



SBA Information Notice

TO: Existing and Potential HUBZone Firms

CONTROL NO.: 6000-849335

SUBJECT: HUBZone Resident Employee Work Requirement and “Attempt to Maintain” Requirement

EFFECTIVE: 08/23/2023

The purpose of the HUBZone program is to provide legitimate and meaningful employment opportunities and work experience to individuals who reside in some of the nation’s most economically distressed communities, to help them gain valuable skills and upward mobility. HUBZone-certified small businesses gain access to billions of dollars’ worth of federal contracts, which are intended to be used to provide jobs and incomes to HUBZone residents and lift the economic prospects of the community. Specifically, the HUBZone regulations state: “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.” 13 C.F.R. § 126.100.

SBA has and will continue to use its authority to decline or decertify firms from the HUBZone Program if they appear to be placing individuals on their payroll without providing them legitimate work.

Placing HUBZone residents on the payroll is not the equivalent of putting them to work. The HUBZone regulations provide, in pertinent part, that “[e]mployee means all individuals employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours during the four-week period immediately prior to the relevant date of review . . .” *Id.* § 126.103 (emphasis added). Thus, as defined by the HUBZone regulations, and in accordance with the intent of the program to increase employment opportunities, an employee is someone who works.

Consequently, HUBZone firms and applicants to the HUBZone program must be prepared to submit job descriptions for any HUBZone residents who appear on the payroll for less than 30 hours per week, in accordance with SBA Policy Notice 6000-828706.

In addition, analysts reviewing applications or conducting program examinations may request information demonstrating that each part-time individual is performing the work outlined in their job description, including but not limited to the following: resumes; detailed timesheets; progress

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EXPIRES: 8-1-24.

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

reports submitted by the employee describing work performed during scheduled hours; evidence of employee attendance at meetings or training events; evidence of regular communication with management (such as emails, meeting notes, etc.); evidence of tangible work product produced by each individual during the time of review; a written explanation as to why any of these items cannot be provided for any of the individuals.

HUBZone firms that hire HUBZone employees through a third-party employment agency must be prepared to submit evidence to SBA that the company providing the HUBZone employees is a legitimate leasing company that is primarily engaged in the business of leasing employees to other businesses, as described in the Frequently Asked Questions published on the HUBZone webpage at <https://www.sba.gov/brand/assets/sba/resource-partners/hubzone-program-improvements-faq-508.pdf>.

A HUBZone-certified firm is responsible for ensuring that it is meeting the requirements of the HUBZone Program, regardless of the source of the employee.

Attempting to Maintain 35% HUBZone Residency Requirement While Performing on a HUBZone Contract

The HUBZone statute stipulates that a firm must “attempt to maintain” 35 percent HUBZone residency during the performance of a HUBZone contract. The HUBZone regulations define “attempt to maintain” to mean “making substantive and documented efforts” to employ at least 35% HUBZone residents and specify that falling below 20% means a firm has failed, regardless of any such efforts. Thus, the 20% threshold is a floor that triggers a finding that a firm has failed to attempt to maintain 35%; it is in addition to and not a substitute for documented efforts to recruit and hire at least 35% HUBZone residents. Therefore, being above 20% alone does not demonstrate that a firm is attempting to maintain 35% HUBZone residency.

In accordance with this requirement, firms that are performing on a HUBZone contract at the time of their HUBZone certification anniversary date must be prepared to submit evidence that the firm was making substantive and documented efforts to maintain 35 percent HUBZone residency such as written offers of employment to HUBZone residents, published advertisements seeking HUBZone resident employees and attendance at job fairs located in or in close proximity to HUBZones and that they have not dropped below 20% HUBZone residency while performing on the contract. Firms that drop below 20% at any time while performing on a HUBZone contract must notify SBA and voluntarily decertify from the program or they will be proposed for decertification.

SBA is committed to ensuring strong, fair, and effective government certification programs, and faithfully executing the standards and laws established by Congress to guide the HUBZone Program. Ensuring that all business participants comply with the HUBZone Program requirements and standards helps to strengthen the program for everyone.

If you have any questions, please contact the HUBZone Help Desk at HUBZone@sba.gov.

Lori Gillen

Director, Office of the HUBZone Program