

Subpart 19.13 - Historically Underutilized Business Zone (HUBZone) Program

19.1301 General.

(a) The Historically Underutilized Business Zone (*HUBZone*) Act of 1997 (15 U.S.C.631 note) created the *HUBZone* Program.

(b) The purpose of the *HUBZone* Program is to provide Federal *contracting* assistance for qualified small business *concerns* located in historically underutilized business zones, in an effort to increase employment opportunities, investment, and economic development in those areas.

19.1302 [Reserved].

19.1303 Status as a HUBZone small business concern.

(a) Status as a *HUBZone* small business *concern* is determined by the Small Business Administration (SBA) in accordance with 13 CFR Part 126.

(b) If SBA determines that a *concern* is a *HUBZone* small business, it will designate the *concern* as a *HUBZone* small business in the Dynamic Small Business Search (DSBS) at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm. SBA's designation also appears in *SAM*. Only firms designated in DSBS and *SAM* as *HUBZone* small business *concerns* are eligible for *HUBZone* preferences. *HUBZone* preferences are not contingent on the place of performance.

(c) A joint venture *may* be considered a *HUBZone* small business *concern* if—

(1)The joint venture qualifies as small under 19.301-1(a)(2)(i);

(2)At least one party to the joint venture is a *HUBZone* small business *concern*; and

(3)The joint venture complies with 13 CFR 126.616(a) through (c).

(d) To be eligible for a *HUBZone contract* under this section, a *HUBZone* small business *concern* *must* be a *HUBZone* small business *concern* at the time of its initial *offer*.

19.1304 Exclusions.

This subpart does not apply to-

- (a) Requirements that can be satisfied through award to-
 - (1) Federal Prison *Industries*, Inc. (see [subpart 8.6](#)); or
 - (2) AbilityOne participating non-profit agencies for the blind or severely disabled (see [subpart 8.7](#));
- (b) Orders under indefinite-delivery contracts (see [subpart 16.5](#)). (But see [16.505\(b\)\(2\)\(i\)\(F\)](#) for discretionary set-asides of orders);
- (c) Orders against Federal Supply Schedules (see [subpart 8.4](#)). (But see [8.405-5](#) for discretionary set-asides of orders);
- (d) Requirements currently being performed by an 8(a) participant or requirements SBA has accepted for performance under the authority of the 8(a) program, unless SBA has consented to release the requirements from the 8(a) program; or
- (e) Requirements for commissary or exchange resale items.

19.1305 HUBZone set-aside procedures.

- (a) The *contracting officer*-
 - (1) *Shall* comply with [19.203](#) before deciding to set aside an *acquisition* under the *HUBZone* Program;
 - (2) *May* set aside *acquisitions* exceeding the *micro-purchase threshold* for competition restricted to *HUBZone* small business *concerns* when the requirements of paragraph (b) of this section can be satisfied; and
 - (3) *Shall* consider *HUBZone* set-asides before considering *HUBZone* sole-source awards (see [19.1306](#)) or small business set-asides (see [subpart 19.5](#)).
- (b) To set aside an *acquisition* for competition restricted to *HUBZone* small business *concerns*, the *contracting officer* must have a reasonable expectation that-
 - (1) *Offers* will be received from two or more *HUBZone* small business *concerns*; and
 - (2) Award will be made at a *fair market price*.
- (c) If the *contracting officer* receives only one acceptable *offer* from a *HUBZone* small business *concern* in response to a set aside, the *contracting officer* should make an award to that *concern*. If the *contracting officer* receives no acceptable *offers* from *HUBZone* small business *concerns*, the *HUBZone* set-aside *shall* be withdrawn and the requirement, if still valid, set aside for small business *concerns*, as appropriate (see [19.203](#)).
- (d) The procedures at [19.202-1](#) and, at [19.402](#) apply to this section.
 - (1) When the SBA intends to appeal a *contracting officer's* decision to reject a recommendation of the SBA *procurement* center representative (or, if a *procurement* center representative is not assigned, see [19.402\(a\)](#)) to set aside an *acquisition* for competition restricted to

HUBZone small business concerns, the SBA procurement center representative shall notify the contracting officer, in writing, of its intent within 5 business days of receiving the contracting officer's notice of rejection.

(2) Upon receipt of notice of SBA's intent to appeal, the contracting officer shall suspend action on the acquisition until the head of the contracting activity issues a written decision on the appeal, unless the head of the contracting activity makes a written determination that urgent and compelling circumstances, which significantly affect the interests of the Government, exist.

(3) Within 15 business days of SBA's notification to the contracting officer, SBA must file its formal appeal with the head of the agency, or the appeal will be deemed withdrawn. The head of the agency shall reply to SBA within 15 business days of receiving the appeal. The decision of the head of the agency shall be final.

19.1306 HUBZone sole-source awards.

(a) A contracting officer shall consider a contract award to a *HUBZone* small business concern on a sole-source basis (see [6.302-5\(b\)\(5\)](#)) before considering a small business set-aside (see [19.203](#) and subpart [19.5](#)), provided none of the exclusions at [19.1304](#) apply; and-

(1) The contracting officer does not have a reasonable expectation that offers would be received from two or more *HUBZone* small business concerns;

(2) The anticipated price of the contract, including options, will not exceed-

(i) \$7 million for a requirement within the North American Industry Classification System (NAICS) codes for manufacturing; or

(ii) \$4.5 million for a requirement within all other NAICS codes;

(3) The requirement is not currently being performed by an 8(a) participant under the provisions of [subpart 19.8](#) or has been accepted as a requirement by SBA under [subpart 19.8](#);

(4) The *HUBZone* small business concern has been determined to be a responsible contractor with respect to performance; and

(5) Award can be made at a fair and reasonable price.

(b) The SBA has the right to appeal the contracting officer's decision not to make a *HUBZone* sole-source award (see [13 CFR 126.610](#)).

19.1307 Price evaluation preference for HUBZone small business concerns.

(a) The price evaluation preference for *HUBZone* small business concerns shall be used in acquisitions conducted using *full and open competition*. The preference shall not be used-

(1) Where price is not a selection factor so that a price evaluation preference would not be

considered (*e.g.*, Architect/Engineer *acquisitions*);

(2) Where all fair and reasonable *offers* are accepted (*e.g.*, the award of multiple award schedule contracts); or

(3) For the reserved portion of a *solicitation* for a *multiple-award contract* (see [19.503](#)).

(b) The *contracting officer* shall give *offers* from *HUBZone* small business concerns a price evaluation preference by adding a factor of 10 percent to all *offers*, except-

(1) *Offers* from *HUBZone* small business concerns that have not waived the evaluation preference; or

(2) Otherwise successful *offers* from small business concerns.

(c) The factor of 10 percent shall be applied on a *line item* basis or to any group of items on which award may be made. Other evaluation factors, such as transportation costs or rent-free use of Government property, shall be added to the *offer* to establish the base *offer* before adding the factor of 10 percent.

(d) When the two highest rated *offerors* are a *HUBZone* small business concern and a large business, and the evaluated *offer* of the *HUBZone* small business concern is equal to the evaluated *offer* of the large business after considering the price evaluation preference, the *contracting officer* shall award the contract to the *HUBZone* small business concern.

19.1308 [Reserved].

19.1309 Contract clauses.

(a) The *contracting officer* shall insert the clause [52.219-3](#), Notice of *HUBZone* Set-Aside or Sole-Source Award, in *solicitations* and contracts for *acquisitions* that are set aside or awarded on a sole-source basis to, *HUBZone* small business concerns under [19.1305](#) or [19.1306](#). This includes *multiple-award contracts* when orders may be set aside for *HUBZone* small business concerns as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#) or when orders may be issued directly to one *HUBZone* small business concern in accordance with [19.504\(c\)\(1\)\(ii\)](#).

(b) The *contracting officer* shall insert the clause at [52.219-4](#), Notice of Price Evaluation Preference for *HUBZone* Small Business Concerns, in *solicitations* and contracts for *acquisitions* conducted using *full and open competition*.

(c) For use of clause [52.219-14](#), Limitations on Subcontracting, see the prescription at [19.507\(e\)](#).

(d) For use of clause [52.219-33](#), Nonmanufacturer Rule, see the prescription at [19.507\(h\)](#).