

**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 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 con-

tinues 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 contract for supplies if it meets the requirements under the non-manufacturer rule as defined in §121.406(b) of this title and if the small manufacturer is also a qualified HUBZone SBC.

**§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 contracts 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 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.