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Small Business Administration HUBZone Program

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Summary

The Historically Underutilized Business (HUBZone) program provides certified small businesses located in areas with low income, high poverty, or high unemployment with contracting opportunities in the form of set-asides, sole-source awards, and price-evaluation preferences. Its primary objectives are job creation and increased capital investment in distressed communities. HUBZones are designated in several different ways, and are revised based on updated economic indicators. The six types of HUBZones include (1) Qualified Census Tracts (QCTs); (2) Qualified Nonmetropolitan Counties; (3) Qualified Indian Lands; (4) Base Realignment and Closure (BRAC) Areas (now obsolete); (5) Governor-Designated Areas; and (6) Qualified Disaster Areas.

The program has some similarities to other place-based economic development initiatives, such as Opportunity Zones and state-level enterprise zone programs, which seek to target certain incentives and benefits to businesses in specific geographic areas in order to spur investment and employment in those areas. It is the only federal contracting preference program that directs contracting opportunities to small businesses based on their location. Other contracting programs tie eligibility to business size and the socioeconomic characteristics of a firm's owners.

Apart from maintaining a principal office in a designated HUBZone, HUBZone firms must also meet the Small Business Administration's (SBA's) definition of "small business"; be majority-owned and controlled by U.S. citizens, or by a community development corporation, agricultural cooperative, or Indian tribe; and meet a HUBZone employee residency requirement, so that at least 35% of its employees reside in a HUBZone.

This report discusses the HUBZone program's structure and operation, focusing on the definition of HUBZone areas, HUBZone firms, and the program's performance relative to the statutory goal for contracts with HUBZone firms (3% of federal contract award dollars, annually). It includes information on the SBA's administration of the program and the map of HUBZone areas, which must be updated every five years. It also discusses program issues that may be of interest to congress, including contracting goal attainment, HUBZone area designation policies, and program performance assessment.

The 3% goal for HUBZone small businesses has not yet been achieved, although HUBZone firm awards have increased each fiscal year since 2018, and some individual agencies have exceeded the goal in certain fiscal years. A 2021 evaluation of the program's impact commissioned by the SBA estimated select economic impacts on HUBZone communities, which may be compared to future program studies or evaluations.

Congress may be interested in policies that promote program utilization as well as those that expand the pool of areas or pool of firms with HUBZone status. Legislative options include changes to HUBZone designations as well as to requirements for firms participating in the program.

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Introduction to the HUBZone Program

The Small Business Administration (SBA) administers several programs to support small businesses and promote economic competition, including the Historically Underutilized Business Zone (HUBZone) program. The program is a place-based contracting assistance program, authorized in 1997 by the HUBZone Act of 1997 (Title VI of the Small Business Reauthorization Act of 1997; P.L. 105-135).[1] Congress has established in statute an annual HUBZone procurement goal of 3% of prime contracts and 3% of subcontracts, as measured in dollars.[2]

The HUBZone program provides participating small businesses located in areas with low income, high poverty, or high levels of unemployment with preferential contracting opportunities. The HUBZone program is the only federal contracting program that assists firms based on their geographic location rather than their characteristics or those of their owners (e.g., contracting programs for small businesses, disabled-veteran owned small businesses). For HUBZones, these take the form of *set-asides*, *sole-source awards*, and *price-evaluation preferences*.[3]

While a *set-aside* restricts competition for a contract to specified contractors (HUBZone firms), a *sole-source award* is a contract awarded to a firm without competition. When a contract's anticipated total value, including any options, does not exceed $4.5 million (or $7 million for manufacturing contracts), the contracting officer may award a qualified HUBZone small business a sole-source contract without competition.[4] Set-asides may be exclusive, if an entire procurement is set-aside, or partial, if part of it is restricted to HUBZone firms. A *price evaluation preference* occurs when an agency contracting officer treats the price offered by a certified HUBZone small business as if it were lower than the price offered by non-small business offeror, even when it is not.[5] This may only be done when a contracting officer will award a contract in full and open competition (not through a set-aside).[6]

In FY2023, the federal government awarded over $16.6 billion to HUBZone businesses but did not reach the 3% statutory procurement goal; of that amount, $2.9 billion was awarded through a HUBZone set-aside, $3 billion through sole-source awards, and $624 million through a contract with a HUBZone price-evaluation preference.[7]

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[1] Program authorization is codified at 15 U.S.C. §657a. The SBA began accepting applications from interested small businesses on March 22, 1999. See U.S. Congress, Senate Committee on Small Business, *Small Business Reauthorization Act of 2000*, report to accompany S. 3121, 106th Cong., 2nd sess., September 27, 2000, S.Rept. 106-422 (Washington: GPO, 2000), p. 20.

[2] 15 U.S.C. §644(g)(1)(A).

[3] Although the Competition in Contracting Act of 1984 (CICA) generally requires "full and open competition" for government procurement contracts, certain statutory preferences are recognized as competitive procedures 41 U.S.C. §253(b)(1); and 41 U.S.C. §259(b). For more information on how contracting programs such as the HUBZone program impact federal procurement policies and practices, see CRS Report R45576, *An Overview of Small Business Contracting*, by R. Corinne Blackford.

[4] 15 U.S.C. §657a(c)(2)(A); and 48 C.F.R. §19.1306. The Federal Acquisition Regulatory Council adjusts each acquisition-related dollar threshold (including those for the HUBZone contracting program), on October 1, of each year that is evenly divisible by five. As a result, these thresholds may differ from those in statute. The next inflation adjustment will take place on October 1, 2025. See 41 U.S.C. §1908(c)(2).

[5] 13 C.F.R. §126.613(a)(1). The contracting officer may not grant the preference, however, if that price is more than 10% higher than the price offered by the "otherwise lowest, responsive, and responsible offeror."

[6] 13 C.F.R. §126.613(a)(1). The HUBZone price evaluation preference does not apply where the initial lowest responsive and responsible offeror is a small business concern (13 C.F.R. §126.613(a)(2)).

[7] GSA, "Final Data Report: FY2023 Federal Procurement Data System GSA Report," at https://www.gsa.gov/policy-regulations/policy/acquisition-policy/small-business-reports.

Targeting Assistance to Geographic Areas

The HUBZone program was authorized by P.L. 105-135.[8] Senator Christopher S. "Kit" Bond, the legislation's sponsor, described it as a "jobs bill and a welfare-to-work bill" designed to "create realistic opportunities for moving people off of welfare and into meaningful jobs" in "inner cities and rural counties that have low household incomes, high unemployment, and whose communities have suffered from a lack of investment."[9] The Senate Committee on Small Business's report accompanying the HUBZone program's authorizing legislation in 1997 presented arguments for adopting the HUBZone program such as job creation:

> Creating new jobs in economically distressed areas has been the greatest challenge for many of our nation's governors, mayors, and community leaders. The trend is for business to locate in areas where there are customers and a skilled workforce. Asking a business to locate in a distressed area often seems counter to its potential to be successful. But without businesses in these communities, we don't create jobs, and without sources of new jobs, we are unlikely to have a successful revitalization effort.
>
> The HUBZone program attempts to utilize a valuable government resource, a government contract, and make it available to small businesses who agree in return to locate in an economically distressed area and employ people from these areas…. Contracts to small businesses in HUBZones can translate into thousands of job opportunities for persons who are unemployed or underemployed.[10]

Some HUBZone critics argued that the program would compete with, and potentially diminish the effectiveness of, the SBA's 8(a) Business Development program.[11] The 8(a) program provides business development support and contracting preferences to small businesses owned and controlled by "socially and economically disadvantaged individuals."[12]

Others contended that the experiences with "enterprise zone" programs suggested that HUBZones would have, at best, a limited impact on the targeted area's economic prospects:

> the record of enterprise zones demonstrates that businesses that locate in an area because of tax breaks or other artificial inducements (such as HUBZone contract preferences), instead of genuine competitive advantages, generally prove not to be sustainable…. Thus, the incentives generally go to businesses that would have located in and hired from the

[8] The SBA officially established the HUBZone program on March 22, 1999, when it began to accept applications from businesses interested in participating in the program. The SBA certified its first HUBZone business on March 24, 1999, and issued the first HUBZone contract on April 8, 1999. See U.S. Congress, Senate Committee on Small Business, *Small Business Reauthorization Act of 2000*, report to accompany S. 3121, 106th Cong., 2nd sess., September 27, 2000, S.Rept. 106-422 (Washington: GPO, 2000), p. 20.

[9] U.S. Congress, Senate Committee on Small Business, *Small Business Reauthorization Act of 1997*, report to accompany S. 1139, 105th Cong., 1st sess., August 19, 1997, S.Rept. 105-62 (Washington: GPO, 1997), p. 25.

[10] U.S. Congress, Senate Committee on Small Business, *Small Business Reauthorization Act of 1997*, report to accompany S. 1139, 105th Cong., 1st sess., August 19, 1997, S.Rept. 105-62 (Washington: GPO, 1997), p. 26.

[11] U.S. Congress, Senate Committee on Small Business, *S. 1574, The HUBZone Act of 1996: Revitalizing Inner Cities and Rural America*, 104th Cong., 2nd sess., March 21, 1996, S.Hrg. 104-480 (Washington: GPO, 1996), p. 17; U.S. Congress, Senate Committee on Small Business, *S. 208, The HUBZone Act of 1997*, 105th Cong., 1st sess., February 27, 1997, S.Hrg. 105-64 (Washington: GPO, 1997), p. 15; and U.S. Congress, Senate Committee on Small Business, *S. 208, The HUBZone Act of 1997*, 105th Cong., 1st sess., April 10, 1997, S.Hrg. 105-103 (Washington: GPO, 1997), pp. 20, 23, 26, 27, 33, 35, 77, 147, 149, 153-157.

[12] 13 C.F.R. §124.101. For more information on the 8(a) program, see CRS In Focus IF12458, *The SBA's 8(a) Business Development Program*, by R. Corinne Blackford; CRS Report R44844, *SBA's 8(a) Business Development Program: Legislative and Program History*, by R. Corinne Blackford; and CRS Report R48190, *SBA's 8(a) Business Development Program: Structure and Current Issues*, by R. Corinne Blackford.

> target area anyway…. Therefore, we should be realistic about the impact the HUBZone legislation will have on business relocation decisions.[13]

Business Incentives for Economic Development in Distressed Areas[14]

HUBZones exist amid various place-based economic development initiatives,[15] such as Opportunity Zones and state-level enterprise zone programs,[16] which seek to target certain incentives and benefits to businesses in specific geographic areas, to spur investment and employment in those areas. Some research analyzing these types of efforts finds that there are common trade-offs to make in program design decisions. For example, a National Bureau of Economic Research working paper notes that if areas designated for program benefits are too small, "businesses that would have located in one location may be able to relocate only slightly (e.g., across the street) in order to take advantage of zone benefits." This may lead to "a cost to the taxpayers but with little (even local) benefit."[17] This paper also identifies potential trade-offs related to the criteria for zone designation. For example, "formulaic approaches" that designate an area's eligibility for a program if it meets certain data thresholds (related to poverty, income, unemployment, etc.) "risks designating areas as zones that, while technically eligible, are not necessarily those that a policymaker (or an outside observer) would consider distressed or that would benefit from subsidies."[18]

How HUBZones are defined and designated is discussed below (see "Definition of a HUBZone"). There are six possible types of HUBZones, two of which are based on formulaic eligibility criteria, with certain limits. While HUBZone designations are periodically revised to reflect economic data updates on a five-year cycle, as statutorily required, some HUBZone firms may retain their HUBZone status for up to 10 years, even if they are located in a zone that loses its designation as a result of an update. Per SBA regulations,

> A concern that has purchased a building or entered a long-term lease of at least 10 years for a property in a HUBZone (other than in a Redesignated Area or Qualified Disaster Area) will be deemed to have its principal office located in a HUBZone for up to 10 years from the date of the investment, as long as that building or property qualifies as the concern's principal office and continues to qualify as the concern's principal office, and as long as the firm maintains the long-term lease or continues to be the sole owner of the property.[19]

Definition of a HUBZone

There are six types of HUBZone areas, or ways for a HUBZone to be designated, one of which has become obsolete.[20] Most HUBZones are designated based on Census data that indicate levels

[13] U.S. Congress, Senate Committee on Small Business, *S. 208, The HUBZone Act of 1997*, S.Hrg. 105-64, p. 36.

[14] For an analysis of what may constitute economically distressed areas, see CRS Report R48059, *Identifying Areas of Economic Distress: Examples and Considerations*, by Joseph Dalaker, Julie M. Lawhorn, and Lisa S. Benson.

[15] For an overview of place-placed economic development policy, see CRS In Focus IF12409, *What Is Place-Based Economic Development?*, by Adam G. Levin.

[16] The 2017 tax revision (P.L. 115-97) temporarily authorized Opportunity Zone (OZ) tax incentives, which are intended to encourage private investment in economically distressed communities; see CRS Report R45152, *Tax Incentives for Opportunity Zones*, by Donald J. Marples, for more information. Enterprise zones are designated by states and typically involve business investment incentives from state and local governments.

[17] Matthew Freedman and David Neumark, *Lessons Learned and Ignored in U.S. Place-Based Policymaking*, National Bureau of Economic Research, Working Paper 33272, December 2024, p. 6, https://www.nber.org/papers/w33272.

[18] Freedman and Neumark, p. 7.

[19] 13 C.F.R. §126.200(c)(1).

[20] In accordance with P.L. 115-91, all HUBZone-qualified base closure (BRAC) areas designated on or before December 31, 2019, retained that status until the SBA prepared its updated HUBZone map (July 1, 2023). Since the update of the HUBZone map (effective July 1, 2023), this designation has become obsolete.

of high poverty, high unemployment, or low income (areas known as Qualified Census Tracts[21] and Qualified Nonmetropolitan Counties). The six possible HUBZone designations are as follows, each of which are discussed below:

1. "Qualified Census Tracts" (QCT);
2. "Qualified Nonmetropolitan Counties";
3. "Qualified Indian Lands";
4. "Base Realignment and Closure (BRAC) Areas" (now obsolete);
5. "Governor-Designated Areas";
6. "Qualified Disaster Areas."[22]

The locations of HUBZones are shown in SBA's online HUBZone map.[23] The map has most recently been updated to reflect 2020 Census data, and became effective as of July 1, 2023.[24] The map's qualified census tracts and nonmetropolitan counties will be updated again in July 2028, according to a five-year map update cycle that is required by the National Defense Authorization Act for Fiscal Year 2018.[25] Throughout any given year, the SBA makes governor-designated and disaster area updates.[26]

Qualified Census Tracts

P.L. 105-135, the HUBZone Act of 1997, provided HUBZone eligibility to Qualified Census Tracts. The term *Qualified Census Tract* (QCT) has the meaning given that term in Section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986. That section of the Internal Revenue code refers to QCTs as determined by the Department of Housing and Urban Development (HUD), for its low-income housing tax credit program. It has three subparts:

> (I) In general
>
> The term "qualified census tract" means any census tract which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent [...].
>
> (II) Limit on MSA's designated

[21] A census tract is a geographic area delineated by the Census Bureau, that is smaller than a county, does not cross county boundaries, and typically has a population of about 1,200 to 8,000 persons. For further information see https://www.census.gov/programs-surveys/geography/about/glossary.html#par_textimage_13.

[22] P.L. 105-135, the HUBZone Act of 1997 (Title VI of the Small Business Reauthorization Act of 1997) designated qualified census tracts, qualified counties (originally only in nonmetropolitan areas), and qualified Indian reservation/Indian Country (originally lands within the external boundaries of an Indian reservation) as eligible. P.L. 108-447, the Consolidated Appropriations Act, 2005, provided HUBZone eligibility for five years to bases closed under the Base Realignment and Closure Act (BRAC). P.L. 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, provided eligibility to difficult development areas outside of the continental United States (DDAs). P.L. 114-92, the National Defense Authorization Act for Fiscal Year 2016, provided eligibility to qualified disaster areas. P.L. 115-91, the National Defense Authorization Act for Fiscal Year 2018, included DDAs in the definition of qualified nonmetropolitan counties.

[23] The map is available at available at https://maps.certify.sba.gov/hubzone/map/help#navigate-updated-map.

[24] SBA, "HUBZone program," at https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program.

[25] P.L. 115-91.

[26] 13 C.F.R. §126.105.

> The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.
>
> (III) Determination of areas
>
> For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as 1 area.[27]

Limit on Qualified Census Tract Designations

In metropolitan statistical areas (MSAs) in which more than 20% of the population qualifies for QCT status, HUD orders the census tracts in that MSA from the highest percentage of eligible households to the lowest, and then designates the tracts with the highest percentage of eligible households as qualified until the 20% MSA population limit is exceeded.[28] There is thus a limit on the number of tracts that may be designated as a QCT.

P.L. 114-187, the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) exempts Puerto Rico from the 20% population cap for 10 years, or until the date on which the Financial Oversight and Management Board for Puerto Rico ceases to exist, whichever comes first.[29]

The SBA's most recent update of QCT eligibility was completed July 1, 2023. Those designations will be updated every five years thereafter, as required by P.L. 115-91.[30]

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[27] 26 U.S.C. §42(d)(5)(B)(ii)(I)-(III). Note that the abbreviation, MSA, refers to "metropolitan statistical area." For information on the definition of an MSA, see https://www.census.gov/programs-surveys/metro-micro/about.html.

[28] HUD, "Qualified Census Tracts and Difficult Development Areas," at http://www.huduser.org/portal/datasets/qct/qct99home.html. If a census tract is excluded because it would raise the percentage of the MSA population that qualifies above 20%, then subsequent census tracts are considered to determine if a census tract with a smaller population could be included without exceeding the 20% limit.

[29] The SBA administratively waived the 20% population cap on QCTs in MSAs in 2016. On October 23, 2017, the SBA announced in the *Federal Register* that unless significant adverse comment is received by November 22, 2017, it would apply PROMESA's statutory language (which effectively reinstates the 20% population cap on QCTs located in MSAs and exempts Puerto Rico from the cap for 10 years, or until the date on which the Financial Oversight and Management Board for Puerto Rico ceases to exist, whichever comes first) on December 22, 2017. The SBA indicated that the statutory language "is specific, limited, and requires no interpretation." See SBA, "HUBZone and Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) Amendments," 82 *Federal Register* 48903, October 23, 2017.

[30] Prior to 2010, data required for QCT eligibility purposes were only available from the decennial census long form. As a result, QCTs changed relatively infrequently, typically as new economic data from each decennial census became available or when the Census Bureau undertook a new delineation of census tracts. However, for the 2010 decennial census, the long form was replaced by the American Community Survey (ACS), an ongoing mailed survey of about 250,000 households per month that gathers largely the same income data as the long form. In 2012, HUD used that data to determine the eligibility status of census tracts for the low-income housing tax credit program. The SBA applied the changes in QCT status to the HUBZone program later that same year. HUD initially announced that it would update the eligibility status of census tracts based on the release of new ACS economic data every five years but later decided to update the eligibility status of census tracts annually. The increased frequency of QCT status reviews led to increased anxiety among some small business owners and their advocates about their HUBZone eligibility. P.L. 115-91 addressed this issue by allowing small businesses with QCT status on or before December 31, 2019, to retain that status from January 1, 2020, until the SBA prepared an updated online tool depicting HUBZone qualified areas, completed July 1, 2023, and by requiring the SBA to update QCT status every five years instead of annually. See U.S. Census Bureau, "Using 1-Year or 5-Year American Community Survey Data," at https://www.census.gov/programs-surveys/acs/guidance/estimates.html; SBA, "Small Business HUBZone Program; Government Contracting Programs," 76 *Federal Register* 43572, July 21, 2011; HUD, "Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2012," 76 *Federal Register* 66745, October 27, 2011; and HUD, "Statutorily Mandated (continued...)

Qualified Nonmetropolitan Counties

A qualified nonmetropolitan county is any county that is not located in a metropolitan statistical area as defined in Section 143(k)(2)(B) of the Internal Revenue Code of 1986[31] and in which:

- the median household income[32] is less than 80% of the state median household income, based on a five-year average of the available data from the Bureau of the Census of the Department of Commerce;
- the unemployment rate is not less than 140% of the average unemployment rate for the United States or for the state in which such county is located, whichever is less, based on a five-year average of the available data from the Secretary of Labor;[33] or
- the county has been designated by the Secretary of HUD as a difficult development area (DDA) within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous states.[34]

P.L. 115-91, the National Defense Authorization Act for Fiscal Year 2018, among other provisions, amended the HUBZone eligibility criteria for nonmetropolitan counties, effective January 1, 2020. The law changed the HUBZone eligibility formula for nonmetropolitan counties.[35]

P.L. 115-91 also froze both QCTs and qualified nonmetropolitan county HUBZone areas as of December 31, 2019 (one day prior to the formula change), until "the SBA prepares an updated online tool depicting HUBZone qualified areas based on the 2020 Census." The SBA therefore initially delayed implementation of nonmetropolitan county formula change. The SBA had anticipated that the updated online tool (the HUBZone map) would be ready by January 1, 2022, and had planned to implement the formula change at that time. However, when the SBA realized that the HUBZone map would not be updated until summer of 2023, the SBA decided to

Designation of Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986," 77 *Federal Register* 23735-23740, April 20, 2012.

[31] Section 143(k)(2)(B) of the Internal Revenue Code of 1986 indicates that "the term 'metropolitan statistical area' includes the area defined as such by the Secretary of Commerce."

[32] A *household* consists of all persons living together in the same housing unit. *Household income* is the sum of the incomes of all persons within the household. The *median* household income is the dollar amount that divides a group of households into two equal parts: one with incomes less than the median, the other with more." See U.S. Census Bureau, *American Community Survey and Puerto Rico Community Survey: 2023 Subject Definitions*, at https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2023_ACSSubjectDefinitions.pdf, pp. 85 (for household) and 94 (for median income).

[33] 13 C.F.R. §126.103.

[34] P.L. 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA), provided HUBZone eligibility to difficult development areas (DDAs) within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous states. These areas are designated annually, typically in September or October, by the Secretary of HUD in accordance with Section 42(d)(5)(B)(iii) of the Internal Revenue Code, which applies to HUD's low-income housing tax credit program. DDAs are defined as "areas designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income." For more information, see 74 *Federal Register* 51305, October 6, 2009.

[35] Specifically, the first portion of the nonmetropolitan county eligibility formula was changed from "less than 80% of the nonmetropolitan state median household income, based on the most recent data available from the Bureau of the Census of the Department of Commerce" to "less than 80% of the state median household income based on a five-year average of the available data from the Bureau of the Census of the Department of Commerce." At the time, this change was expected to add at least 1,000 additional HUBZone areas to the HUBZone map. U.S. Congress, House Committee on Conference, *National Defense Authorization Act of Fiscal Year 2018*, report to accompany H.R. 2810, 115th Cong., 1st sess., November 11, 2017, H.Rept. 115-404 (Washington: GPO, 2017), p. 1049.

implement the formula change on August 25, 2021, noting that this action "would be more in line with congressional intent."[36] The SBA added 452 new qualified nonmetropolitan counties at that time to the HUBZone map.

SBA's most recent update of nonmetropolitan county eligibility was completed July 1, 2023. Those designations will be updated every five years thereafter, as required by P.L. 115-91.[37]

Qualified Indian Lands

P.L. 105-135, the HUBZone Act of 1997, provided HUBZone eligibility to "lands within the external boundaries of an Indian reservation." Since then, the term *Indian reservation* has been clarified and expanded to include the following:

- Indian trust lands and other lands covered under the term *Indian Country,* as used by the Bureau of Indian Affairs;
- portions of the state of Oklahoma designated as former Indian reservations by the Internal Revenue Service (Oklahoma tribal statistical areas); and
- Alaska Native village statistical areas.[38]

In accordance with P.L. 115-91, all HUBZone-qualified Indian lands designated on or before December 31, 2019, retained that status until the SBA updated the HUBZone map (July 1, 2023). **Figure 1** and **Figure 2** show the locations of existing HUBZone-qualified Indian lands.

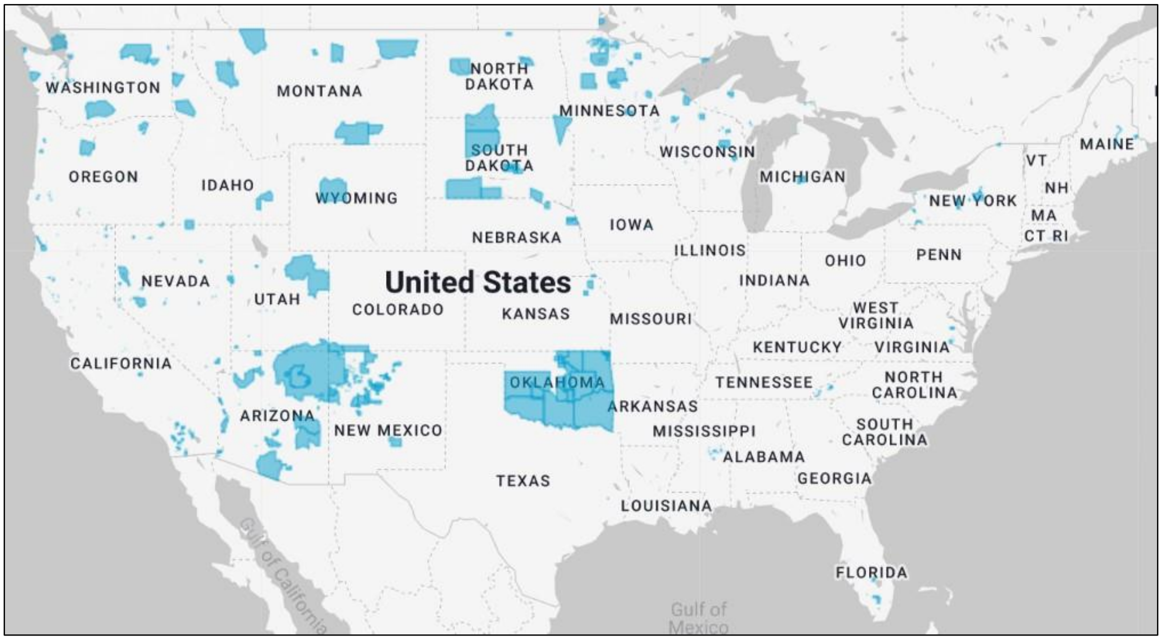
[36] SBA, Office of the HUBZone Program, "Designation of Additional Qualified Non-Metropolitan Counties," *SBA Information Notice: 6000-818116*, August 25, 2021.

[37] Prior to P.L. 115-91, nonmetropolitan county status was updated as many as three times a year, with determinations based on income typically taking place in January, determinations based on unemployment typically taking place in May, and determinations based on DDA status typically taking place in November.

[38] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. 160. This report was the result of P.L. 108-447, which directed the Office of Advocacy to study the HUBZone program, including measuring the effectiveness of definitions used for the program (SBA, Office of Advocacy, "The Small Business Economy: A Report to the President," 2009, p.130).

Figure 1. HUBZones on Indian Lands

Continental United States



Source: SBA, HUBZone map, accessed 1/27/2025, at https://maps.certify.sba.gov/hubzone/map/help.

Figure 2. HUBZones on Indian Lands

Alaska

Source: SBA, HUBZone map, accessed 1/27/2025, at https://maps.certify.sba.gov/hubzone/map/help.

Notes: Most of the state of Alaska is covered by HUBZones when QCTs and nonmetropolitan counties are taken into account.

Base Realignment and Closure (BRAC) Areas

P.L. 108-447, the Consolidated Appropriations Act, 2005, provided HUBZone eligibility for five years to "lands within the external boundaries of a military installation closed through a privatization process."[39] The military base's HUBZone eligibility commenced on the effective date of the initial law (December 8, 2004) if the military base was already closed at that time or on the date of formal closure if the military base was still operational at that time. Since the update of the HUBZone map (effective July 1, 2023), this designation has become obsolete.

During the 113th and 114th Congresses, several bills were introduced to make it easier for businesses located in a BRAC military base closure area to meet the HUBZone requirement of having at least 35% of their employees reside within a HUBZone.[40]

In accordance with P.L. 115-91, all HUBZone-qualified base closure areas designated on or before December 31, 2019, retained that status until the SBA prepared its updated HUBZone map (July 1, 2023).

Governor-Designated Areas

P.L. 115-91 authorizes governors, as of January 1, 2020, to petition the SBA annually to grant HUBZone eligibility to areas in their state (or territory) that are:

- located outside of an urbanized area;
- have a population of 50,000 or fewer;

[39] P.L. 101-510, the Defense Base Closure and Realignment Act of 1990 (BRAC—Title XXIX of the National Defense Authorization Act for Fiscal Year 1991); title II of P.L. 100-526, the Defense Authorization Amendments and Base Closure and Realignment Act; and any other provision of law authorizing military base closures or redevelopment. "Base closure area means lands within the external boundaries of a military installation that were closed through a privatization process under the authority of: (1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of P.L. 101-510; 10 U.S.C. 2687 note); (2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526; 10 U.S.C. 2687 note); (3) 10 U.S.C. 2687; or (4) Any other provision of law authorizing or directing the Secretary of Defense or the Secretary of a military department to dispose of real property at the military installation for purposes relating to base closures of redevelopment, while retaining the authority to enter into a leaseback of all or a portion of the property for military use." See 13 C.F.R. §126.103.

[40] During the 113th Congress, H.R. 489, the HUBZone Expansion Act of 2013, and its companion bill in the Senate (S. 206) would have expanded the area eligible for HUBZone status as a result of a BRAC military base closure to include a military installation's municipality, county, census tract, or contiguous census tract having a total population of no more than 50,000 as determined by the most recent decennial census. S. 2410, the Carl Levin National Defense Authorization Act for Fiscal Year 2015, included a provision that would have allowed businesses to count employees residing in the base closure area and (1) the census tract in which the base closure HUBZone is wholly contained, (2) any census tract that intersects the boundaries of the base closure HUBZone, and (3) any census tract contiguous with those census tracts to meet the 35% employee residence threshold. The bill also would have extended HUBZone eligibility for BRAC base closure areas from five years to eight years. During the 114th Congress, the HUBZone provisions included in S. 2410 were reintroduced as S. 1266, the HUBZone Expansion Act of 2015. S. 1292, the HUBZone Revitalization Act of 2015 (later included in the Senate-passed version of H.R. 1735), included the provisions in S. 1266 and would have provided qualified disaster areas HUBZone eligibility for five years if the President has declared the qualified area a major disaster and 10 years if a catastrophic incident had occurred in the qualified area. On May 15, 2015, the House passed H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016. It included a provision to expand the area that can be used by businesses located in a BRAC base closure area to meet the HUBZone program's 35% employee residence threshold to include lands within 25 miles of the external boundaries of the closed military installation, excluding any lands that are not within a qualified nonmetropolitan county. It would have also extended HUBZone eligibility for BRAC base closure areas from five years to at least eight years.

- and have an unemployment rate at least 120% of the unemployment rate for the nation or state in which it is located, whichever is less.[41]

However, total number of areas included in each governor's petition may not exceed 10% of the total number of the covered areas in that state.[42] Among the SBA's FY2025 Legislative Proposals was a recommendation to allow governors "to select all eligible areas that meet the definition rather than only 10% of eligible areas each year and align expiration of all Governor's Designated Covered Areas with five-year map update."[43]

These areas are added to the HUBZone map after SBA approves a Governor's petition and are removed on the effective date of the five-year HUBZone map update following petition approval, or one year after the petition is approved, whichever is later.[44]

Qualified Disaster Areas

P.L. 114-92 provided HUBZone eligibility for qualified disaster areas, defined as "any census tract or nonmetropolitan county for which the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act[45] or located in an area in which a catastrophic incident has occurred (on or after the date of enactment) if such census tract or nonmetropolitan county ceased to be qualified [as a HUBZone] ... during the period beginning five years before the date on which the President declared the major disaster or the catastrophic incident occurred and ending two years after such date."[46]

However, the following exceptions apply: (1) in the case of a major presidentially-declared disaster, such census tract or nonmetropolitan county may be designated a qualified disaster area only during the five-year period beginning on the date on which the President declared the major disaster for the area in which the census tract or nonmetropolitan county is located; and (2) in the case of a catastrophic incident, such census tract or nonmetropolitan county may be designated a qualified disaster area only during the 10-year period beginning on the date on which the

[41] P.L. 115-91, the National Defense Authorization Act for Fiscal Year 2018, authorizes governors, starting on January 1, 2020, to submit no more than one petition each calendar year to the SBA to provide HUBZone eligibility to designated covered areas that (1) are located outside of an urbanized area, as determined by the Bureau of the Census; (2) have a population of 50,000 or fewer; and (3) have an average unemployment rate of at least 120% of the average unemployment rate for the nation or the state (or territory) 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.

[42] P.L. 115-91. If the petition is approved, the governor must submit data to the SBA, at least once a year, certifying that each designated covered area continues to meet these requirements. In reviewing the petition, the SBA may consider the potential for job creation and investment in the covered area, the demonstrated interest by small businesses in the covered area to be included in the HUBZone program, how state and local government officials have incorporated the covered area into an economic development strategy, and, if the covered area was previously a HUBZone, the impact on the covered area if the SBA did not approve the petition. See SBA, "HUBZone Program Provisions for Governor-Designated Covered Areas," 84 *Federal Register* 62447-62449, November 15, 2019.

[43] SBA, *FY2025 Congressional Budget Justification*, p. 15, at https://www.sba.gov/document/report-congressional-budget-justification-annual-performance-report.

[44] 13 C.F.R. §126.105(e).

[45] For information on disaster declarations and authorities granted by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay. A major disaster declaration is made as a result of a disaster or catastrophic event and constitutes a broader authority that helps states and local communities, as well as families and individuals, recover from the damage caused by the event (42 U.S.C. §5122).

[46] P.L. 114-92, the National Defense Authorization Act for Fiscal Year 2016, Section 866. Modifications to Requirements for Qualified HUBZone Small Business Concerns Located in a Base Closure Area.

catastrophic incident occurred in the area in which the census tract or nonmetropolitan area is located.[47]

Qualified disaster areas are generally added to the HUBZone map on a monthly basis, based on data received by SBA from the Federal Emergency Management Agency (FEMA), and removed on the effective date of the five-year HUBZone map update that follows the declaration.[48]

Redesignated Areas

Congress created "redesignated areas" to delay the loss of HUBZone status for census tracts and nonmetropolitan counties that lose HUBZone eligibility. Because of concerns that some HUBZone areas could "shift in and out of eligibility year after year," Congress included a provision in P.L. 106-554, the HUBZones in Native America Act of 2000 (Title VI, the Consolidated Appropriations Act, 2001), to address this issue.[49] The provision provided census tracts and nonmetropolitan counties that lose HUBZone eligibility an automatic extension "for the 3-year period following the date on which the census tract or nonmetropolitan county ceased to be so qualified."[50] The act labeled these census tracts and nonmetropolitan counties as *redesignated areas*.

In accordance with P.L. 115-91, all redesignated areas on or before December 31, 2019, retained that status until the SBA prepared an updated HUBZone map (July 1, 2023). The act also required the SBA to update the map immediately after an area becomes, or ceases to be, a redesignated area.[51] Although the SBA will not update the HUBZone map again until 2028, HUBZones that became redesignated areas at the time of the 2023 map update will expire on July 1, 2026.

HUBZone Business Requirements

Only firms certified by the SBA may participate in the HUBZone program. **Table 1** indicates the number of HUBZone-certified small businesses listed in the SBA's Dynamic Small Business Search database for selected dates. The SBA's database contains information provided by small businesses interested in obtaining federal contracts.

To become certified and maintain certification through periodic recertification,[52] firms must:

- meet SBA size standards for the firm's primary industry;

[47] SBA, "HUBZone and National Defense Authorization Act for Fiscal Year 2016 Amendments," 81 *Federal Register* 51314, August 4, 2016.

[48] 13 C.F.R. §126.105(d).

[49] SBA, "Small Business Size Regulations; Government Contracting Programs; HUBZone Program," 67 *Federal Register* 3828, January 28, 2002.

[50] P.L. 106-554, the HUBZones in Native America Act of 2000 (Title VI, the Consolidated Appropriations Act, 2001).

[51] During the 114th Congress H.R. 5250, the Growing and Reviving Rural Economies Through Transitioning HUBZone Redesignation Act of 2016, and S. 2838, the Small Business Transforming America's Regions Act of 2016, would have extended the eligibility of redesignated HUBZones to seven years from three years. During the 115th Congress, H.R. 2013, the Growing and Reviving Rural Economies Through Transitioning HUBZone Redesignation Act of 2017, and S. 690, the HUBZone Investment Protection Act, would have extended the eligibility of redesignated HUBZones to seven years from three years; H.R. 2592, the Expanding the Impact of the HUBZone Program Act of 2017, would have extended HUBZone eligibility to not more than 10 years; and H.R. 3294, the HUBZone Unification and Business Stability Act of 2017, would have provided HUBZone eligibility for at least five years beginning on January 1, 2020.

[52] To maintain certification, a small business must recertify to SBA that it continues to meet all HUBZone eligibility criteria. 13 C.F.R. §126.500(a).

- be at least 51% owned and controlled by U.S. citizens, a community development corporation, an agricultural cooperative, or an Indian tribe (including Alaska Native Corporations and Native Hawaiian Organizations);
- maintain a principal office located in a HUBZone;[53]
- ensure that at least 35% of its employees reside in a HUBZone;[54]
- attest that it will "attempt to maintain" having at least 35% of its employees reside in a HUBZone during the performance of any HUBZone contract it receives;[55]
- attest that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone small business (such as spending at least 50% of the cost of the contract incurred for personnel on its own employees or employees of other qualified HUBZone small businesses, and meet specified subcontracting limitations to nonqualified HUBZone small businesses).[56]

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[53] Effective December 26, 2019, if a small business owns a building in a HUBZone at the time of its certification and that location meets the definition of principal office, the small business will be deemed to meet the principal office requirement for 10 years, starting from the date of recertification, as long as the firm continues to own the building and that location remains the small business's principal office, even if the area loses its HUBZone designation. See SBA, "Small Business HUBZone Program and Government Contracting Programs," 84 *Federal Register* 65228, 65242, November 26, 2019; 13 C.F.R. §126.200(c)(1).

[54] Effective May 3, 2010, "employee means all individuals employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours per month. This includes employees obtained from a temporary employee agency, leasing concern, or through a union agreement or co-employed pursuant to a professional employer organization agreement." See SBA, "HUBZone and Government Contracting," 74 *Federal Register* 56702, November 3, 2009. Prior to May 3, 2010, the definition of employee was based on full-time equivalency and only permanent positions were counted.

Effective December 26, 2019, to count as residing in a HUBZone, employees must live in a location full-time and for at least 180 days immediately prior to the date of application or date of recertification, as applicable. When determining the percentage of employees that reside in a HUBZone, if the percentage results in a fraction, SBA rounds to the nearest whole number (up or down). See SBA, "Small Business HUBZone Program and Government Contracting Programs," 84 *Federal Register* 65228, November 26, 2019. Also effective December 26, 2019, "An employee who resides in a HUBZone at the time of certification (or time of recertification where the individual is being treated as a HUBZone resident for the first time) shall continue to count as a HUBZone resident employee if the individual continues to live in the HUBZone for at least 180 days immediately after certification (or recertification) and remains an employee of the concern, even if the employee subsequently moves to a location that is not in a HUBZone or the area in which the employee's residence is located no longer qualifies as a HUBZone." See SBA, "Small Business HUBZone Program and Government Contracting Programs," 84 *Federal Register* 65242, November 26, 2019. Prior to December 26, 2019, employees who had moved out of a HUBZone were not counted toward meeting residency requirements.

[55] This provision is designed to assist HUBZone-certified firms maintain eligibility if they need to hire additional employees to perform a federal contract. "A certified HUBZone small business concern that has less than 20% of its total employees residing in a HUBZone during the performance of a HUBZone contract has failed to attempt to maintain the HUBZone residency requirement." Firms have an affirmative duty to notify the SBA if they fall below the 20% standard. See SBA, "Small Business HUBZone Program and Government Contracting Programs," 84 *Federal Register* 65240, November 26, 2019; and 13 C.F.R. §126.103. Prior to December 26, 2019, the SBA did not specify a minimum percentage of employees needed to maintain eligibility under the "attempt to maintain" provision.

[56] 13 C.F.R. §126.200.

Table 1. Number of HUBZone-Certified Small Businesses Listed in the SBA's Dynamic Small Business Search Database, Selected Dates, 2012-2024

Date	Number
July 5, 2012	6,602
July 24, 2014	5,808
July 6, 2016	5,476
July 10, 2018	6,335
July 7, 2020	7,461
July 29, 2022	6,407
October 15, 2024	4,678

Sources: SBA, "Dynamic Small Business Search Database," at https://dsbs.sba.gov/search/dsp_dsbs.cfm; accessed on the dates provided in the left-hand column.

Note: The System for Awards Management (SAM) also provides certified HUBZone firm records, available at SAM.gov by performing a search of "entities" and filtering by "socio-economic status" at https://sam.gov/search/. On October 15, 2024, an entity search for certified HUBZone firms showed 4,337 results.

The SBA processes approximately 700-900 HUBZone applications each year, and met the statutory requirement for 60-day processing for complete applications in FY2023.[57]

Certification procedures for firms are outlined in regulations, and include an electronic application to SBA's HUBZone Program Office via SBA's website.[58] A certified firm must "recertify to SBA that it continues to meet all HUBZone eligibility criteria" every three years.[59] In addition, SBA conducts periodic "program examinations" of HUBZone firms to verify their continuing eligibility for the program.[60]

HUBZone Federal Contracting Goals

Since 1978, federal agency heads have been required to establish federal procurement contracting goals, in consultation with the SBA, "that realistically reflect the potential of small business concerns and small businesses concerns owned and controlled by socially and economically disadvantaged individuals" to participate in federal procurement.[61]

Between the late 1980s and end of the 1990s, Congress established five government-wide contracting goals:

1. A goal for small businesses generally (P.L. 100-656);
2. A goal for small businesses owned and controlled by socially and economically disadvantaged individuals (P.L. 100-656);

[57] SBA, *FY 2025 Congressional Budget Justification*, p. 85, at https://www.sba.gov/document/report-congressional-budget-justification-annual-performance-report.

[58] 13 C.F.R. §126.303-126.304.

[59] 13 C.F.R. §126.500(a)(1).

[60] 13 C.F.R. §126.500(b). Regulations state that SBA conducts an examination of "of each certified HUBZone small business concern at least once every three years to ensure continued program eligibility, but may conduct more frequent program examinations using a risk-based analysis to select which concerns are examined." For background information on the development of program certification, see the **Appendix**.

[61] See 15 U.S.C. §644(g)(2) and P.L. 95-507, a bill to amend the Small Business Act and the Small Business Investment Act of 1958.

3. A goal for women-owned small businesses (P.L. 103-355);
4. A goal for small businesses located within a HUBZone (P.L. 105-135);[62] and
5. A goal for service-disabled veteran-owned small businesses (SDVOSBs) (P.L. 106-50).

The current goals are outlined in **Table 2**, below:

Table 2. Statutory Contracting Goals

Type of Firm	Goal	Measure of Contract Awards
Small Businesses	23%	Dollar value of prime contract awards
Small Disadvantaged Businesses (SDBs)	5%	Dollar value of prime and subcontract awards
Women-Owned Small Businesses (WOSBs)	5%	Dollar value of prime and subcontract awards
Service-Disabled Veteran-Owned Small Businesses (SDVOSBs)	5%	Dollar value of prime and subcontract awards
HUB (Historically Underutilized Business) Zone Small Businesses	3%	Dollar value of prime and subcontract awards

Source: 15 U.S.C. §644(g)(1)(A); P.L. 118-31.

Notes: Prime contracts are made directly to a business from an agency. Subcontracts are made between prime contractors and businesses. Some federal prime contracts require a contractor to subcontract with small businesses to create more opportunities for those firms. Executive action increased the statutory SDB goal; In FY2024, agencies must collectively award at least 13% of contract spending to SDBs, per Office of Management and Budget Memorandum M-24-01, in order to increase this share of award dollars to 15% by 2025.

The federal government has had difficulty meeting the prime contracting goals for WOSB and HUBZone small businesses. The 5% goal for WOSBs was achieved in two fiscal years (FY2015 and FY2019).[63] The 3% goal for HUBZone small businesses has not yet been achieved, although HUBZone firm awards have increased each fiscal year since 2018. In contrast, the 23% procurement goal for all types of small businesses was achieved in 10 of the 19 fiscal years (FY2005 and FY2013-FY2023), including the past 11 fiscal years.[64]

For more information on annual procurement goals, see CRS Insight IN12018, *Federal Small Business Contracting Goals*.

[62] When created, the HUBZone contracting goal was phased in from 1% to 3%, over the course of five fiscal years. The goal was required to be

> not less than 1 percent of the total value of all prime contract awards for fiscal year 1999, not less than 1.5 percent of the total value of all prime contract awards for fiscal year 2000, not less than 2 percent of the total value of all prime contract awards for fiscal year 2001, not less than 2.5 percent of the total value of all prime contract awards for fiscal year 2002, and not less than 3 percent of the total value of all prime contract awards for fiscal year 2003 and each fiscal year thereafter.

[63] The subcontracting goal for WOSBs has been achieved for each of the last five fiscal years.

[64] SBA, Government-wide FY2019-2023 Small Business Procurement Scorecard; and U.S. General Services Administration (GSA), "Sam.Gov Data Bank, Static: Small Business Goaling Report [FY2005-FY2019]," at https://sam.gov/reports/awards/static.

Congressional Issues

HUBZone Certification

Throughout the HUBZone program's history, policymakers have contended with tradeoffs between efforts to mitigate program fraud and efforts to make the program accessible to eligible firms. Program certification can prevent ineligible firms from receiving program benefits. However, increasing certification requirements may reduce certification processing times for qualified firms, or even deter eligible firms from seeking program certification. Currently firms must be certified by the SBA after submitting an application that is reviewed by the agency and apply for recertification every three years, although earlier on in the program's history, there was a self-certification requirement that was supplemented by an SBA verification process.[65] Information on the evolution of the HUBZone program certification is available in the **Appendix**. Congress may wish to consider whether the existing certification process balances fraud prevention with program accessibility.

Performance Measures

Congress has required the SBA to publish performance metrics measuring the HUBZone program's success in meeting the program's objective of promoting economic development in economically distressed areas.[66] A 2021 evaluation of the program's impact estimated impacts from HUBZone firm contracts on geographic areas by looking at employment, earnings, value added, and gross output in those areas. Using an "input-output model" for its analysis, the evaluation found that the HUBZone program had "a moderate impact on all 30 counties [studied] in terms of value added and employment supported by contract awards to HUBZone firms."[67] It also found that HUBZone contract awards "materially impact some economically distressed rural counties."[68] In general, counties with smaller economies (in terms of employment and economic output) were among those that saw greater shares of employment supported by HUBZone investments. Study recommendations included further analysis, such as case studies, and a "monitoring tool" for the HUBZone program. Congress may be interested in further impact assessments and/or regular updates to previous analyses.

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[65] See 63 *Federal Register* 31911, June 11, 1998. Certification included "an applicant's representations and SBA's ability to request additional information to verify those representations, along with the program examination [verification] process."

[66] P.L. 115-91 required SBA to publish this no later than one year from December 2017. A 2018 program evaluation report prepared for the SBA examined "factors that contribute[d] to federal agencies reaching the HUBZone Program socioeconomic [contracting] goal." See SBA, *HUBZone Program Evaluation*, prepared by Global Evaluation and Applied Research Solutions, September 26, 2018, p. 1.

P.L. 115-91 also requires SBA to submit, not later than 90 days after the last date of each fiscal year, a report to the House Committee on Small Business and the Senate Committee on Small Business and Entrepreneurship, including data on the number of firms that lost certification due to SBA examinations of their documentation and the number that did not submit documentation for recertification.

[67] SBA, *HUBZone Economic Impact Report*, Prepared by Optimal Solutions Group, LLC, February 2021, p. 2.

[68] SBA, *HUBZone Economic Impact Report*, Prepared by Optimal Solutions Group, LLC, February 2021, p. 10.

Small Business Contracting Goal Attainment

Congressional interests in the HUBZone program include the program's difficulty in meeting the government-wide contracting goal for HUBZone firms.[69] The 3% goal has not yet been achieved by the government as a whole, although some individual agencies have exceeded the goal in certain fiscal years. For example, the Department of Agriculture awarded 6.72% of eligible contract award dollars to HUBZone small businesses in FY2023, the Department of Commerce awarded 6.53% to HUBZone small businesses in FY2023, and the General Services Administration awarded 5.69% to HUBZone small businesses in FY2023.[70]

A 2018 program evaluation report prepared for the SBA found that challenges preventing some federal agencies from reaching the 3% HUBZone procurement goal included "untargeted marketing strategies"[71] and agency perceptions that there is "a lack of small businesses in HUBZones that can meet … contract demands."[72] The evaluation also found that the 35% employee residence requirement may hinder the ability of firms to maintain HUBZone certification.[73] Congress may wish to explore how the SBA and purchasing agencies are working to improve program utilization. Congress may also be interested in establishing or codifying policies that expand either the pool of areas or pool of firms that apply for HUBZone status (see "HUBZone Designations" and "HUBZone Certification").

In December 2019, the SBA issued new regulations intended, in part, to make the HUBZone program more attractive to procuring agencies. The "long-term investment provision" in these regulations allows HUBZone firms to maintain HUBZone status for up to 10 years by owning or making a long-term investment (such as a long-term lease) in a principal office in an area that qualifies as a HUBZone at the time of the firm's initial certification.[74] With a qualified long-term investment in a HUBZone, a firm can continue to participate in the HUBZone program, even if

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[69] In addition, Congress addressed the potential consequence of two Court of Federal Claims decisions that directed federal agencies to provide HUBZone set-asides preference when two or more set-aside programs could potentially be used. Providing the HUBZone program preference over other small business contracting programs could have resulted in an increase in the percentage of federal contract dollars awarded to HUBZone small businesses and a decrease in the percentage of federal contract dollars awarded to other small businesses. P.L. 111-240, the Small Business Jobs Act of 2010, amended the Small Business Act (15 U.S.C. 657a(b)(2)(B)) to remove the language that the court relied upon in finding that HUBZone set-asides have "precedence." Specifically, the act struck the phrase "a contract opportunity shall" and replaced it with "a contract opportunity may." See *DGR Assocs., Inc. v. United States*, 2010 U.S. Claims LEXIS 588 (August 13, 2010); and *Mission Critical Solutions v. United States*, 2010 U.S. Claims LEXIS 36 (March 2, 2010); GAO, Mission Critical Solutions, B-401057, May 4, 2009; and Office of Legal Counsel, Department of Justice, Permissibility of Small Business Administration Regulations Implementing the Historically Underutilized Business Zone, 8(a) Business Development, and Service-Disabled Veteran-Owned Small Business Concern Programs, August 21, 2009, at http://www.justice.gov/sites/default/files/olc/opinions/2009/08/31/sba-hubzone-opinion082109.pdf.

[70] SBA, Small Business Procurement Scorecard for FY2023, at https://www.sba.gov/federal-contracting/contracting-data/small-business-procurement-scorecard. Some agencies that account for large amounts of contracting dollars did not reach the goal, which hampers the government's ability to meet the government-wide goal. For example, the Department of Defense and Department of Health and Human Services did not meet the goal.

[71] SBA, *HUBZone Program Evaluation*, prepared by Global Evaluation and Applied Research Solutions, September 26, 2018, p. 4.

[72] SBA, *HUBZone Program Evaluation*, prepared by Global Evaluation and Applied Research Solutions, September 26, 2018, p. 3.

[73] SBA, *HUBZone Program Evaluation*, prepared by Global Evaluation and Applied Research Solutions, September 26, 2018, p. 2.

[74] 84 *Federal Register* 65228, 65242, November 26, 2019; 13 C.F.R. §126.200(c)(1). The 10-year principal office long-term investment protection period starts to run on the firm's HUBZone certification date (if the investment was made prior to the firm's certification) or on the date of the investment (if the investment was made after the firm's HUBZone certification date).

the area loses its HUBZone designation. Congress may wish to consider how this regulation has impacted HUBZone area investment and program participation, and whether to codify this type of policy.

HUBZone Designations

Designation of HUBZones is a key feature of the program and determines whether small businesses and communities can benefit from the program. Congress may wish to reconsider designation criteria and processes. Among the SBA's FY2025 Legislative Proposals are four related to the designation of HUBZone areas. Specifically, the SBA recommended statutory revisions to several HUBZone designations, "to enable more communities and small businesses to benefit from greater stability and alignment of HUBZone designations."[75] The recommendations included:

1. *Permitting Governors to select all eligible areas that meet the criteria for a governor-designated HUBZone (rather than only 10% of eligible areas each year) and aligning expiration of all governor-designated areas with the five-year map update.*

Currently, the total number of areas included in a governor's petition may not exceed 10% of the total number of HUBZone areas in the state. A state with a high number of covered areas (that are not governor-designated) would therefore be prevented from having as many designations as a state with fewer covered areas—this might be seen as a disadvantage for states with more distressed areas. This "cap" on governor-designated areas is one way that the program limits the total number of areas eligible for HUBZone designation. As discussed earlier in "Targeting Assistance to Geographic Areas," economic development policy debate exists around how to appropriately direct benefits to distressed areas.

2. *Removing the 20% cap applied by HUD in selecting Qualified Census Tracts (QCTs) eligible for HUBZone designation.*

The cap on QCTs is another way in which the program limits the number of possible HUBZone areas, by disqualifying some areas that technically meet HUBZone eligibility criteria. Removing this cap would make economic indicators the only factor for a census tract's HUBZone eligibility.

3. *Extending eligible periods for "redesignated areas" (census tracts and nonmetropolitan counties that lose HUBZone eligibility) from the current three years to five years in order to align with the current five-year map updates.*

One of the implicit goals of the HUBZone program is to improve the economic standing of the geographic areas receiving assistance. It could be argued that it is a program success when a QCT or a qualified nonmetropolitan county loses its HUBZone status when new economic data are published. However, redesignations allow former HUBZone firms to adjust to the loss of HUBZone status, and aligning the timeframe of status changes for redesignated areas with that of other HUBZone areas may streamline program administration.

4. *Amending the definition to specify that Qualified Disaster Area (QDAs) will be treated as HUBZones for 5 years.*

Aligning the timeframe of status changes for QDAs with that of other HUBZone areas may also streamline program administration.

[75] SBA, *FY2025 Congressional Budget Justification*, p. 15, at https://www.sba.gov/document/report-congressional-budget-justification-annual-performance-report.

If increasing the number of HUBZone areas is a policy aim, Congress may wish to consider additional legislative options that expand HUBZone eligibility. Additional non-formula based program designations, for example, could increase the number of HUBZones.

Appendix. HUBZone Certification History

Following the passage of P.L. 105-135, the HUBZone Act of 1997, the SBA issued a final rule implementing parts of the law by adding regulations pertaining to HUBZone program eligibility and certification requirements and processes. At the time, certification included a self-certification and SBA verification process, whereby SBA's staff conducted random program examinations to verify the accuracy of program applications. Recertification was required of program participants annually.[76]

In 2006, the SBA committed to reviewing 5% of all certifications "through a full-scale program of examinations."[77]

At a 2009 House Small Business Committee hearing, Representative Velázquez commented that "the [HUBZone] program has been undermined by chronic underfunding, inherent program flaws and sloppy management. Instead of being incubators for growth and development, HUBZones have become breeding grounds for fraud and abuse."[78]

In 2009, the SBA began conducting program examinations of all firms that received a HUBZone contract in the previous fiscal year, or verifying 100% of HUBZone contractors. SBA also began a two-year effort to reengineer its applicant review process, requiring applicants to submit documentation such as lease or rental agreements, three years of tax returns, citizenship documentation, and payroll records to prove they meet program requirements. In addition, SBA district field offices conducted site visits to validate the geographic requirement for principal offices. HUBZone small businesses had to recertify with full documentation every three years and to certify to federal contracting officers offering a contract of their eligibility at both the time of the firm's initial offer and at the time of award. Initially, depending on the complexity of the application and the need for additional information, the SBA took from 5 to 12 months to make application determinations, according to the SBA's *FY2013 Congressional Budget Justification and FY2011 Annual Performance Report*.

During the 114th Congress, P.L. 114-187, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), required the SBA to implement a risk-based approach to requesting and verifying information from firms applying to be designated or recertified as a qualified HUBZone small business. GAO was required to begin an assessment of the SBA's risk-based approach within a year of the approach's implementation and complete the assessment, along with any recommendations for improvement, within the following six months.

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[76] See 63 *Federal Register* 31911, June 11, 1998.

[77] U.S. Congress, House Committee on Small Business, *Full Committee Hearing to Consider Legislation Updating and Improving the SBA's Contracting Programs*, 110th Cong., 1st sess., October 4, 2007, Serial Number 110-50 (Washington: GPO, 2007), p. 6.

[78] U.S. Congress, House Committee on Small Business, *Full Committee Hearing on Oversight of the Small Business Administration and Its Programs*, 111th Cong., 1st sess., March 25, 2009, Small Business Committee Doc. 111-012 (Washington: GPO, 2009), p. 1.

Risked-Based Approaches to Program Management

According to GAO, "risk-based" refers to the use of a "risk assessment to identify and analyze risks related to achieving the defined objectives to form a basis for designing risk responses … [and an analysis of] the identified risks to estimate their significance and design responses to the analyzed risks."[79] GAO publishes Standards for Internal Control in the Federal Government (the "Green Book"), which "sets the standards for an effective internal control system for federal agencies" and includes guidance on assessing and responding to risks such as fraud risks.[80]

On March 27, 2017, the SBA adopted a risk-based approach for certifying and recertifying HUBZone small businesses. GAO's assessment of the new approach, published on September 24, 2018, found that the SBA did not change the HUBZone certification process, but introduced some documentation requirements to the recertification process.[81] Previously, HUBZone small businesses seeking recertification were not required to submit documentation to demonstrate continuing compliance with eligibility requirements. The SBA began requiring any certified HUBZone small business seeking recertification that received $1 million or more in HUBZone contract dollars since its last certification or recertification, to demonstrate compliance with the 35% HUBZone employee residency requirement and the principal office location requirement.[82]

In June 2017, P.L. 115-91 required the SBA to "conduct program examinations of qualified HUBZone small business concerns, using a risk-based analysis to select which concerns are examined, to ensure that any concern examined meets the [program's] requirements." This was to begin two and a half years later, on January 1, 2020. The act also specified that any small business that misrepresented its status as a qualified HUBZone small business concern shall be subject to liability for fraud. P.L. 115-91 also required verification of the accuracy of certified HUBZone firms' documentation every three years.

Starting December 26, 2019, certified HUBZone small businesses are required by regulation to annually represent to the SBA that they continue to meet all HUBZone eligibility criteria. Firms are not required to submit supporting information or documentation unless the SBA has reason to question the firm's representation of itself. HUBZone firms must recertify via a program examination with full documentation every three years. In addition, a HUBZone small business competing for a contract is also required at the time of each contract offer to represent to the contracting officer that it is a certified HUBZone small business—however, its eligibility for preferences would relate to the date of its certification or recertification, not to the date of the contract offer.[83]

In September 2024, SBA issued a proposed rule that would "consolidate and redesignate the separate recertification requirements for SBA's 8(a) Business Development Program, HUBZone, Woman-Owned Small Business, and Service-Disabled Veteran-Owned Small Business programs

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[79] GAO, *Small Business Contracting: Small Business Administration Could Further Strengthen HUBZone Eligibility Reviews in Puerto Rico and Programwide,* GAO-18-666, September 24, 2018, p. 15, at https://www.gao.gov/products/gao-18-666.

[80] GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 10, 2014, pp. 40-41, at https://www.gao.gov/products/gao-14-704g.

[81] GAO, *Small Business Contracting: Small Business Administration Could Further Strengthen HUBZone Eligibility Reviews in Puerto Rico and Programwide*, GAO-18-666, September 24, 2018, p. 12, at https://www.gao.gov/products/gao-18-666.

[82] GAO, *Small Business Contracting: Small Business Administration Could Further Strengthen HUBZone Eligibility Reviews in Puerto Rico and Programwide*, GAO-18-666, September 24, 2018, pp. 12-13, at https://www.gao.gov/products/gao-18-666.

[83] See 84 *Federal Register* 65222, November 26, 2019.

to a new section to reduce confusion and to ensure consistent application of the size and status recertification requirements."[84]

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[84] See 89 *Federal Register* 76751, September 19, 2024.