

pected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

(c) Regional Small Business Regulatory Fairness Boards

(1) Not later than 180 days after March 29, 1996, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

(2) Each Board established under paragraph (1) shall—

(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

(d) Powers of Boards

(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Board.

(Pub. L. 85-536, §2[30], as added Pub. L. 104-121, title II, §222(2), Mar. 29, 1996, 110 Stat. 860.)

REFERENCES IN TEXT

Section 7 of the Inspector General Act of 1978, referred to in subsec. (b)(2)(B), is section 7 of Pub. L. 95-452, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2[30] of Pub. L. 85-536 was renumbered section 2[47] and is set out as a note under section 631 of this title.

CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001.

EFFECTIVE DATE

Section effective on expiration of 90 days after Mar. 29, 1996, see section 224 of Pub. L. 104-121 set out in a Small Business Regulatory Fairness note under section 601 of Title 5, Government Organization and Employees.

§ 657a. HUBZone program

(a) In general

There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified HUBZone small business concerns in accordance with this section.

(b) Eligible contracts

(1) Definitions

In this subsection—

(A) the term “contracting officer” has the meaning given that term in section 2101(1) of title 41; and

(B) the term “full and open competition” has the meaning given that term in section 107 of title 41.

(2) Authority of contracting officer

(A) Sole source contracts

A contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if—

(i) the qualified HUBZone small business concern is determined to be a responsible contractor with respect to performance of such contract opportunity, and the contracting officer does not have a reasonable expectation that 2 or more qualified HUBZone small business concerns will submit offers for the contracting opportunity;

(ii) the anticipated award price of the contract (including options) will not exceed—

(I) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(II) \$3,000,000, in the case of all other contract opportunities; and

(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(B) Restricted competition

A contract opportunity may be awarded pursuant to this section on the basis of com-

petition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price.

(C) Appeals

Not later than 5 days from the date the Administration is notified of a procurement officer's decision not to award a contract opportunity under this section to a qualified HUBZone small business concern, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

(3) Price evaluation preference in full and open competitions

(A) In general

Subject to subparagraph (B), in any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a qualified HUBZone small business concern shall be deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

(B) Procurement of commodities

For purchases by the Secretary of Agriculture of agricultural commodities, the price evaluation preference shall be—

- (i) 10 percent, for the portion of a contract to be awarded that is not greater than 25 percent of the total volume being procured for each commodity in a single invitation;
- (ii) 5 percent, for the portion of a contract to be awarded that is greater than 25 percent, but not greater than 40 percent, of the total volume being procured for each commodity in a single invitation; and
- (iii) zero, for the portion of a contract to be awarded that is greater than 40 percent of the total volume being procured for each commodity in a single invitation.

(C) Procurement of commodities for international food aid export operations

The price evaluation preference for purchases of agricultural commodities by the Secretary of Agriculture for export operations through international food aid programs administered by the Farm Service Agency shall be 5 percent on the first portion of a contract to be awarded that is not greater than 20 percent of the total volume of each commodity being procured in a single invitation.

(D) Treatment of preference

A contract awarded to a HUBZone small business concern under a preference de-

scribed in subparagraph (B) shall not be counted toward the fulfillment of any requirement partially set aside for competition restricted to small business concerns.

(4) Relationship to other contracting preferences

A procurement may not be made from a source on the basis of a preference provided in paragraph (2) or (3), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18 or chapter 85 of title 41.

(c) Enforcement; penalties

(1) Verification of eligibility

In carrying out this section, the Administrator shall establish procedures relating to—

- (A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under section 632(p)(5) of this title); and
- (B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under section 632(p)(5) of this title.

(2) Examinations

The procedures established under paragraph (1) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under section 632(p)(5) of this title.

(3) Provision of data

Upon the request of the Administrator, the Secretary of Labor, the Administrator of the Federal Emergency Management Agency, the Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

(4) Penalties

In addition to the penalties described in section 645(d) of this title, any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a "HUBZone small business concern" for purposes of this section, shall be subject to—

- (A) section 1001 of title 18; and
- (B) sections 3729 through 3733 of title 31.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out the program established by this section \$10,000,000 for each of fiscal years 2004 through 2006.

(Pub. L. 85-536, §2[31], as added Pub. L. 105-135, title VI, §602(b)(1)(B), Dec. 2, 1997, 111 Stat. 2629; amended Pub. L. 106-554, §1(a)(9) [title V,

§ 503(b), title VI, § 612(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-695, 2763A-699; Pub. L. 108-447, div. K, title I, §§ 153, 154, Dec. 8, 2004, 118 Stat. 3458; Pub. L. 111-240, title I, § 1347(b)(1), (c), Sept. 27, 2010, 124 Stat. 2547; Pub. L. 114-92, div. A, title VIII, § 866(c), Nov. 25, 2015, 129 Stat. 932; Pub. L. 115-91, div. A, title XVII, § 1701(a)(1), (2), (b)-(e), (g), (h), Dec. 12, 2017, 131 Stat. 1795-1798, 1800.)

AMENDMENT OF SECTION

Pub. L. 115-91, div. A, title XVII, § 1701(a)(1), (2), (b)-(e), (g), (h), (j), Dec. 12, 2017, 131 Stat. 1795-1798, 1800, 1803, made amendments to this section effective Jan. 1, 2020. After such effective date, this section will read as follows:

§ 657a. HUBZone program

(a) In general

There is established within the Administration a program (to be known as the HUBZone program) to be carried out by the Administrator to provide for Federal contracting assistance, including promoting economic development in economically distressed areas (as defined in section 636(m)(11)), to qualified HUBZone small business concerns in accordance with this section.

(b) Definitions relating to HUBZones

In this section:

(1) Historically underutilized business zone

The terms “historically underutilized business zone” or “HUBZone” mean any area located within 1 or more—

- (A) qualified census tracts;
- (B) qualified nonmetropolitan counties;
- (C) lands within the external boundaries of an Indian reservation;
- (D) redesignated areas;
- (E) base closure areas;
- (F) qualified disaster areas; or
- (G) a Governor-designated covered area.

(2) HUBZone small business concern

The term “HUBZone small business concern” means—

- (A) a small business concern that is at least 51 percent owned and controlled by United States citizens;
- (B) a small business concern that is—
 - (i) an Alaska Native Corporation owned and controlled by Natives (as determined pursuant to section 1626(e)(1) of title 43); or
 - (ii) a direct or indirect subsidiary corporation, joint venture, or partnership of an Alaska Native Corporation qualifying pursuant to section 1626(e)(1) of title 43, if that subsidiary, joint venture, or partnership is owned and controlled by Natives (as determined pursuant to section 1626(e)(2) of title 43);
- (C) a small business concern—
 - (i) that is wholly owned by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments; or
 - (ii) that is owned in part by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments, if all other owners are either United States citizens or small business concerns;

(D) a small business concern—

(i) that is wholly owned by one or more Native Hawaiian Organizations (as defined in section 637(a)(15) of this title), or by a corporation that is wholly owned by one or more Native Hawaiian Organizations; or

(ii) that is owned in part by one or more Native Hawaiian Organizations, or by a corporation that is wholly owned by one or more Native Hawaiian Organizations, if all other owners are either United States citizens or small business concerns;

(E) a small business concern that is—

(i) wholly owned by a community development corporation that has received financial assistance under part 1 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9805 et seq.); or

(ii) owned in part by one or more community development corporations, if all other owners are either United States citizens or small business concerns; or

(F) a small business concern that is—

(i) a small agricultural cooperative organized or incorporated in the United States;

(ii) wholly owned by 1 or more small agricultural cooperatives organized or incorporated in the United States; or

(iii) owned in part by 1 or more small agricultural cooperatives organized or incorporated in the United States, if all owners are small business concerns or United States citizens.

(3) Qualified areas

(A) Qualified census tract

(i) In general

The term “qualified census tract” means a census tract that is covered by the definition of “qualified census tract” in section 42(d)(5)(B)(ii) of title 26 and that is reflected in an online tool prepared by the Administrator described under subsection (d)(7).

(ii) Exception

For any metropolitan statistical area in the Commonwealth of Puerto Rico, the term “qualified census tract” has the meaning given that term in section 42(d)(5)(B)(ii) of title 26 as applied without regard to subclause (II) of such section and that is reflected in the online tool described under clause (i), except that this clause shall only apply—

(I) 10 years after the date that the Administrator implements this clause, or

(II) the date on which the Financial Oversight and Management Board for the Commonwealth of Puerto Rico created by the Puerto Rico Oversight, Management, and Economic Stability Act ceases to exist,

whichever event occurs first.

(B) Qualified nonmetropolitan county

The term “qualified nonmetropolitan county” means any county that is reflected in the online tool described under subparagraph (A)(i) and—

(i) that was not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of title 26) at the time of the most recent census taken for purposes of selecting qualified census tracts under section 42(d)(5)(B)(ii) of title 26; and

(ii) in which—

(I) the median household income is less than 80 percent of the State median household income, based on a 5-year average of the available data from the Bureau of the Census of the Department of Commerce;

(II) the unemployment rate is not less than 140 percent 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 5-year average of the available data from the Secretary of Labor; or

(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(B)(iii) of title 26, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.

(C) Redesignated area

The term “redesignated area” means any census tract that ceases to be qualified under subparagraph (A) and any nonmetropolitan county that ceases to be qualified under subparagraph (B) for a period of 3 years after the date on which the census tract or nonmetropolitan county ceased to be so qualified.

(D) Base closure area

(i) In general

Subject to clause (ii), the term “base closure area” means—

(I) lands within the external boundaries of a military installation that were closed through a privatization process under the authority of—

(aa) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101–510; 10 U.S.C. 2687 note);

(bb) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note);

(cc) section 2687 of title 10; or

(dd) 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;

(II) the census tract or nonmetropolitan county in which the lands described in subclause (I) are wholly contained;

(III) a census tract or nonmetropolitan county the boundaries of which intersect the area described in subclause (I); and

(IV) a census tract or nonmetropolitan county the boundaries of which are contiguous to the area described in subclause (II) or subclause (III).

(ii) Limitation

A census tract or nonmetropolitan county described in clause (i) shall be considered to be a base closure area for a period beginning on the date on which the Administrator designates such census tract or nonmetropolitan county as a base closure area and ending on the date on which the base closure area ceases to be a qualified census tract under subparagraph (A) or a qualified nonmetropolitan county under subparagraph (B) in accordance with the online tool prepared by the Administrator described under subsection (d)(7), except that such period may not be less than 8 years.

(iii) Definitions

In this subparagraph:

(I) Census tract

The term “census tract” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census that is not located in a nonmetropolitan county and does not otherwise qualify as a qualified census tract.

(II) Nonmetropolitan county

The term “nonmetropolitan county” means a county that was not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of title 26) at the time of the most recent census taken for purposes of selecting qualified census tracts and does not otherwise qualify as a qualified nonmetropolitan county.

(E) Qualified disaster area

(i) In general

Subject to clause (ii), the term “qualified disaster area” means any census tract or nonmetropolitan county located in an area where a major disaster has occurred or an area in which a catastrophic incident has occurred if such census tract or nonmetropolitan county ceased to be qualified under subparagraph (A) or (B), as applicable, during the period beginning 5 years before the date on which the President declared the major disaster or the catastrophic incident occurred.

(ii) Duration

A census tract or nonmetropolitan county shall be considered to be a qualified disaster area under clause (i) only for the period of time ending on the date the area ceases to be a qualified census tract under subparagraph (A) or a qualified nonmetropolitan county under subparagraph (B), in accordance with the online tool prepared by the Administrator described under subsection (d)(7) and beginning—

(I) in the case of a major disaster, on the date on which the President declared the major disaster for the area in which

the census tract or nonmetropolitan county, as applicable, is located; or

(II) in the case of a catastrophic incident, on the date on which the catastrophic incident occurred in the area in which the census tract or nonmetropolitan county, as applicable, is located.

(iii) Definitions

In this subparagraph:

(I) Major disaster

The term “major disaster” means a major disaster declared by the President under section 5170 of title 42.

(II) Other definitions

The terms “census tract” and “nonmetropolitan county” have the meanings given such terms in subparagraph (D)(iii).

(F) Governor-designated covered area

(i) In general

A “Governor-designated covered area” means a covered area that the Administrator has designated by approving a petition described under clause (ii).

(ii) Petition

For a covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the covered area is wholly contained shall include such covered area in a petition to the Administrator requesting such a designation. In reviewing a request for designation included in such a petition, the Administrator may consider—

(I) the potential for job creation and investment in the covered area;

(II) the demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

(III) how State and local government officials have incorporated the covered area into an economic development strategy; and

(IV) if the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

(iii) Limitations

Each calendar year, a Governor may submit not more than 1 petition described under clause (ii). Such petition shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area, except that the total number of covered areas included in such petition may not exceed 10 percent of the total number of covered areas in the State.

(iv) Certification

If the Administrator grants a petition described under clause (ii), the Governor of the Governor-designated covered area shall, not less frequently than annually, submit data to the Administrator certifying

that each Governor-designated covered area continues to meet the requirements of clause (v)(I).

(v) Definitions

In this subparagraph:

(I) Covered area

The term “covered area” means an area in a State—

(aa) that is located outside of an urbanized area, as determined by the Bureau of the Census;

(bb) with a population of not more than 50,000; and

(cc) for which the average unemployment rate is not less than 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.

(II) Governor

The term “Governor” means the chief executive of a State.

(III) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(4) Qualified HUBZone small business concern

The term “qualified HUBZone small business concern” means a HUBZone small business concern that has been certified by the Administrator in accordance with the procedures described in this section.

(5) Native American small business concerns

(A) Alaska Native Corporation

The term “Alaska Native Corporation” has the same meaning as the term “Native Corporation” in section 1602 of title 43.

(B) Alaska Native Village

The term “Alaska Native Village” has the same meaning as the term “Native village” in section 1602 of title 43.

(C) Indian reservation

The term “Indian reservation”—

(i) has the same meaning as the term “Indian country” in section 1151 of title 18, except that such term does not include—

(I) any lands that are located within a State in which a tribe did not exercise governmental jurisdiction on December 21, 2000, unless that tribe is recognized after December 21, 2000, by either an Act of Congress or pursuant to regulations of the Secretary of the Interior for the administrative recognition that an Indian group exists as an Indian tribe (part 83 of title 25, Code of Federal Regulations); and

(II) lands taken into trust or acquired by an Indian tribe after December 21,

2000, if such lands are not located within the external boundaries of an Indian reservation or former reservation or are not contiguous to the lands held in trust or restricted status on December 21, 2000; and

(ii) in the State of Oklahoma, means lands that—

(I) are within the jurisdictional areas of an Oklahoma Indian tribe (as determined by the Secretary of the Interior); and

(II) are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations (as in effect on December 21, 2000).

(6) Agricultural commodity

The term “agricultural commodity” has the same meaning as in section 5602 of title 7.

(c) Eligible contracts

(1) Definitions

In this subsection—

(A) the term “contracting officer” has the meaning given that term in section 2101(1) of title 41; and

(B) the term “full and open competition” has the meaning given that term in section 107 of title 41.

(2) Authority of contracting officer

(A) Sole source contracts

A contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if—

(i) the qualified HUBZone small business concern is determined to be a responsible contractor with respect to performance of such contract opportunity, and the contracting officer does not have a reasonable expectation that 2 or more qualified HUBZone small business concerns will submit offers for the contracting opportunity;

(ii) the anticipated award price of the contract (including options) will not exceed—

(I) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(II) \$3,000,000, in the case of all other contract opportunities; and

(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(B) Restricted competition

A contract opportunity may be awarded pursuant to this section on the basis of competition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price.

(C) Appeals

Not later than 5 days from the date the Administration is notified of a procurement

officer’s decision not to award a contract opportunity under this section to a qualified HUBZone small business concern, the Administrator may notify the contracting officer of the intent to appeal the contracting officer’s decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer’s decision with the Secretary of the department or agency head.

(3) Price evaluation preference in full and open competitions

(A) In general

Subject to subparagraph (B), in any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a qualified HUBZone small business concern shall be deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

(B) Procurement of commodities

For purchases by the Secretary of Agriculture of agricultural commodities, the price evaluation preference shall be—

(i) 10 percent, for the portion of a contract to be awarded that is not greater than 25 percent of the total volume being procured for each commodity in a single invitation;

(ii) 5 percent, for the portion of a contract to be awarded that is greater than 25 percent, but not greater than 40 percent, of the total volume being procured for each commodity in a single invitation; and

(iii) zero, for the portion of a contract to be awarded that is greater than 40 percent of the total volume being procured for each commodity in a single invitation.

(C) Procurement of commodities for international food aid export operations

The price evaluation preference for purchases of agricultural commodities by the Secretary of Agriculture for export operations through international food aid programs administered by the Farm Service Agency shall be 5 percent on the first portion of a contract to be awarded that is not greater than 20 percent of the total volume of each commodity being procured in a single invitation.

(D) Treatment of preference

A contract awarded to a HUBZone small business concern under a preference described in subparagraph (B) shall not be counted toward the fulfillment of any requirement partially set aside for competition restricted to small business concerns.

(4) Relationship to other contracting preferences

A procurement may not be made from a source on the basis of a preference provided in paragraph (2) or (3), if the procurement would

otherwise be made from a different source under section 4124 or 4125 of title 18 or chapter 85 of title 41.

(d) Eligibility requirements; enforcement

(1) Certification

In order to be eligible for certification by the Administrator as a qualified HUBZone small business concern, a HUBZone small business concern shall submit documentation to the Administrator stating that—

(A) at the time of certification and at each examination conducted pursuant to paragraph (4), the principal office of the concern is located in a HUBZone and not fewer than 35 percent of its employees reside in a HUBZone;

(B) the concern will attempt to maintain the applicable employment percentage under subparagraph (A) during the performance of any contract awarded to such concern on the basis of a preference provided under subsection (c); and

(C) the concern will ensure that the requirements of section 657s of this title are satisfied with respect to any subcontract entered into by such concern pursuant to a contract awarded under this section.

(2) Verification

In carrying out this section, the Administrator shall establish procedures relating to—

(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a HUBZone small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of documentation provided to the Administration by such a concern under paragraph (1)); and

(B) verification by the Administrator of the accuracy of any documentation provided by a HUBZone small business concern under paragraph (1).

(3) Timing

The Administrator shall verify the eligibility of a HUBZone small business concern using the procedures described in paragraph (2) within a reasonable time and not later than 60 days after the date on which the Administrator receives sufficient and complete documentation from a HUBZone small business concern under paragraph (1).

(4) Recertification

Not later than 3 years after the date that such HUBZone small business concern was certified as a qualified HUBZone small business concern, and every 3 years thereafter, the Administrator shall verify the accuracy of any documentation provided by a HUBZone small business concern under paragraph (1) to determine if such HUBZone small business concern remains a qualified HUBZone small business concern.

(5) Examinations

The Administrator shall 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 requirements of paragraph (1).

(6) Loss of certification

A HUBZone small business concern that, based on the results of an examination conducted pursuant to paragraph (5) no longer meets the requirements of paragraph (1), shall have 30 days to submit documentation to the Administrator to be eligible to be certified as a qualified HUBZone small business concern. During the 30-day period, such concern may not compete for or be awarded a contract under this section. If such concern fails to meet the requirements of paragraph (1) by the last day of the 30-day period, the Administrator shall not certify such concern as a qualified HUBZone small business concern.

(7) HUBZone online tool

(A) In general

The Administrator shall develop a publicly accessible online tool that depicts HUBZones. Such online tool shall be updated—

(i) with respect to HUBZones described under subparagraphs (A) and (B) of subsection (b)(3), beginning on January 1, 2020, and every 5 years thereafter;

(ii) with respect to a HUBZone described under subsection (b)(3)(C), immediately after the area becomes, or ceases to be, a redesignated area; and

(iii) with respect to HUBZones described under subparagraphs (D), (E), and (F) of subsection (b)(3), immediately after an area is designated as a base closure area, qualified disaster area, or Governor-designated covered area, respectively.

(B) Data

The online tool required under subparagraph (A) shall clearly and conspicuously provide access to the data used by the Administrator to determine whether or not an area is a HUBZone in the year in which the online tool was prepared.

(C) Notification of update

The Administrator shall include in the online tool a notification of the date on which the online tool, and the data used to create the online tool, will be updated.

(8) List of qualified HUBZone small business concerns

The Administrator shall establish and publicly maintain on the internet a list of qualified HUBZone small business concerns that shall—

(A) to the extent practicable, include the name, address, and type of business with respect to such concern;

(B) be updated by the Administrator not less than annually; and

(C) be provided upon request to any Federal agency or other entity.

(9) Provision of data

Upon the request of the Administrator, the Secretary of Labor, the Administrator of the Federal Emergency Management Agency, the

Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

(10) Penalties

In addition to the penalties described in section 645(d) of this title, any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a “qualified HUBZone small business concern” for purposes of this section shall be subject to liability for fraud, including section 1001 of title 18 and sections 3729 through 3733 of title 31.

(e) Performance metrics

(1) In general

Not later than 1 year after December 12, 2017, the Administrator shall publish performance metrics designed to measure the success of the HUBZone program established under this section in meeting the program’s objective of promoting economic development in economically distressed areas (as defined in section 636(m)(11) of this title).

(2) Collecting and managing HUBZone data

The Administrator shall develop processes to incentivize each regional office of the Administration to collect and manage data on HUBZones within the geographic area served by such regional office.

(3) Report

Not later than 90 days after the last day of each fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report analyzing the data from the performance metrics established under this subsection and including—

- (A) the number of HUBZone small business concerns that lost certification as a qualified HUBZone small business concern because of the results of an examination performed under subsection (d)(5); and
- (B) the number of those concerns that did not submit documentation to be recertified under subsection (d)(6).

(f) Authorization of appropriations

There is authorized to be appropriated to carry out the program established by this section \$10,000,000 for each of fiscal years 2020 through 2025.

See 2017 Amendment notes below.

CODIFICATION

In subsec. (b)(1)(A), “section 2101(1) of title 41” substituted for “section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b)(1)(B), “section 107 of title 41” substituted for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b)(4), “chapter 85 of title 41” substituted for “the Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.)”

on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 2[31] of Pub. L. 85-536 was renumbered section 2[47] and is set out as a note under section 631 of this title.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, §1701(h)(2)(A), inserted “(to be known as the HUBZone program)” after “program” and “, including promoting economic development in economically distressed areas (as defined in section 636(m)(11) of this title,” after “assistance”.

Subsec. (b). Pub. L. 115-91, §1701(a)(2)(A), substituted “In this section:” for “In this chapter:” in introductory provisions.

Pub. L. 115-91, §1701(a)(2), transferred subsec. (p) of section 632 of this title and redesignated it as subsec. (b) of this section. Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 115-91, §1701(a)(2)(B), substituted “terms” for “term” and “or ‘HUBZone’ mean” for “means” in introductory provisions.

Subsec. (b)(1)(G). Pub. L. 115-91, §1701(e)(1), added subpar. (G).

Subsec. (b)(2). Pub. L. 115-91, §1701(a)(2)(C), redesignated par. (3) as (2) and struck out former par. (2) which defined the term “HUBZone”.

Subsec. (b)(3). Pub. L. 115-91, §1701(a)(2)(C), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (b)(3)(A)(i). Pub. L. 115-91, §1701(b)(1)(A)(i), amended cl. (i) generally. Prior to amendment, text read as follows: “The term ‘qualified census tract’ has the meaning given that term in section 42(d)(5)(B)(ii) of title 26.”

Subsec. (b)(3)(A)(ii). Pub. L. 115-91, §1701(b)(1)(A)(ii), inserted “and that is reflected in the online tool described under clause (i)” after “such section” in introductory provisions.

Subsec. (b)(3)(B). Pub. L. 115-91, §1701(b)(1)(B)(i), inserted “that is reflected in the online tool described under subparagraph (A)(i) and” after “any county” in introductory provisions.

Subsec. (b)(3)(B)(i). Pub. L. 115-91, §1701(b)(2)(A), substituted “section 42(d)(5)(B)(ii) of title 26” for “section 42(d)(5)(C)(ii) of title 26”.

Subsec. (b)(3)(B)(ii)(I). Pub. L. 115-91, §1701(b)(1)(B)(ii), struck out “nonmetropolitan” before “State” and substituted “a 5-year average of the available data” for “the most recent data available”.

Subsec. (b)(3)(B)(ii)(II). Pub. L. 115-91, §1701(b)(1)(B)(ii)(II), substituted “a 5-year average of the available data” for “the most recent data available”.

Subsec. (b)(3)(B)(ii)(III). Pub. L. 115-91, §1701(b)(2)(B), substituted “section 42(d)(5)(B)(iii) of title 26” for “section 42(d)(5)(C)(iii) of title 26”.

Subsec. (b)(3)(C). Pub. L. 115-91, §1701(d), amended subpar. (C) generally. Prior to amendment, text defined the term “redesignated area”.

Subsec. (b)(3)(D)(ii). Pub. L. 115-91, §1701(c)(1), amended cl. (ii) generally. Prior to amendment, text read as follows: “A base closure area shall be treated as a HUBZone—

“(I) with respect to a census tract or nonmetropolitan county described in clause (i), for a period of not less than 8 years, beginning on the date the military installation undergoes final closure and ending on the date the Administrator makes a final determination as to whether or not to implement the applicable designation described in subparagraph (A) or (B) in accordance with the results of the decennial census conducted after the area was initially designated as a base closure area; and

“(II) if such area was treated as a HUBZone at any time after 2010, until such time as the Administrator makes a final determination as to whether or not to implement the applicable designation described in

subparagraph (A) or (B), after the 2020 decennial census.”

Subsec. (b)(3)(E). Pub. L. 115-91, §1701(c)(2), amended subpar. (E) generally. Prior to amendment, subpar. (E) consisted of cls. (i) and (ii) defining “qualified disaster area” generally and limiting the period of time a qualified disaster is treated as a HUBZone, respectively.

Subsec. (b)(3)(F). Pub. L. 115-91, §1701(e)(2), added subpar. (F).

Subsec. (b)(4). Pub. L. 115-91, §1701(g), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) and (B) defining qualified HUBZone small business concern and requiring the Administrator shall establish and maintain a list of qualified HUBZone small business concerns, respectively.

Pub. L. 115-91, §1701(a)(2)(C), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (b)(5) to (7). Pub. L. 115-91, §1701(a)(2)(C), redesignated pars. (6) and (7) as (5) and (6), respectively.

Subsec. (c). Pub. L. 115-91, §1701(a)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 115-91, §1701(h)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to enforcement procedures for verifying eligibility under this section and penalties for misrepresenting the status of a concern as a “HUBZone small business concern” for purposes of this section.

Pub. L. 115-91, §1701(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 115-91, §1701(h)(2)(C), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 115-91, §1701(a)(1), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 115-91, §1701(h)(2)(B), (3), redesignated subsec. (e) as (f) and substituted “fiscal years 2020 through 2025” for “fiscal years 2004 through 2006”.
2015—Subsec. (c)(3). Pub. L. 114-92 inserted “the Administrator of the Federal Emergency Management Agency,” after “the Secretary of Labor.”

2010—Subsec. (b)(2). Pub. L. 111-240, §1347(c)(1), struck out introductory provisions which read as follows: “Notwithstanding any other provision of law—”.

Subsec. (b)(2)(A). Pub. L. 111-240, §1347(c)(2)(A), inserted heading and substituted “A contracting” for “a contracting” in introductory provisions.

Subsec. (b)(2)(A)(iii). Pub. L. 111-240, §1347(c)(2)(B), substituted period for semicolon at end.

Subsec. (b)(2)(B). Pub. L. 111-240, §1347(c)(3), which directed amendment of subpar. (B) by inserting heading and substituting “A contract opportunity may” for “a contract opportunity shall”, and period for “; and”, was executed by inserting heading and substituting “A contract opportunity may” for “a contract opportunity may” and period for “; and”, to reflect the probable intent of Congress and the intervening amendment by Pub. L. 111-240, §1347(b)(1). See below.

Pub. L. 111-240, §1347(b)(1), substituted “may” for “shall”.

Subsec. (b)(2)(C). Pub. L. 111-240, §1347(c)(4), inserted heading and substituted “Not later” for “not later”.

2004—Subsec. (b)(3)(C), (D). Pub. L. 108-447, §153, which directed amendment of par. (3) by redesignating subpar. (C) as (D) and adding a new subpar. (C) at the end, was executed by making the redesignation as directed but by adding the new subpar. (C) after subpar. (B) to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 108-447, §154, substituted “2004 through 2006” for “2001 through 2003”.

2000—Subsec. (b)(3). Pub. L. 106-554, §1(a)(9) [title VI, §612(a)], designated existing provisions as subpar. (A), inserted heading, substituted “Subject to subparagraph (B), in any” for “In any”, and added subpars. (B) and (C).

Subsec. (d). Pub. L. 106-554, §1(a)(9) [title V, §503(b)], added subsec. (d).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115-91, set out as a note under section 2323 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as an Effective Date of 1997 Amendment note under section 631 of this title.

INITIAL LIMITED APPLICABILITY

Pub. L. 105-135, title VI, §602(b)(2), Dec. 2, 1997, 111 Stat. 2631, as amended by Pub. L. 106-113, div. B, §1000(a)(5) [title II, §212], Nov. 29, 1999, 113 Stat. 1536, 1501A-295, limited the applicability of 15 U.S.C. 657a to certain procurements beginning on Dec. 2, 1997, and ending on Sept. 30, 2000.

CONSTRUCTION OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title XVII, §1701(i), Dec. 12, 2017, 131 Stat. 1803, provided that: “A HUBZone small business concern that was qualified pursuant to section 3(p)(5) of the Small Business Act [formerly 15 U.S.C. 632(p)(5), now 15 U.S.C. 657a(b)(4)] on or before December 31, 2019, shall continue to be considered as a qualified HUBZone small business concern during the period beginning on January 1, 2020, and ending on the date that the Administrator of the Small Business Administration prepares the online tool depicting qualified areas described under section 31(d)(7) [15 U.S.C. 657a(d)(7)] (as added by subsection (h) of this section).”

REPORT

Pub. L. 105-135, title VI, §606, Dec. 2, 1997, 111 Stat. 2635, required the Administrator to submit to Congress, by Mar. 1, 2002, a report on the HUBZone program and the degree to which the program resulted in increased employment opportunities and an increased level of investment in HUBZones.

§ 657b. Veterans programs

(a) Office of Veterans Business Development

There is established in the Administration an Office of Veterans Business Development, which shall be administered by the Associate Administrator for Veterans Business Development (in this section referred to as the “Associate Administrator”) appointed under section 633(b)(1) of this title.

(b) Associate Administrator for Veterans Business Development

The Associate Administrator—

(1) shall be an appointee in the Senior Executive Service;

(2) shall be responsible for the formulation, execution, and promotion of policies and programs of the Administration that provide assistance to small business concerns owned and controlled by veterans and small business concerns owned and controlled by service-disabled veterans. The Associate Administrator shall act as an ombudsman for full consideration of veterans in all programs of the Administration; and

(3) shall report to and be responsible directly to the Administrator.

(c) Interagency task force

(1) Establishment

Not later than 90 days after February 14, 2008, the President shall establish an interagency task force to coordinate the efforts of Federal agencies necessary to improve capital and business development opportunities for, and ensure achievement of the pre-established Federal contracting goals for, small business concerns owned and controlled by service-dis-