



General Questions

1. Why did the U.S. Small Business Administration (SBA) propose new rule changes to the HUBZone program?

The SBA recently proposed new regulations to make it easier for small businesses to utilize the Historically Underutilized Business Zone (HUBZone) Program. Changes to the HUBZone program will make it more attractive to small businesses to invest in HUBZone's and hire HUBZone residents, providing greater impact to communities, and making it easier for federal agencies to meet their goals to award 3% of contracts to certified HUBZone small businesses.

2. When do the rule changes take effect?

The final rule published November 26, 2019 (84 FR 65222) is effective December 26, 2019.

3. How does the SBA plan to measure the impact of the changes contained in the new rule?

In FY20 SBA will initiate an economic impact study of the HUBZone program.

Governor's Designated Covered Areas Initiative

4. What is the Governors Designated Covered Areas Initiative?

The initiative represents a new opportunity to expand the HUBZone Program into distressed rural communities by allowing Governors to petition SBA once a year to designate rural areas, with populations under 50,000 and unemployment levels of 120% the US or state average, as HUBZones.

5. What is considered a covered area?

The term "covered area" means an area in a State that is located outside of an urbanized area, as determined by the Bureau of the Census; with a population of not more than 50,000; and for which the average unemployment rate is at least 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census. The total number of covered areas included



in each petition may not exceed 10 percent of the total number of the covered areas in the State.

6. Please confirm the process to which SBA plans to implement the Governors petition policy?

Beginning January 1, 2020, Governor's may submit petitions to SBA via email at HZGovernors@sba.gov. While there is no format for the petitions, the petitions should include a list of the requested covered areas and address the criteria listed in the statute and regulation. SBA will review the petitions to confirm the covered areas are compliant with the statute. SBA will issue a written response to the requesting governor's office informing of our decision. SBA will provide updates on newly covered areas and will update the maps to reflect the new eligible areas.

Annual Recertification

7. It appears that companies are only required to maintain compliance once a year, at the time of certification and recertification. How will SBA prevent bad actors who may use this streamlined process to move in and out of HUBZones between their annual recertification dates?

The new rules will make it easier for firms to maintain compliance with the program requirements. SBA expects this will encourage more firms to invest the time and effort in getting into and staying in the program, which in turn will result in increased investment in distressed communities. The revised definition of "principal office" provides: "In order for a location to be considered the principal office, the concern must conduct business at this location." Thus, a firm must demonstrate that its alleged principal office is a legitimate place of business – for example, by providing utility bills showing that the firm pays for utilities at that location. When SBA has information that a firm has provided false information to SBA in order to obtain or maintain certification, the HUBZone program office refers the matter to the Office of Inspector General (OIG) for investigation.

8. For current HUBZone firms, will the annual recertification date be the anniversary of their original HUBZone certification?

Yes.



Zone Designation and Maps

9. How does Freezing the HUBZone maps help my small business?

Freezing the current HUBZone designations/maps until the results of the 2020 Census are available provides the program and participating small businesses with an opportunity to transition to a new requirement to update the maps/designations on five-year intervals, starting with the 2020 Census. Five-year re-designation provide small businesses with the ability to plan and invest in their HUBZone communities without fear that their designation may change from one year to the next.

SBA regulations provide an additional three-years of designation for expiring HUBZones, known as “Redesignated HUBZones” to help companies prepare for the transition to a new HUBZone.

10. Will areas impacted by Natural Disasters or new BRAC Closures be incorporated into the HUBZone map if this action happens prior to 2021?

Qualified disaster areas and qualified base closure areas are not impacted by the map freeze and will continue to be added as appropriate.

11. While the maps are frozen no new Metro /Non-Metro Counties will be added, correct?

While the maps are frozen, no new qualified non-metropolitan counties, qualified census tracts, or redesignated areas will be added or removed from the maps. However, SBA will add locations approved through the new Governor’s Designated Covered Areas initiative (see next entry.)

Principal Office Definition

12. How will the 10-year principal office rule apply retroactively?

If a firm owns a building in a HUBZone at the time of its recertification, and that location meets the definition of principal office, the firm will be deemed to meet the principal office requirement for a period of 10 years, starting from the date of recertification, as long as the firm continues to own the building and as long as that location remains the firm’s principal office, even if the area loses its HUBZone designation.



If a firm enters into a long-term lease for a location in a HUBZone prior to the time of its recertification, and that location meets the definition of principal office, the firm will be deemed to meet the principal office requirement for a period of up to 10 years (or the remaining life of the lease, whichever is less), starting from the date of its recertification, as long as the firm continues to have a long-term lease for the location and as long as that location remains the firm's principal office, even if the area loses its HUBZone designation. This does not apply to leases of office space that are shared with one or more other concerns or individuals.

Neither provision applies to Redesignated HUBZones.

HUBZone Employee Residency Requirements

13. What type of information will SBA require to confirm that the employee resided 180 days prior and post recertification?

For each HUBZone resident employee, SBA may require the submission of a driver's license or voter registration card showing an issuance date at least 180 days prior to the date of application. Where an employee's driver's license was issued less than 180 days prior to the date of application, SBA may require any of the following information, if available: a copy of an expired driver's license showing a HUBZone address; copies of utility bills showing a HUBZone address covering the previous 180 days; a written statement signed under penalty of perjury attesting to an individual's HUBZone residency for the previous 180 days and explaining why primary documentation is not available.

14. How will the new HUBZone employee rule apply retroactively?

This new regulation applies to currently certified firms, with employees who resided in HUBZones for 180 days before and after the date of the firm's initial certification (or recertification) and never left the employment of the firm. Such firms will have to provide documentation to SBA demonstrating these requirements are met in order for this new rule to apply.



15. Please explain how the SBA will consider the residency of an employee who lived in a HUBZone at time of certification but who moved out prior to the effective date of the rule change (December 26, 2019) but has remained an employee of the firm. Can the certified HUBZone enterprise still count that employee as a HUBZone resident?

The new regulatory language of § 126.200(d)(3) specifies that an employee who resides in a HUBZone at the time of certification or recertification shall continue to count as a HUBZone resident employee as long as the individual continues to live in the HUBZone for at least 180 days after certification. There are three requirements in this provision. First, the individual must live in a HUBZone at the time he or she is counted as a HUBZone resident in order to qualify a firm as a certified HUBZone small business concern. Second, the individual must continue to live in a HUBZone for at least 180 days after the certification. Third, the individual must continuously work for the certified HUBZone small business concern. In the case questioned in the comment, the individual lived in a HUBZone at the time he or she was counted as a HUBZone resident to qualify a firm as a certified HUBZone small business concern. That individual has continued to work for the certified HUBZone small business concern since its certification. Thus, as long as the individual continued to live in a HUBZone for at least 180 days after the certification date, that individual would count today as a HUBZone employee.

16. What will prevent companies from submitting proof of residency for an employee to confirm they resided 180 days following their certification even though the individual may have relocated?

Where an individual relocates to a non-HUBZone location less than 180 days after certification, the individual would not be considered a HUBZone resident at the time of recertification. If a firm claimed the individual lived in a HUBZone for 180 days after certification despite its knowledge that the individual had relocated, this would constitute a false statement and the HUBZone program office could refer the matter to OIG.

17. If a HUBZone employee moves out of the HUBZone when is the company required to notify SBA of this change?

Starting 12/26/2019, the HUBZone regulations no longer make reference to “material changes” and no longer contain a requirement to notify SBA if fewer than 35% of employees reside in HUBZones (aside from the requirement that a firm performing a HUBZone contract notify SBA if it falls below 20%). There is no requirement to notify SBA if an employee moves out of a HUBZone.



At the time of recertification, a firm will be required to inform SBA if 35% of its employees continue to count as HUBZone employees. This may include employees who resided in a HUBZone at the time of certification but moved out of a HUBZone beyond 6 months after certification. If the firm wants to count such an employee as a HUBZone resident for the duration the individual's employment, then at the time of recertification, the firm will be required to identify any such employee and provide supporting documentation demonstrating that the individual resided in a HUBZone for 180 days before and after certification and that the individual has been an employee of the firm for the entire period of time since the firm's certification.

18. What type of information will the SBA require to prove that the employee was consistently employed and being compensated for their employment with a company?

To demonstrate consistent employment, SBA may require payroll records covering the period in question. If a temporary employee was not consistently employed by a HUBZone firm during the period in question, the employee would not be considered a HUBZone resident for purposes of the 35% requirement.

19. How is the term legitimate defined with respect to the rule change indicating an individual may be counted as an employee so long as the work performed was considered *legitimate*.

Legitimate employment means performing actual work for the company. Simply appearing on payroll would not be sufficient to meet this requirement.

20. If a company supplied a voter registration card rather than documentation confirming the individual residing within a HUBZone for at least 180 days will that be considered acceptable?

For new applications, SBA will review the issuance date of driver's licenses and voter registration cards to determine whether these documents were issued 180 or more days prior to the date of application. If they were issued less than 180 days prior to application, SBA may require supplemental documentation demonstrating the individual lives in a HUBZone for at least 180 days.



21. Are employees permitted to move from one HUBZone to another and be considered a HUBZone employee?

An employee is not required to live in the same HUBZone for the 180-day period. An employee may move between HUBZones and still be considered a HUBZone resident, as long as the employee lived in a HUBZone continuously for the entire 180-day period.

22. Can a firm pay employees to live in a HUBZone?

A firm cannot simply pay an individual to live in a HUBZone and have the person count as an employee. The individual must be performing legitimate work for the firm. We addressed this in the final rule where we discuss how to treat third-party businesses that specialize in providing HUBZone employees:

SBA requested comments on how SBA should treat individuals who are employed through an agreement with a third-party business that specializes in providing HUBZone resident employees to prospective HUBZone small business concerns for the specific purpose of achieving and maintaining HUBZone eligibility. Under such an arrangement, one individual could work 10 hours per month for four separate businesses and be counted as a HUBZone resident employee for each of those businesses. SBA requested public input on whether such an arrangement is consistent with the purposes of the HUBZone program and how such arrangements could be structured in order to be consistent with the goals of the program. SBA received two comments in favor of allowing firms to count individuals employed through third-party businesses as employees and one comment opposed. One commenter noted that these arrangements help HUBZone firms connect with potential employees who may not otherwise be familiar with the program or its benefits. By connecting HUBZone firms with eligible employees, third-party businesses serve the program goal of increasing employment opportunities for individuals in HUBZones. Another commenter noted that an applicant seeking HUBZone status (or one already in the program) may not need a full-time employee, and that concern should not be burdened with employing someone beyond its needs. Thus, arrangements allowing one individual to be counted as a HUBZone employee for more than one concern provides flexibility to firms to meet their needs and provides the opportunity for an individual to be fully employed where they otherwise might not be. SBA has considered all the comments received and is not changing the current policy allowing these arrangements where the arrangement appears legitimate and the HUBZone applicant (or participant) shows that the individuals being hired through the third-party business are doing legitimate work.

If, alternatively, a firm paid an employee an additional amount beyond the individual's normal salary/wages to live in a HUBZone, this would not necessarily be a problem.



23. Will firms be able to count former HUBZone employees as ongoing HUBZone employees if there's a temporary break in employment (e.g., maternity leave or extended illness)?

The new rule allowing a former HUBZone employee to be counted as a HUBZone employee for the duration of their employment, if he/she resided in a HUBZone for 180 days before and after certification, requires that the employee continue to be employed by the firm without a break in service. There are circumstances in which an employee may be in an unpaid status with the firm due to maternity leave or extended illness of the employee. In these circumstances, SBA will continue to count the employee as a HUBZone employee if the firm can demonstrate that the following conditions apply:

- The individual must have been an employee of the firm for at least 12 months prior to the break in service.
- The individual's time in unpaid status cannot exceed 12 weeks within a 12-month period
- The cumulative leave in any 12-month period cannot exceed 12 weeks
- In addition to the above, the firm must provide evidence that the employee was still considered an employee and demonstrate when the unpaid leave began and ended and when the employee returned to full paid status.

Contracts/Attempting to Maintain Compliance

24. Will a HUBZone certified firm be eligible to compete on HUBZone set-asides while claiming an attempt to maintain 20% HUBZone employees?

A firm will be eligible to compete for HUBZone set-aside awards while "attempting to maintain" compliance with the 35% requirement, so long as at least 20% of its employees reside in a HUBZone. If the firm falls below 20% while performing a HUBZone contract, the firm is required to notify SBA of this failure to attempt to maintain compliance.



25. Can you please define what is considered “timely” with respect to language requiring a certified HUBZone small business concern to timely notify SBA if the concern acquires, is acquired by, or merges with another business entity or fails to attempt to maintain the minimum employee HUBZone residency requirement (see § 126.103)

In general, notification within 30 days from these events will be considered timely notification.

26. If a company submitted a bid for a HUBZone Set Aside Contract prior to the rule change but the contract is awarded after the rule change, will the new rule apply?

The new rules apply to all solicitations issued after the effective date of the final rule (December 26, 2019).

27. Can you please explain when an agency must confirm the company’s HUBZone eligibility in SAM/DSBS when awarding a task order that is set-aside for a HUBZone small business on a non-HUBZone Multiple Award Contract?

A contracting officer will need to confirm a company’s HUBZone eligibility in SAM/DSBS prior to awarding a task order that is set-aside for HUBZone small business concerns, where the MAC itself was not a HUBZone contract, except for task orders under FSS contracts. Under the new rule, 13 C.F.R. 126.619(a)(2) provides: “Except for orders under Federal Supply Schedule contracts, where the underlying Multiple Award Contract is not a HUBZone contract and a procuring agency is setting aside an order for the HUBZone program, a concern must be a certified HUBZone small business concern and appear in DSBS (or successor system) as a certified HUBZone small business concern at the time it submits its offer for the order.” If the firm is not a HUBZone small business concern at the time of its offer for the order, the contracting officer will not be able to award the task order to the firm.

28. Is an agency required to confirm a company’s HUBZone eligibility prior to awarding a task order or contract that is not set-aside for a HUBZone small business but to which the agency plans to count towards the HUBZone Goal?

If the task order is not being set aside for HUBZone small businesses, the recertification requirement in 13 C.F.R. 126.619(a)(2) would not apply.



29. Given that agency's may count awards made to HUBZone certified companies via non-HUBZone contract towards its 3% goals, is it possible that an agency could count an ineligible firm ?

This is addressed in 13 C.F.R. 126.619(a)(5), which provides: “Where a concern is decertified after the award of a HUBZone contract, the procuring agency may exercise options and still count the award as an award to a HUBZone small business concern, except where recertification is required or requested under this section, or where the concern has been found to be ineligible for award pursuant to a HUBZone status protest pursuant to §126.803.” (emphasis added)

Tribally Owned Concerns

30. How will SBA enforce the provision for Tribally Owned Companies that at least 35% of the concerns' employees associated with the contract reside within a HUBZone?

If SBA had information indicating that a Tribally-owned concern, which made the certification above, was not meeting the 35% requirement during performance of a contract, the HUBZone office would refer the matter to OIG.

31. Are companies owned by Tribal governments required to employ a certain percentage of tribal members?

The new regulations do not change this policy and do not require Tribally-owned concerns to employ a certain percentage of tribal members.

32. Have there been any changes to the principal office for Tribally-owned entities?

The only change made by the new regulations was to substitute the word “adjacent” for the word “adjoining.”

HUBZone Certification

33. How Does a Business Get Certified?

A HUBZone firm must:

- Meet the SBA's size standard for its primary NAICS Code as determined by revenue and employees.
- Be at least 51% owned and controlled by persons who are U.S. Citizens.
- Locate its principal office within a designated HUBZone and be the location where the greatest number of the firm's employees perform their work.
- Be a small business with at least 35% of its employees residing in a HUBZone.

34. How do I Know If My Business is located in a HUBZone Designated Area?

HUBZones are located across the U.S. and its territories. These areas are largely based on unemployment and income data. To see if your area is a designated HUBZone visit:

<https://www.maps.certify.sba.gov/hubzone/maps>

35. How can I learn more about the program?

- Visit our website: <https://www.sba.gov/hubzone>
- Email our Help Desk: HUBZone@sba.gov
- Join our weekly call: The HUBZone Program offers eligibility assistance every Thursday from 2-3pm ET: 1-202-765-1264; access code 63068189#.
- Access application FAQs and document requirement checklists by organizational structure: <https://www.sba.gov/contracting/government-contracting-programs/hubzone-program/frequently-asked-questions#InitialApplicationGeneralQuestions>

36. What are the HUBZone Program statutory and regulatory references?

- Statutory Authority: Small Business Act, 15 U.S.C. 632(p), 657a
- HUBZone Program Regulations: 13 CFR Part 126
- Size Regulations: 13 CFR Part 121
- Recent rulemakings:
 - Governor-Designated Covered Areas
Direct Final Rule: 84 FR 62449 (Nov. 15, 2019)
Effective Jan. 1, 2020
 - HUBZone Program Improvements
Final Rule: 84 FR 65239 (Nov. 26, 2019)
Effective Dec. 26, 2019