employees who are HUBZone residents during the performance of a HUBZone contract. If the qualified HUBZone SBC was certified pursuant to §126.200(a), then it must represent that at least 35% of its employees engaged in performing the HUBZone contract reside within any Indian reservation governed by one or more of its Indian Tribal Government owners or reside within any HUBZone adjoining any such Indian reservation.

(e) If submitting an offer as a joint venture, each qualified HUBZone SBC must make the certifications in paragraph (c) of this section separately under its own name.

(f) A qualified HUBZone SBC may submit an offer on a HUBZone contract for supplies as a nonmanufacturer if it meets the requirements of the non-manufacturer rule set forth at §121.406(b)(1) of this chapter, and if the small manufacturer providing the end item for the contract is also a qualified HUBZone SBC.

(1) There are no waivers to the non-manufacturer rule for HUBZone contracts.

(i) SBA will not issue contract-specific waivers as it does for small business set-aside and 8(a) contracts under §121.406(b)(3)(i) of this chapter.

(ii) Class waivers issued under §121.406(b)(3)(ii) of this chapter do not apply to HUBZone contracts.

(2) 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, so long as the product acquired is manufactured or produced in the United States.

[69 FR 29424, May 24, 2004, as amended at 74 FR 46887, Sept. 14, 2009]

§ 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