



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

March 27 , 2014

[REDACTED]  
Reston, VA 20191

Fax: [REDACTED]  
[REDACTED]

RE: HUBZone Protest for Solicitation No. [REDACTED]

Dear Mr. [REDACTED]

This letter is to notify you that based on the information provided to me in a protest filed by [REDACTED] (" [REDACTED] ") and your response to that protest on behalf of [REDACTED] (" [REDACTED] "). I am denying the protest. I have determined that [REDACTED] met the HUBZone principal office requirement on the date it submitted its offer and at the time of award. This determination will be effective immediately and is final unless overturned on appeal. The following sets forth the bases for my decision.

1. Protest Allegations and Request for Information

In its protest<sup>1</sup>, [REDACTED] argued that [REDACTED] operates from two physical locations, [REDACTED] (the "Portola Road" location) and [REDACTED] (the "Ventura Road" location). [REDACTED] also asserted that [REDACTED] has continuously operated from its office located at the Portola Road address (6,845 square feet) and not the Ventura Road location (1,421 square feet). Finally, [REDACTED] noted that an associate of its firm visited the Ventura Road location and found that the location appeared to be unoccupied; windows were papered over and the space had a sign stating that the company is open by appointment only. As a result, [REDACTED] challenged [REDACTED]'s ability to meet the HUBZone principal office requirement. Because [REDACTED] provided specific allegations that [REDACTED] may not meet the HUBZone principal office requirement, I found this protest allegation to be specific.

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<sup>1</sup> Prior to issuing its March 10, 2014 notification letter, SBA confirmed that the Contracting Officer received [REDACTED]'s protest on March 3, 2014. As unsuccessful offerors were notified of the apparent successful offeror on February 24, 2014, [REDACTED]'s submitted a timely protest because it submitted its protest within five business days of notification of the apparent successful offeror.

I therefore requested, via letter dated March 10, 2014, that [REDACTED] provide evidence, including supporting documents, showing that it met the HUBZone principal office at the time it submitted its offer (January 14, 2014) and at the time of award (February 24, 2014).

In response to this request, on March 14, 2014, [REDACTED] provided the following: a declaration from [REDACTED], President of [REDACTED] company payroll records for [REDACTED] showing all employees and the numbers of hours worked at the time of its offer and at the time of award; a copy of its employees' list and each employees' office location; a statement explaining that all of the officers of [REDACTED] are shown as employees on the payroll; a statement explaining that no independent contractors performed work for [REDACTED] at the time of offer and/or time of award; a statement explaining that all individuals that work for [REDACTED] are shown as employees on the payroll; a copy of [REDACTED]'s California unemployment tax filing for the quarter covering the dates of offer and award; copies of [REDACTED]'s lease and a letter from the landlord for the Ventura Road location; a copy of a mortgage statement for the Portola Road location; copies of electricity bill for the Ventura Road and Portola Road locations; a copy of [REDACTED]'s most recent Federal corporate income tax return; a copy of the offer submitted in response to the solicitation at issue; and an explanation and documents addressing the specific allegations set forth in the protest.

According to [REDACTED]'s written response, the Ventura Road location "has a total of 2,584 square feet and has a total of eight individual offices plus additional work areas." [REDACTED]'s written response further maintains that "the Portola Road address contains warehouse space and facilities for product configurations and other activities related to equipment changes, integration and other value-add activities in connection with the equipment that [REDACTED] sells to its customers and stated that this space is larger than the Venture Road location simply because warehouse facilities typically require more space than would an office only environment". [REDACTED] also explained that the signage at the Ventura Road location stating that access is by appointment only is in place because that office is a "physically secured facility that is locked and accessible only by employees and approved visitors, and to prevent unwanted solicitors who have frequently attempted to unlawfully enter the building and [] offices."

In addition, SBA conducted a site visit of both the Portola Road and Ventura Road locations. SBA representatives visited the Portola Road location on March 19, 2014 and found that 9 employees were at work and 1 employee was not in the office. The SBA representatives also visited the Ventura Road location on March 19, 2014 and found that 11 employees were at work with various contracting projects on hand and 1 employee was reported out sick. SBA also observed the workstation of the sick employee.



### 3. Appeal Rights

██████ the protester, or the contracting officer may appeal this decision pursuant to 13 C.F.R. § 126.805. All appeals must be made to the Associate Administrator for Government Contracting and Business Development (AA/GC&BD) within five business days from receipt of this letter. The appeal may be sent by facsimile, express delivery service, or U.S. mail (postmarked within the applicable time period), or via hand delivery. The AA/GC&BD may be reached at the U.S. Small Business Administration, 409 3rd Street, SW, Suite 8000, Washington, DC 20416, by facsimile at (202) 205-5206, or by e-mail at hzappeals@sba.gov. SBA will dismiss any appeal received after the five-day period. Pursuant to 13 C.F.R. § 126.805(d), the party bringing the appeal must provide a notice of the appeal to the contracting activity contracting officer and the protested concern. I have attached a copy of the appeal procedures.

### 4. Release of Decision

SBA intends to make its HUBZone status protest and appeal decisions available to the public by posting them on its website at [www.sba.gov/hubzone](http://www.sba.gov/hubzone). As we noted in our initial letter, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, requires the government to disclose records in its possession unless the information falls under one of the nine-enumerated exemptions, including that the information is a trade secret or is privileged or confidential commercial or financial information, 5 U.S.C. § 552(b)(4), or that the disclosure of the information would constitute an unwarranted invasion of individual privacy, 5 U.S.C. § 552(b)(6). We also explained in our initial letter that we will release in the protest decision the total number of employees of the protested concern, as well as the number of employees that work at a business' different offices.

SBA has reviewed this decision letter and does not believe any redactions to this document are necessary and therefore may release the decision to the public and post it online. The decision does not release or otherwise disclose the names, home addresses, or specific work schedules of individual employees. However, each party to the protest shall refrain from releasing the documents until the end of the fifth business day following receipt of the documents by all parties. This permits parties to identify anything that they believe should have been redacted.

### 5. Small Business Regulatory Enforcement Fairness Act

If you believe your small business has been the subject of excessive or unfair regulatory enforcement or compliance actions as a result of this decision, you have the right under the Small Business Regulatory Enforcement Fairness Act to file a complaint or comment with SBA's National Ombudsman at:

Office of the National Ombudsman  
U.S. Small Business Administration  
409 Third St. SW Washington, DC 20416  
PH: 1-888-734-3247  
FX: 1-202-481-5719  
EM: ombudsman@sba.gov

The right to file a complaint or comment with SBA's National Ombudsman is independent of any other rights you may have to contest this decision. The National Ombudsman may not change, stop, or delay a Federal agency's enforcement action or impede any administrative or criminal process.

Thank you for your cooperation with this matter. If you have any questions, please contact me at [hzprotests@sba.gov](mailto:hzprotests@sba.gov).

Sincerely,

Mariana Pardo  
Director  
HUBZone Program

cc:

[REDACTED]  
Contracting Officer

Fax: [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
Fax: [REDACTED]  
[REDACTED]