Congressional Research Service
Informing the legislative debate since 1914

Small Business Administration HUBZone Program

Robert Jay Dilger
Senior Specialist in American National Government

July 1, 2015

Congressional Research Service
7-5700
www.crs.gov
R41268

Summary

The Small Business Administration (SBA) administers several programs to support small businesses, including the Historically Underutilized Business Zone Empowerment Contracting (HUBZone) program. The HUBZone program is a small business federal contracting assistance program “whose primary objective is job creation and increasing capital investment in distressed communities.” It provides participating small businesses located in areas with low income, high poverty rates, or high unemployment rates with contracting opportunities in the form of set-asides, sole-source awards, and price-evaluation preferences. Firms must be certified by the SBA to participate in the HUBZone program. On July 1, 2015, there were 5,181 certified HUBZone small businesses.

In FY2014, the federal government awarded 74,812 contracts valued at $6.67 billion to HUBZone-certified businesses, with about $1.69 billion of that amount awarded through a HUBZone set-aside, sole-source, or price-evaluation preference award. The program’s FY2014 administrative cost was about $10.3 million. Its FY2015 appropriation is $3.0 million, with the additional cost of administering the program provided by the SBA’s appropriation for general administrative expenses.

Congressional interest in the HUBZone program has increased in recent years, primarily due to U.S. Government Accountability Office (GAO) reports of fraud in the program. Some Members have called for the program’s termination. Others have recommended that the SBA continue its efforts to improve its administration of the program, especially its efforts to prevent fraud.

This report examines arguments both for and against targeting assistance to geographic areas with specified characteristics, such as low income, high poverty, or high unemployment, as opposed to providing assistance to people or businesses with specified characteristics. It then assesses the arguments both for and against the continuation of the HUBZone program.

The report also discusses the HUBZone program’s structure and operation, focusing on the definition of HUBZone areas and HUBZone small businesses and the program’s performance relative to federal contracting goals. It includes an analysis of the SBA’s administration of the program and the SBA’s performance measures.

In addition, this report examines P.L. 111-240, the Small Business Jobs Act of 2010, which removed certain language from the Small Business Act that had prompted federal courts and GAO to find that HUBZone set-asides have “precedence” over other small business set-asides.

It also briefly discusses several bills introduced during the 114th Congress, including H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016 (passed by the House on May 15, 2015); S. 1266, the HUBZone Expansion Act of 2015; and S. 1292, the HUBZone Revitalization Act of 2015 (included in S. 1376, the National Defense Authorization Act for Fiscal Year 2016) that would make it easier for businesses located in a Base Realignment and Closure Act (BRAC) military base closure area to meet the HUBZone program’s requirement that at least 35% of its employees reside in a HUBZone area. These bills would also extend BRAC base closure area HUBZone eligibility from five years to eight years.

Contents

Tables

Contacts

The HUBZone Program

The Small Business Administration (SBA) administers several programs to support small businesses, including the Historically Underutilized Business Zone Empowerment Contracting (HUBZone) program. The HUBZone program is "a place-based contracting assistance program whose primary objective is job creation and increasing capital investment in distressed communities."[1] It provides participating small businesses located in areas with low income, high poverty rates, or high unemployment rates with contracting opportunities in the form of "set-asides," sole-source awards, and price-evaluation preferences.[2]

The Competition in Contracting Act of 1984 generally requires "full and open competition" for government procurement contracts.[3] However, procurement set-asides are permissible competitive procedures.

A set-aside restricts competition for a federal contract to specified contractors. Set-asides can be exclusive or partial, depending upon whether the entire procurement or just part of it is so restricted. In this case, the competition may be restricted to SBA-certified HUBZone businesses if there is a reasonable expectation of at least two SBA-certified HUBZone bidders and a fair market price. It is the most commonly used mechanism in the HUBZone program, accounting for about 96.5% of HUBZone program contract dollars ($1.64 billion of $1.69 billion) in FY2014.

A sole-source award is a federal contract awarded, or proposed for award, without competition. Sole-source awards accounted for about 2.7% of HUBZone program contract dollars ($45.9 million) in FY2014. Also, in any full and open competition for a federal contract "the price offered by a qualified HUBZone business shall be deemed as being lower than the price of another offeror if the HUBZone business price offer is not more than 10% higher than the other offer."[4] Price-evaluation preferences accounted for about 0.7% of HUBZone program contract dollars ($12.6 million) in FY2014.[5]

---

[1] U.S. Small Business Administration (SBA), *FY2012 Congressional Budget Justification and FY2010 Annual Performance Report*, p. 29, at https://www.sba.gov/sites/default/files/FINAL%20FY%202012%20CBJ%20FY%202010%20APR_0.pdf.

[2] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. i, at https://www.sba.gov/content/hubzone-program-report. Sole-source awards under the HUBZone program can be made only if the anticipated award price of the contract will not exceed $6.5 million for manufacturing contracts or $4.0 million for other contract opportunities and the contracting officer believes the award can be made at a fair and reasonable price. See 13 C.F.R. §126.612; 15 U.S.C. §657a(b)(2)(A)(i)-(iii) (statutory requirements); 48 C.F.R. §19.1306(a)(1)-(6) (increasing the price thresholds, among other things); and Department of Defense, General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds," 75 *Federal Register* 53129, August 30, 2010.

[3] 41 U.S.C. §253(b)(1); and 41 U.S.C. §259(b). For more on competition in federal contracting, see CRS Report R40516, *Competition in Federal Contracting: Legal Overview*, by Kate M. Manuel http://www.crs.gov/pages/Reports.aspx?PRODCODE=R40516.

[4] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. i, at https://www.sba.gov/content/hubzone-program-report.

[5] Federal procurement data generated from the U.S. General Services Administration, Federal Procurement Data System—Next Generation, accessed on June 29, 2015, at https://www.fpds.gov/fpdsng/.

In FY2014, the federal government awarded 74,812 contracts valued at $6.67 billion to HUBZone-certified businesses, with about $1.69 billion of that amount awarded through a HUBZone set-aside, sole-source, or price-evaluation preference award, $1.82 billion awarded through open competition, and the remainder awarded with another small business preference provided (e.g., small business set-aside or service-disabled veteran-owned small business set-aside).[6]

The program's administrative cost is about $10.3 million annually.[7] It received an appropriation of $3.0 million for FY2015, with the additional cost of administering the program provided by the SBA's appropriation for general administrative expenses.[8]

Congressional interest in the HUBZone program has increased in recent years, primarily due to U.S. Government Accountability Office (GAO) reports of fraud in the program. Some Members have called for the program's termination. Others have recommended that the SBA continue its efforts to improve its administration of the program, especially its efforts to prevent fraud.[9]

This report examines arguments presented both for and against targeting assistance to geographic areas with specified characteristics, such as low income, high poverty, or high unemployment, as opposed to providing assistance to people or businesses with specified characteristics. It then assesses arguments presented both for and against the creation and continuation of the HUBZone program, starting with the arguments presented during consideration of P.L. 105-135, the HUBZone Act of 1997 (Title VI of the Small Business Reauthorization Act of 1997), which authorized the program. It also discusses the HUBZone program's structure and operation, focusing on the definitions of HUBZone areas and HUBZone small businesses and the program's performance relative to federal contracting goals. It includes an analysis of the SBA's administration of the program and the SBA's performance measures.

In addition, the report examines P.L. 111-240, the Small Business Jobs Act of 2010, which removed certain language from the Small Business Act that had prompted federal courts and GAO to find that HUBZone set-asides have "precedence" over other small business set-asides.

It also briefly discusses several bills considered during the 114th Congress, including

- H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016 (passed by the House on May 15, 2015);
- S. 1266, the HUBZone Expansion Act of 2015; and
- S. 1292, the HUBZone Revitalization Act of 2015 (included in S. 1376, the National Defense Authorization Act for Fiscal Year 2016).

These bills would make it easier for businesses located in a Base Realignment and Closure Act (BRAC) military base closure area to meet the HUBZone program's requirement that at least 35%

6 Ibid.

7 SBA, *FY2016 Congressional Budget Justification and FY2014 Annual Performance Report*, p. 27, at https://www.sba.gov/sites/default/files/1-FY%202016%20CBJ%20FY%202014%20APR.PDF.

8 P.L. 113-235, the Consolidated and Further Continuing Appropriations Act, 2015.

9 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), pp. 1-3, 28-31.

of their employees reside in a HUBZone area. They would also extend BRAC base closure area HUBZone eligibility from five years to eight years.

In addition, several bills are discussed that would increase the federal government's small business contracting goals. For example, during the 113th Congress, S. 259, the Assuring Contracting Equity Act of 2013, would have increased the federal government's 23% contracting goal for small businesses generally to 25%, the 5% contracting goals for small disadvantaged businesses and women-owned small businesses to 10%, and the 3% contracting goals for HUBZone-certified small businesses and service-disabled veteran-owned small businesses to 6%. During the 114th Congress, H.R. 273, the Minority Small Business Enhancement Act of 2015, would increase the federal government's 23% contracting goal for small businesses generally to 25% and the 5% contracting goals for small disadvantaged businesses and women-owned small businesses to 10%.

Targeting Assistance to Geographic Areas

The HUBZone program was authorized by P.L. 105-135.[10] 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."[11] Its enactment was part of a broader debate that had been under way since the late 1970s concerning whether the federal government should target assistance to geographic areas with specified characteristics, such as low income, high poverty, or high unemployment, as opposed to providing assistance to people or businesses with specified characteristics.

Discussion

The idea of targeting government assistance to geographic areas with specified characteristics, as opposed to targeting government assistance to people or businesses with specified characteristics, has its origins in a British experiment in urban revitalization started during the late 1970s. In 1978, Sir Geoffrey Howe, a Conservative Member of Parliament, argued for the establishment of market-based enterprise zones that would provide government regulatory and tax relief in economically distressed areas as a means to encourage entrepreneurs "to pursue profit with minimum governmental restrictions."[12] With the support of Prime Minister Margaret Thatcher's

[10] 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.

[11] 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.

[12] Marilyn Marks Rubin, "Can Reorchestration of Historical Themes Reinvent Government? A Case Study of the Empowerment Zones and Enterprise Communities Act of 1993," *Public Administration Review*, vol. 54, no. 2 (March/April 1994), p. 162. Note: Sir Peter Geoffrey Hall, the Bartlett Professor of Planning and Regeneration at the Bartlett School of Architecture and Planning, University College London, is often credited for developing the concept of empowerment zones.

Conservative government (1979-1990), by the mid-1980s, more than two dozen enterprise zones were operating in England. Evaluations of the British enterprise zones' potential for having a positive effect on the long-term economic growth of economically distressed areas suggested that providing tax incentives and implementing regulatory relief in those areas were "useful but not decisive economic development tools for distressed communities."[13]

In the United States, the idea of targeting regulatory and tax relief to economically distressed places appealed to some liberals who had become frustrated by the lack of progress some economically distressed communities had experienced under conventional government assistance programs, such as federal grant-in-aid programs. They tended to view the idea as a supplement to existing government assistance programs. Some conservatives also supported the idea of providing additional regulatory and tax relief to geographic areas because it generally aligned with their views on reducing government regulation and taxes. They tended to view this approach as a replacement, as opposed to a supplement, for existing government assistance programs.[14] As a result, support for targeting federal assistance to economically distressed places came from a diverse group of individuals and organizations that were often on opposing sides in other issue areas. Some of its leading proponents were the Congressional Black Caucus; the National Urban League; the National League of Cities; the National Association for the Advancement of Colored People; President Ronald Reagan; Republican Representative Jack Kemp, who introduced the first enterprise zone bill in Congress in May 1980 (H.R. 7240, the Urban Jobs and Enterprise Zone Act of 1980); and Democratic Representative Robert Garcia, who cosponsored with Representative Kemp H.R. 3824, the Urban Jobs and Enterprise Zone Act of 1981.[15]

Opponents noted that targeting government assistance, in this case regulatory and tax relief, to economically distressed places would "provide incentives in designated areas, regardless of the nature of the industry which would benefit from the incentives."[16] They argued that it would be more efficient and cost effective to target federal assistance to businesses that offer primarily high-wage, full-time jobs with benefits and have relatively high multiplier effects on job creation than to offer the same benefits to all businesses, including those that offer primarily low-wage, part-time jobs with few or no benefits and have relatively low multiplier effects on job creation.[17]

Others opposed the idea because they viewed it as a partisan extension of supply-side economics.[18] Still others, including the National Federation of Independent Businesses, an organization representing the interests of the nation's small businesses, were not convinced that providing "marginal rate reductions or marginal reductions in taxes" would "stimulate the entry

---

[13] Ibid.

[14] Stuart M. Butler, *Enterprise Zones: Greenlining the Inner Cities* (New York: Universe Books, 1981).

[15] Ibid; U.S. Congress, House Committee on Ways and Means, *The Enterprise Zone Tax Act of 1982*, Message from the President of the United States transmitting proposed legislation entitled, "The Enterprise Zone Tax Act of 1982", 97th Cong., 2nd sess., March 23, 1982, H.Doc. 97-157 (Washington: GPO, 1982), pp. 1-5; and U.S. Congress, House Committee on Banking, Finance, and Urban Affairs, Subcommittee on the City, *Urban Revitalization and Industrial Policy*, 96th Cong., 2nd sess., September 17, 1980, Serial No. 96-72 (Washington: GPO, 1980), pp. 205-224.

[16] U.S. Congress, House Committee on Banking, Finance, and Urban Affairs, Subcommittee on the City, *Urban Revitalization and Industrial Policy*, 96th Cong., 2nd sess., September 17, 1980, Serial No. 96-72 (Washington: GPO, 1980), p. 283.

[17] Ibid.

[18] Marilyn Marks Rubin, "Can Reorchestration of Historical Themes Reinvent Government? A Case Study of the Empowerment Zones and Enterprise Communities Act of 1993," *Public Administration Review*, vol. 54, no. 2 (March/April 1994), p. 163.

of new businesses into depressed areas."[19] Also, some economists argued that it would be more efficient to let the private market determine where businesses locate rather than to have the government enact policies that encourage businesses to locate, or relocate, in areas they would otherwise avoid. In this view, "the locational diversion of economic activity reduces or may outweigh gains from the creation of economic activity."[20]

These disagreements may have had a role in delaying the enactment of the first fully functional federal enterprise zone program until 1993 (P.L. 103-66, the Omnibus Budget Reconciliation Act of 1993).[21] In the meantime, 37 states and the District of Columbia had initiated their own enterprise zone programs.[22] Evaluations of their effect on job creation and the economic status of the targeted distressed areas "provided conflicting conclusions, with some finding little or no program-related impacts, and others finding gains in the zones associated with the enterprise zone incentives."[23] Evaluations of federal enterprise zones would later report similarly mixed findings.[24]

The Debate over HUBZones

The federal enterprise zone program's enactment in 1993 established a precedent for the enactment of other programs, such as the HUBZone program, that target federal assistance, in this case government contracts, to places with specified characteristics. For example, the Senate Committee on Small Business's report accompanying the HUBZone program's authorizing legislation in 1997 presented many of the same arguments for adopting the HUBZone program that had been put forth for adopting the federal enterprise zone program:

---

[19] U.S. Congress, House Committee on Small Business, Subcommittee on Tax, Access to Equity Capital and Business Opportunities, *Job Creation and the Revitalization of Small Business*, 97th Cong., 1st sess., September 15, 1981 (Washington: GPO, 1981), pp. 22, 23.

[20] Herbert Grubel, "Review of Enterprise Zones: Greenlining the Inner Cities, by Stuart M. Butler," *Journal of Economic Literature*, vol. XX (December 1982), p. 1616.

[21] In 1987, Title VII of P.L. 100-242, the Housing and Community Development Act, authorized the U.S. Department of Housing and Urban Development (HUD) to coordinate the community development block grant, urban development action grant, and other HUD programs and to provide the waiver or modification of housing and community development rules in up to 100 HUD-designated enterprise zone communities. No enterprise zone designations were subsequently made. See Marilyn Marks Rubin, "Can Reorchestration of Historical Themes Reinvent Government? A Case Study of the Empowerment Zones and Enterprise Communities Act of 1993," *Public Administration Review*, vol. 54, no. 2 (March/April 1994), p. 162.

[22] Ibid.; and Sarah F. Liebschutz, "Empowerment Zones and Enterprise Communities: Reinventing Federalism for Distressed Communities," *Publius: The Journal of Federalism*, vol. 25, no. 3 (Summer 1995), p. 127.

[23] Marilyn Marks Rubin, "Can Reorchestration of Historical Themes Reinvent Government? A Case Study of the Empowerment Zones and Enterprise Communities Act of 1993," *Public Administration Review*, vol. 54, no. 2 (March/April 1994), p. 164. Also see Sarah F. Liebschutz, "Empowerment Zones and Enterprise Communities: Reinventing Federalism for Distressed Communities," *Publius: The Journal of Federalism*, vol. 25, no. 3 (summer 1995), p. 128; and Edward L. Glaeser and Joshua D. Gottlieb, "The Economics of Place-Making Policies," *Brookings Papers on Economic Activity* (spring 2008), p. 157.

[24] U.S. Government Accountability Office (GAO), *Community Development: Federal Revitalization Programs Are Being Implemented, but Data on the Use of Tax Benefits Are Limited*, GAO-04-306, March 5, 2004, at http://www.gao.gov/new.items/d04306.pdf; GAO, *Empowerment Zone and Enterprise Community Program: Improvements Occurred in Communities, but the Effect of the Program Is Unclear*, GAO-06-727, September 22, 2006, at http://www.gao.gov/new.items/d06727.pdf; and GAO, *Revitalization Programs: Empowerment Zones, Enterprise Communities, and Renewal Communities*, GAO-10-464R, March 12, 2010, at http://www.gao.gov/new.items/d10464r.pdf.

> 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.[25]

HUBZone opponents expressed many of the same arguments that were raised in opposition to federal enterprise zones. For example, some Members opposed contract set-asides because they "unfairly discriminate against more efficient producers" and argued that "lower taxes, fewer mandates and freer markets are what stimulate the growth of small business."[26] Others contended that the experiences under enterprise zones 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 target area anyway…. Therefore, we should be realistic about the impact the HUBZone legislation will have on business relocation decisions.[27]

HUBZone critics also argued that the program would compete with, and potentially diminish the effectiveness of, the SBA's Minority Small Business and Capital Ownership Development 8(a) program.[28] The 8(a) program provides participating small businesses with training, technical assistance, and contracting opportunities in the form of set-asides and sole-source awards. Eligibility for the 8(a) program is generally limited to small businesses "unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character and citizens of the United States" that demonstrate "potential for success."[29] Small businesses owned by Indian tribes, Alaska native corporations, native Hawaiian organizations, and community development corporations are also eligible for the 8(a) program under somewhat

---

[25] 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.

[26] 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. 68.

[27] Ibid., p. 36.

[28] 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.

[29] 13 C.F.R. §124.101.

different terms. In FY2014, about 6,800 firms participated in the 8(a) program and the federal government provided more than $25.6 billion in contracts to 8(a) firms.[30]

Others argued that the HUBZone self-certification process "while laudable in its effort to reduce certification costs and delays, invites inadvertent or deliberate abuses."[31]

As will be discussed in greater detail, the SBA's administration of the HUBZone program and the program's effectiveness in assisting economically distressed areas has been criticized. For example, GAO has argued that the program is subject to fraud and abuse and has recommended that the SBA "take additional actions to certify and monitor HUBZone firms as well as to assess the results of the HUBZone program."[32] Also, several Members of Congress have questioned the program's effectiveness. For example, Representative Nydia M. Velázquez has argued that

> When first introduced, the HUBZone program promised to create opportunities for small businesses in low-income communities. It was designed to do this by helping entrepreneurs access the Federal marketplace. In theory, the benefits will be twofold; HUBZones will not only bolster the small business community, but will also breathe new life into struggling neighborhoods. However, the 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.[33]

HUBZone Areas Defined

Five HUBZone types (or classes) currently exist:

- qualified census tracts (QCTs),
- qualified nonmetropolitan counties,
- difficult development areas (DDAs),
- qualified Indian reservations/Indian Country, and
- military bases closed under the Base Realignment and Closure Act (BRAC).[34]

[30] For further analysis of the 8(a) program, see CRS Report R40744, *The "8(a) Program" for Small Businesses Owned and Controlled by the Socially and Economically Disadvantaged: Legal Requirements and Issues*, by Kate M. Manuel.

[31] 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. 36.

[32] GAO, *HUBZone Program: Fraud and Abuse Identified in Four Metropolitan Areas*, GAO-09-440, March 25, 2009, p. 5, at http://www.gao.gov/new.items/d09440.pdf. Also see GAO, *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-759, June 25, 2010, pp. 2, 4, 5, at http://www.gao.gov/new.items/d10759.pdf; GAO, *HUBZone Program: Fraud and Abuse Identified in Four Metropolitan Areas* (congressional testimony), GAO-09-519T, March 25, 2009, pp. 2-9, at http://www.gao.gov/new.items/d09519t.pdf; and GAO, *Small Business Administration: Status of Efforts to Address Previous Recommendations on the HUBZone Program* (congressional testimony), GAO-09-532T, March 25, 2009, pp. 1-3, at http://www.gao.gov/new.items/d09532t.pdf.

[33] 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.

[34] 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.
(continued...)

In addition, QCTs and qualified nonmetropolitan counties that lose their eligibility may temporarily retain their eligibility by becoming redesignated areas.

Qualified Census Tracts

P.L. 105-135, the HUBZone Act of 1997, specified that the term "qualified census tract" has the meaning given that term in Section 42(d)(5)(B)(ii)(I) of the Internal Revenue Code of 1986. That section of the Internal Revenue code refers to qualified census tracts as determined by the U.S. Department of Housing and Urban Development (HUD) for its low-income housing tax credit program. The current criteria are any census tract that is designated by the Secretary of HUD and, for the most recent year for which census data are available on household income in such tract, has

- at least 50% of households with income below 60% of the median gross income of the metropolitan statistical area (in metropolitan census tracts) or the median gross income for all nonmetropolitan areas of the state (in nonmetropolitan census tracts) or
- a poverty rate of at least 25%.[35]

In addition, the number of qualified census tracts within a metropolitan statistical area "shall not exceed an area having 20% of the population of such metropolitan statistical area."[36] In areas in which more than 20% of the population qualifies, HUD orders the census tracts in that metropolitan statistical area from the highest percentage of eligible households to the lowest. HUD then designates the census tracts with the highest percentage of eligible households as qualified until the 20% limit is exceeded. If a census tract is excluded because it raises the percentage 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.[37]

About 18.7% of all census tracts (13,795 of 73,793) have QCT status.[38]

In the past, these economic data were only available from the decennial census. 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. The Census Bureau reexamines its census tracts following each decennial census in an effort to keep them homogeneous with respect to population characteristics, economic status, and living conditions.[39] As a result of this delineation process, some census tracts may be enlarged and

(...continued)

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.

[35] 13 C.F.R. §126.103 and 26 U.S.C. §42(d)(5)(B)(ii)(I).

[36] 26 U.S.C. §42(d)(5)(B)(ii)(II).

[37] HUD, "Qualified Census Tracts and Difficult Development Areas," at http://www.huduser.org/portal/datasets/qct/qct99home.html.

[38] SBA, "The HUBZone Maps," count effective as of January 1, 2015, at https://www.sba.gov/content/hubzone-maps. The number of HUBZone-qualified census tracts was 13,635 of 73,790 during 2014.

[39] U.S. Census Bureau, "Census Tracts and Block Numbering Areas," at http://www.census.gov/geo/www/cen_tract.html.

others may be split into two or more census tracts. This can cause a change in the census tract's QCT status. The typical census tract has between 1,500 persons and 8,000 persons.

Previously, QCT status was based on census tract economic data from the 2000 decennial census long form. 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. The ACS collects and produces population and housing information annually. ACS annual reports are based on data collected over a period of one year for areas with a population of at least 65,000, three years for areas with a population of at least 20,000, and five years for all areas (including census tracts).[40] The ACS survey, including census tracts, for 2006-2010 was released in December 2011. HUD used those data to determine the eligibility status of census tracts for the low-income housing tax credit program and announced the changes on April 20, 2012, with an effective date for the low-income housing tax credit program of January 1, 2013.[41] The SBA applied the changes in QCT status to the HUBZone program on October 1, 2012, resulting in 13,635 QCTs.[42]

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.[43] However, HUD noticed some statistical anomalies in the ACS data when comparing data from the ACS 2006-2100 survey of all areas to the 2007-2011 and 2008-2012 surveys of all areas. To avoid "basing QCT designations on a single estimate which may be an anomaly due to sampling error rather than an accurate reflection of local conditions," HUD announced that, effective January 1, 2015, QCT designations will be determined using three surveys of all areas (2006-2010, 2007-2011, and 2008-2012) instead of one (2006-2010).[44] Census tracts must meet the income or poverty threshold in at least two of the three surveys to be considered for QCT designation (subject to the 20% limitation within a metropolitan statistical area).[45]

HUD's new methodology resulted in 13,795 census tracts having QCT status as of January 1, 2015. The number of QCTs increased by 160 as a result of implementing this new methodology, and many census tracts changed designations. For example, 1,199 census tracts gained QCT status (making them HUBZone eligible), 280 census tracts that had redesignated HUBZone status until October 2015 gained QCT status, and 1,319 census tracts lost QCT status and were reclassified by the SBA as redesignated QCTs (retaining HUBZone eligibility until January 1, 2018). HUD has not indicated how frequently it will update QCT status in the future.[46]

---

[40] U.S. Census Bureau, "About the ACS: What Is the Survey?" at http://www.census.gov/acs/www/about_the_survey/american_community_survey/; and U.S. Census Bureau, "American Community Survey: When to use 1-year, 3-year, or 5-year estimates," at http://www.census.gov/acs/www/guidance_for_data_users/estimates/. For further analysis, see CRS Report R40551, *The 2010 Decennial Census: Background and Issues*, by Jennifer D. Williams.

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

[42] SBA, "The HUBZone Maps," at https://www.sba.gov/content/hubzone-maps.

[43] SBA, "Small Business HUBZone Program; Government Contracting Programs," 76 *Federal Register* 43572, July 21, 2011; and HUD, "Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2012," 76 *Federal Register* 66745, October 27, 2011. HUD also updates qualified census tract (QCT) status if metropolitan area definitions change.

[44] HUD, "Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2015," 79 *Federal Register* 59859, October 3, 2014.

[45] Ibid., p. 59858.

[46] HUD, "Qualified Census Tract Table Generator," at http://qct.huduser.org/index.html; and SBA, "The HUBZone (continued...)

Qualified Nonmetropolitan Counties and Difficult Development Areas

Counties may become HUBZone eligible in two ways: by being designated as a qualified nonmetropolitan county by meeting statutorily mandated household income or unemployment requirements, or by being a HUD-designated difficult development area (DDA).

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[47] and in which

- the median household income is 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 or
- 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 the most recent data available from the Secretary of Labor.[48]

About 15.7% (508) of the nation's 3,233 counties have qualified nonmetropolitan county status (25.4% of the nation's 1,997 nonmetropolitan counties).[49] This count includes 16 counties qualified as eligible solely due to their status as a DDA (see "Difficult Development Areas").

Previously, nonmetropolitan county median household income was derived from income data generated from the 2000 decennial census long form. If a county qualified on that basis, its HUBZone status based on median household income was "secure until publication of the data from the following census."[50] However, the Census Bureau now relies on the ACS to collect those data. ACS survey data concerning county median household income is collected over a five-year period and published on a rolling basis each year. Since 2011, the SBA has used the five-year ACS median household income data to update the eligibility status of nonmetropolitan counties annually.[51] The most recent update, reflecting the 2009-2013 ACS median household income data, is effective as of January 1, 2015.

The nonmetropolitan county's unemployment rate is derived from data released annually by the Department of Labor's Bureau of Labor Statistics (BLS). These data are typically sent to the SBA

(...continued)

Maps," at https://www.sba.gov/content/hubzone-maps.

[47] 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."

[48] 13 C.F.R. §126.103.

[49] SBA, "The HUBZone Maps," count effective as of January 1, 2015, at https://www.sba.gov/content/hubzone-maps.

[50] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. 146, at https://www.sba.gov/content/hubzone-program-report.

[51] SBA, "Small Business HUBZone Program; Government Contracting Programs," 76 *Federal Register* 43573, July 21, 2011; and SBA, Office of Congressional and Legislative Affairs, correspondence with the author, October 19, 2011. HUBZone nonmetropolitan counties, by state, can be accessed at https://www.sba.gov/content/hubzone-maps.

during May, June, or July. The SBA updates the eligibility status of nonmetropolitan counties based on these data each year, depending on when the data are received.[52] The two most recent updates, reflecting 2012 and 2013 annual unemployment data, took place on May 1, 2013, and May 1, 2014.

The qualified nonmetropolitan county designation is the only type of HUBZone that is determined by the SBA. The formula is set in law and the data are derived from other agencies, but the designation is made by the SBA.[53] As will be discussed, Congress created redesignated areas to delay the loss of HUBZone status for areas that lose HUBZone eligibility.

Difficult Development Areas

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."[54] 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.[55] This section of the Internal Revenue Code defines DDAs 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."[56] These areas may not exceed 20% of the population of a metropolitan statistical area or of a nonmetropolitan area.

There are 30 HUBZone DDA counties.[57] Of these 30 counties, 16 are HUBZone eligible solely due to their DDA status, 12 are HUBZone eligible based on both their unemployment and DDA status, and 2 are HUBZone eligible based on their income, unemployment, and DDA status.[58]

Although the HUBZone program's DDA designation is statutorily distinct from the qualified nonmetropolitan county designation, the SBA includes eligibility due to DDA status in its list of qualified nonmetropolitan counties, which is available online.[59]

---

[52] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, October 17, 2011.

[53] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. 146, at https://www.sba.gov/content/hubzone-program-report.

[54] P.L. 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

[55] Ibid.

[56] HUD, "Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2010," 74 *Federal Register* 51305, October 6, 2009. Note: In making this determination, HUD calculates a ratio for each metropolitan area and nonmetropolitan county of the fair market rent (based on the 40th-percentile gross rent paid by recent movers to live in a two-bedroom apartment) to the monthly low-income housing tax credit-based rent limit, which was calculated as three-twelfths of 30% of 120% of the area's very low-income households (which is based on 50% of area's median gross income).

[57] SBA, "The HUBZone Maps," count effective as of January 1, 2015, at https://www.sba.gov/content/hubzone-maps.

[58] Ibid.

[59] Ibid.

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

- 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.[60]

There are 592 HUBZone-qualified Indian lands.[61] A private firm's analysis of Indian reservations' economic characteristics conducted on behalf of the SBA indicated that

> for the most part—and particularly in states where reservations are numerous and extensive—mean income of reservations is far below state levels, and unemployment rates and poverty rates are far above state levels. There are some interesting exceptions, however, where reservations are basically on a par with the states they are in. Examples include Osage reservation in Oklahoma and reservations in Connecticut, Rhode Island, and Michigan. The factors at work here may be casinos and oil.[62]

Military Bases Closed Under BRAC

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" under the authority of 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). The military base's HUBZone eligibility commences on the effective date of the 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.

There are 107 HUBZone-qualified base closure areas.[63]

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

[60] 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, at https://www.sba.gov/content/hubzone-program-report.

[61] SBA, "The HUBZone Maps," count effective as of January 1, 2015, at https://www.sba.gov/content/hubzone-maps. There were 668 qualified Indian reservations, Oklahoma tribal statistical areas, and Alaska Native village statistical areas on May 1, 2013, and 659 on May 1, 2010. SBA, Office of Congressional and Legislative Affairs, correspondence with the author, May 4, 2010.

[62] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, p. 163, at https://www.sba.gov/content/hubzone-program-report.

[63] SBA, "The HUBZone Maps," count effective as of January 1, 2015, at https://www.sba.gov/content/hubzone-maps. As of May 1, 2013, there were 123 HUBZone-qualified base closure areas.

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. The legislation was designed to assist small businesses in BRAC base closure areas, primarily located in rural areas, which are not able to meet the HUBZone requirement of having at least 35% of their employees reside within a HUBZone.[64]

During the 114th Congress, S. 2410, the Carl Levin National Defense Authorization Act for Fiscal Year 2015, included a provision that would have expanded the areas that could be used by businesses located in a BRAC base closure area to comply with the requirement that at least 35% of their employees reside in a HUBZone. In addition to employees residing in a HUBZone area, the bill would have allowed businesses to count employees residing in (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. S. 2410 also would have extended HUBZone eligibility for BRAC base closure areas from five years to eight years. These provisions were not included in the final version of the bill that later became law.

On May 11, 2015, the HUBZone provisions included in S. 2410 were reintroduced as S. 1266, the HUBZone Expansion Act of 2015. The following day, S. 1292, the HUBZone Revitalization Act of 2015 (since included in S. 1376, the National Defense Authorization Act for Fiscal Year 2016), was introduced. It includes the provisions in S. 1266, and would provide qualified disaster areas HUBZone eligibility for 5 years if the President has declared the qualified area a major disaster and 10 years if a catastrophic incident has 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 includes 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 also extend HUBZone eligibility for BRAC base closure areas from five years to at least eight years.

In a related development, Congress indicated in the explanatory statement accompanying P.L. 113-235, the Consolidated and Further Continuing Appropriations Act, 2015, that "businesses located in a BRAC HUBZone face unique challenges in qualifying for the program and competing for federal procurement opportunities" and directed the SBA to "examine ways to address these issues in any further revisions of the Small Business Act or other legislation."[65]

Redesignated Areas

One of the implicit goals of the HUBZone program is to improve the economic standing of the geographic areas receiving assistance so they are no longer economically distressed areas. As a result, it could be argued that it is a program success when a QCT or a qualified nonmetropolitan county loses its qualification as a HUBZone area when new economic data are published.

---

[64] Senator Susan Collins, "Statements on Introduced Bills and Joint Resolutions," remarks in the Senate, *Congressional Record*, daily edition, vol. 159, part 14 (January 31, 2013), p. S443.

[65] Rep. Harold Rogers, "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 83," *Congressional Record*, vol. 160, part 151 (December 11, 2014), p. H9741.

However, because "small business concerns that locate to a HUBZone may lose their eligibility in only one year due to changes in such data" and out of concern 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.[66] 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."[67] The act labeled census tracts and nonmetropolitan counties that receive an extension of HUBZone eligibility *redesignated areas*.

As of January 1, 2015, 196 nonmetropolitan counties have redesignated status (40 until October 1, 2015; 21 until January 1, 2016; 27 until May 1, 2016; 17 until January 1, 2017; 38 until May 1, 2017, and 53 until January 1, 2018) and 2,290 census tracts have redesignated QCT status (971 until October 1, 2015, and 1,319 until January 2018).[68]

Overall, 704 of the nation's 3,233 counties (about 21.8%) have HUBZone status, either as a qualified nonmetropolitan county, a DDA, or a redesignated nonmetropolitan county. A total of 16,085 of the nation's 73,793 census tracts (about 21.8%) have HUBZone status, either as a QCT or as a redesignated QCT.

The status of HUBZone redesignated areas was a major issue during the 112th Congress. In FY2012, 2,396 HUBZone small businesses were decertified because "the addresses where the HUBZone principal offices were located were no longer HUBZone-designated" due to the release of economic data from the 2010 decennial census.[69] Many of the HUBZone small businesses that were decertified at that time were located in HUBZone redesignated areas that had been granted more than three years of additional eligibility under P.L. 108-447, the Consolidated Appropriations Act, 2005.[70] The act effectively extended the eligibility of HUBZone redesignated areas by allowing them to retain eligibility for three years or until the public release of data from the 2010 decennial census, whichever is later.[71]

---

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

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

[68] As of May 1, 2014, there were 250 HUBZone redesignated nonmetropolitan counties and 1,251 HUBZone redesignated QCTs. As of May 1, 2013, there were 326 HUBZone redesignated nonmetropolitan counties and 1,251 HUBZone redesignated QCTs.

[69] SBA, *FY2014 Congressional Budget Justification and FY2012 Annual Performance Report*, p. 43, at https://www.sba.gov/sites/default/files/files/1-FY%202014%20CBJ%20FY%202012%20APR.PDF.

[70] Firms are provided 30 calendar days from the date they receive a proposed decertification letter to respond. After reviewing the firm's response, the SBA will either decertify the firm or continue its certification if the firm demonstrates that it meets the HUBZone eligibility criteria. Firms are also provided an opportunity to voluntarily decertify themselves from the program if they no longer meet the HUBZone eligibility criteria. See SBA, "Small Business HUBZone Program; Government Contracting Programs," 76 *Federal Register* 43573, July 21, 2011.

[71] 13 C.F.R. §126.103. In 2008, GAO compared the economic characteristics of QCTs and qualified nonmetropolitan counties with redesignated areas. It reported that it "found a marked difference" in their economic characteristics. For example, GAO reported that approximately 60% of QCTs (excluding redesignated areas) had a poverty rate of 30% or more compared with approximately 4% of redesignated QCTs. Also, about 75% of QCTs (excluding redesignated areas) had a median household income that was less than 60% of the metropolitan area median household income compared with about 10% of redesignated QCTs. See GAO, *Small Business Administration: Additional Actions are Needed to Certify and Monitor HUBZone Businesses and Assess Program Results*, GAO-08-643, June 17, 2008, p. 18, at http://www.gao.gov/new.items/d08643.pdf.

Prior to October 1, 2011, there were 3,760 redesignated HUBZone QCTs, 651 redesignated HUBZone nonmetropolitan counties, and 20 redesignated HUBZone DDAs.[72] On October 1, 2011, all redesignated HUBZones that were provided an extended grandfathering period beyond the original three years lost their redesignated status. For example, on October 1, 2011, the number of redesignated HUBZone nonmetropolitan counties was reduced from 651 to 318.[73]

During the 112th Congress, several bills would have extended the eligibility of redesignated areas that lost their redesignated status on October 1, 2011, due to the release of 2010 decennial census data, including H.R. 2131, the Protect HUBZones Act of 2011, and its companion bill in the Senate (S. 1756); S. 633, the Small Business Contracting Fraud Prevention Act of 2011; and S. 3572, the Restoring Tax and Regulatory Certainty to Small Businesses Act of 2012.[74]

HUBZone Businesses Defined

Firms must be certified by the SBA to participate in the HUBZone program. As shown in **Table 1**, the number of HUBZone-certified small businesses increased from May 2010 to May 2011 and has generally declined since then, with much of the reduction due to the previously mentioned expiration of grandfathered redesignated areas on October 1, 2011. On July 1, 2015, there were 5,181 certified HUBZone small businesses.[75]

Table 1. Number of HUBZone-Certified Small Businesses, Selected Dates, 2010-2015

Date	Number
May 4, 2010	7,567
May 5, 2011	8,533
December 21, 2011	6,900
July 5, 2012	6,602
December 27, 2012	5,637
July 11, 2013	5,788
December 17, 2013	5,799
July 24, 2014	5,808
December 22, 2014	5,510
July 1, 2015	5,181

[72] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, May 5, 2011.

[73] SBA, "List of Non-Metropolitan Counties." Final figures for the number of redesignated QCTs and redesignated DDAs that changed status on October 1, 2011, are not publicly available.

[74] H.R. 2416, the Monroe County HUBZone Extension Act of 2011, and its companion bill in the Senate (S. 976), would have extended the designation of Monroe County, Pennsylvania, as a HUBZone until October 1, 2014. H.R. 2712, the Shuttle Workforce Revitalization Act of 2011, would have extended the designation of Brevard County, Florida, as a HUBZone until January 1, 2020.

[75] SBA, "Dynamic Small Business Search Database," accessed on July 1, 2015, at http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm.

Source: U.S. Small Business Administration (SBA), Office of Legislative Affairs, correspondence with the author, May 4, 2010, and May 5, 2011; and SBA, "Dynamic Small Business Search Database," at http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm; accessed on the date provided.

To become certified, firms complete and submit specified SBA HUBZone application forms to the SBA, either online or by mail. Firms must

- meet SBA size standards for the firm's primary industry classification;
- 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);
- maintain a principal office located in a HUBZone;
- ensure that at least 35% of its employees reside in a HUBZone;[76]
- represent, as provided in the application, 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;
- represent, as provided in the application, 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 concern (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 business concerns and meeting specified subcontracting limitations to nonqualified HUBZone small business concerns);
- provide an active, up-to-date Dun and Bradstreet profile and Data Universal Numbering System (DUNS) number that represents the business; and
- provide an active Central Contractor Registration profile for the business.[77]

Prior to 2010, the SBA's goal was to make its determination within 30 calendar days after receipt of a complete application package, subject to the need for additional information or clarification of information contained in the application. In response to reports of applicant fraud, in FY2009 the SBA 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). Initially, depending on the complexity of the application and the need for additional information, the SBA took from 5 to 12 months to make its determination. The SBA has since decreased the average time to process HUBZone applications, with about 61% of applications processed in three months or less.[78]

---

[76] Employees must live in a primary residence within that area for at least 180 days or be a currently registered voter in that area. The HUBZone definition of employee changed on May 3, 2010. Previously, the definition was based on full-time equivalency and only permanent positions were counted. 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.

[77] 13 C.F.R. §126.200.

[78] SBA, *FY2013 Congressional Budget Justification and FY2011 Annual Performance Report*, p. 72, at (continued...)

If the SBA approves the application, it will send a written notice to the business, which will be automatically entered on a list of certified HUBZone businesses. A decision to deny eligibility must be in writing and state the specific reasons for denial.[79]

In the past, the SBA's staff conducted random program examinations "to verify the accuracy of any certification made or information provided as part of the HUBZone application process, or in connection with a HUBZone contract."[80] Examiners typically verified that the business met the program's eligibility requirements and that it met such requirements at the time of its application for certification, its most recent recertification, or its certification in connection with a HUBZone contract.[81] In response to reports of fraud, the SBA, in addition to reengineering its applicant review process, now conducts program examinations of all firms that received a HUBZone contract in the previous fiscal year.[82] SBA district field offices also conduct site visits to validate the geographic requirement for principal offices. In FY2014, SBA district field offices completed 550 on-site compliance reviews of HUBZone-certified firms, about 11% of all HUBZone-certified firms.[83]

Certified HUBZone small business concerns must recertify every three years to the SBA that they meet the requirements for being a HUBZone business.[84] They must also immediately notify the SBA of any material change that could affect their eligibility, such as a change in the ownership, business structure, or principal office of the concern or a failure to meet the 35% HUBZone residency requirement.[85]

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" to participate in federal procurement. Each agency is required, at the conclusion of each fiscal year, to report its progress in meeting the goals to the SBA.[86]

In 1988, Congress authorized the President to annually establish government-wide minimum participation goals for procurement contracts awarded to small businesses and small businesses

(...continued)

https://www.sba.gov/sites/default/files/files/1-508%20Compliant%20FY%202013%20CBJ%20FY%202011%20APR%281%29.pdf; and Michael A. Chodos, SBA, "Testimony before the U.S. House of Representatives Committee on Oversight and Government Reform," June 26, 2013, at http://docs.house.gov/meetings/GO/GO00/20130626/101044/HHRG-113-GO00-Wstate-ChodosM-20130626.pdf.

[79] 13 C.F.R. §126.306.

[80] 13 C.F.R. §126.401.

[81] Ibid.

[82] SBA, *FY2011 Congressional Budget Justification and FY2009 Annual Performance Report*, pp. 72, 73, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification.pdf.

[83] SBA, *FY2016 Congressional Budget Justification and FY2014 Annual Performance Report*, p. 133, at https://www.sba.gov/sites/default/files/1-FY%202016%20CBJ%20FY%202014%20APR.PDF.

[84] 13 C.F.R. §126.500.

[85] 13 C.F.R. §126.501.

[86] P.L. 95-507, a bill to amend the Small Business Act and the Small Business Investment Act of 1958.

owned and controlled by socially and economically disadvantaged individuals. Congress required the government-wide minimum participation goal for small businesses to be "not less than 20% of the total value of all prime contract awards for each fiscal year" and "not less than 5% of the total value of all prime contract and subcontract awards for each fiscal year" for small businesses owned and controlled by socially and economically disadvantaged individuals.[87]

Each federal agency was also directed to "have an annual goal that presents, for that agency, the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts let by such agency."[88] The SBA was also required to report to the President annually on the attainment of the goals and to include the information in an annual report to Congress.[89] The SBA negotiates the goals with each federal agency and establishes a *small business eligible* baseline for evaluating the agency's performance.[90]

The small business eligible baseline excludes certain contracts that the SBA has determined do not realistically reflect the potential for small business participation in federal procurement (such as those awarded to mandatory and directed sources), contracts awarded and performed overseas, contracts funded predominately from agency-generated sources, contracts not covered by Federal Acquisition Regulations, and contracts not reported in the Federal Procurement Data System (such as contracts or government procurement card purchases valued less than $3,000).[91] These exclusions typically account for 18% to 22% of all federal prime contracts each year.[92]

The SBA then evaluates the agencies' performance against their negotiated goals annually, using data from the Federal Procurement Data System—Next Generation, managed by the U.S. General Services Administration, to generate the small business eligible baseline. This information is compiled into the official Small Business Goaling Report, which the SBA releases annually.

Over the years, federal government-wide procurement contracting goals have been established for small businesses generally (P.L. 100-656, the Business Opportunity Development Reform Act of 1988, and P.L. 105-135, the HUBZone Act of 1997—Title VI of the Small Business Reauthorization Act of 1997), small businesses owned and controlled by socially and economically disadvantaged individuals (P.L. 100-656, the Business Opportunity Development Reform Act of 1988), women (P.L. 103-355, the Federal Acquisition Streamlining Act of 1994), small businesses located within a HUBZone (P.L. 105-135, the HUBZone Act of 1997—Title VI

[87] P.L. 100-656, the Business Opportunity Development Reform Act of 1988.

[88] Ibid.

[89] Ibid.

[90] According to a 2001 GAO report, the SBA began to specify what types of contracts the Federal Procurement Data System would exclude when determining agency compliance with federal contracting goals in FY1998. Prior to FY1998, agencies reported their small business contracting information directly to the SBA and excluded from their calculations certain types of contracts, such as those for which the agency felt that small businesses had a limited or no chance to compete. GAO reported that "SBA officials said that in some cases they were not aware of all exclusions the agencies made when reporting their numbers." See GAO, *Small Business: More Transparency Needed in Prime Contract Goal Program*, GAO-01-551, August 1, 2001, pp. 9-10, at http://www.gao.gov/assets/240/231854.pdf.

[91] See U.S. General Services Administration (GSA), Federal Procurement Data System—Next Generation, I, at https://www.fpdsng.com/downloads/top_requests/FPDSNG_SB_Goaling_FY_2012.pdf.

[92] P.L. 112-239, the National Defense Authorization Act for Fiscal Year 2013, requires the SBA's chief counsel for advocacy to enter into a contract with an appropriate entity to conduct an independent assessment of the small business contracting goals, including an assessment of which contracts should be subject to the goals.

of the Small Business Reauthorization Act of 1997), and small businesses owned and controlled by a service-disabled veteran (P.L. 106-50, the Veterans Entrepreneurship and Small Business Development Act of 1999).

The current federal small business contracting goals are

- at least 23% of the total value of all small business eligible prime contract awards to small businesses for each fiscal year,
- 5% of the total value of all small business eligible prime contract awards and subcontract awards to small disadvantaged businesses for each fiscal year,
- 5% of the total value of all small business eligible prime contract awards and subcontract awards to women-owned small businesses,
- 3% of the total value of all small business eligible prime contract awards and subcontract awards to HUBZone small businesses, and
- 3% of the total value of all small business eligible prime contract awards and subcontract awards to service-disabled veteran-owned small businesses.[93]

There are no punitive consequences for not meeting these goals. However, the SBA's Small Business Goaling Report is distributed widely, receives media attention, and serves to heighten public awareness of the issue of small business contracting. For example, agency performance as reported in the SBA's Small Business Goaling Report is often cited by Members during their questioning of federal agency witnesses during congressional hearings.

As shown in **Table 2**, the *FY2014 Small Business Goaling Report*, using data in the Federal Procurement Data System as of February 20, 2015, indicates that federal agencies met the federal contracting goal for small businesses generally (for the second year in a row and the second time in nine years), small disadvantaged businesses, and service-disabled veteran-owned small businesses in FY2014.

Federal agencies awarded 24.99% of the value of their small business eligible contracts ($366.8 billion) to small businesses ($91.7 billion), 9.46% to small disadvantaged businesses ($34.7 billion), 4.68% to women-owned small businesses ($17.2 billion), 1.82% to HUBZone small businesses ($6.7 billion), and 3.68% to service-disabled veteran-owned small businesses ($13.5 billion).[94] The percentage of total reported federal contracts (without exclusions) awarded to these small businesses in FY2014 is also provided in the table for comparative purposes.

[93] 15 U.S.C. §644(g)(1)-(2).

[94] GSA, Federal Procurement Data System—Next Generation, "Small Business Goaling Report: Fiscal Year 2014," at https://www.fpds.gov/downloads/top_requests/FPDSNG_SB_Goaling_FY_2014.pdf.

Table 2. Federal Contracting Goals and Percentage of FY2014 Federal Contract Dollars Awarded to Small Businesses, by Type

Business Type	Federal Goal	Percentage of FY2014 Federal Contracts (small business eligible)	Percentage of FY2014 Federal Contracts (all reported contracts)
Small Businesses	23.0%	24.99%	22.16%
Small Disadvantaged Businesses	5.0%	9.46%	6.90%
Women-Owned Small Businesses	5.0%	4.68%	3.98%
HUBZone Small Businesses	3.0%	1.82%	1.57%
Service-Disabled Veteran-Owned Small Businesses	3.0%	3.68%	3.36%

Source: U.S. Small Business Administration, "Statutory Guidelines," at https://www.sba.gov/content/statutory-guidelines-0 (federal goals); U.S. General Services Administration, Federal Procurement Data System—Next Generation, "Small Business Goaling Report: Fiscal Year 2014," at https://www.fpds.gov/downloads/top_requests/FPDSNG_SB_Goaling_FY_2014.pdf; and U.S. General Services Administration, Federal Procurement Data System—Next Generation, at https://www.fpds.gov/fpdsng/ (contract dollars).

Notes: The Federal Procurement Data System (FPDS) is a dynamic system with records updated daily. The small business goaling report for FY2014 is based on FPDS prime contract data as of February 20, 2015. It reports that small business eligible contracts at that time totaled $366.8 billion and that $91.7 billion was awarded to small businesses, $34.7 billion to small disadvantaged businesses, $17.2 billion to women-owned small businesses, $6.7 billion to SBA-certified HUBZone small businesses, and $13.5 billion to service-disabled veteran-owned small businesses. The small business goaling report for FY2014 does not indicate the total amount of federal contracts reported in the FPDS as of February 20, 2015. Therefore, the percentages provided in the column for all reported contracts in FY2014 were calculated using FPDS data as reported on June 29, 2015: $445.1 billion in total contracts, $98.6 billion awarded to small businesses, $30.7 billion to small disadvantaged businesses, $17.7 billion to women-owned small businesses, $7.0 billion to HUBZone small businesses, and $14.9 billion to service-disabled veteran-owned small businesses.

Congressional Issues

As mentioned previously, congressional interest in the HUBZone program has increased in recent years, primarily due to reports of fraud in the program. Congress asked GAO to review the SBA's administration of the HUBZone program, and GAO has issued several recommendations designed to strengthen the SBA's fraud control measures.[95] GAO has also argued that the SBA lacks adequate performance measures to determine the HUBZone program's effect on the economically distressed areas it is designed to assist.[96]

---

[95] GAO, *HUBZone Program: Fraud and Abuse Identified in Four Metropolitan Areas*, GAO-09-519T, March 25, 2009, p. 2, at http://www.gao.gov/new.items/d09519t.pdf.

[96] GAO, *Small Business Administration: Additional Actions are Needed to Certify and Monitor HUBZone Businesses and Assess Program Results*, GAO-08-643, June 17, 2008, pp. 3-5, 22-30, 33-37, at http://www.gao.gov/new.items/d08643.pdf; GAO, *Small Business Administration: Status of Efforts to Address Previous Recommendations on the HUBZone Program*, GAO-09-532T, March 25, 2009, pp. 3, 8, 9, at http://www.gao.gov/new.items/d09532t.pdf; and GAO, *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-759, June 25, 2010, at http://www.gao.gov/new.items/d10759.pdf.

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.[97] 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, P.L. 111-240 struck the phrase "a contract opportunity shall" and replaced it with "a contract opportunity may."[98] The court had ruled that the use of the word *shall* made the HUBZone program mandatory, whereas the use of the word *may* in the Section 8(a) contracting program for small businesses owned and controlled by the socially and economically disadvantaged made it a discretionary program, and mandatory programs took precedence over discretionary ones.[99]

On October 1, 2010, the maximum contract award amounts that federal officials can set-aside for sole-source awards under various small business contracting programs were increased to adjust for inflation.[100] For example, the maximum sole-source contract award amounts for the HUBZone program were increased from not exceeding $5.5 million for manufacturing contracts or $3.5 million for other contract opportunities to not exceeding $6.5 million for manufacturing contracts or $4.0 million for other contract opportunities. It could be argued that these changes, along with the recent decline in the number of HUBZone-certified small businesses resulting from the expiration of the eligibility of HUBZone redesignated areas following the release of 2010 decennial census data, may make it difficult to compare the results of the federal government's small business procurement goaling program with previous years' results and may diminish the goaling program's value as a tool to measure federal agency progress in awarding contracts to small businesses. It is possible Congress may consider proposals to adjust the goals to account for these changes.

As will be discussed, legislation has been introduced in recent Congresses to increase the federal government's procurement goals for small businesses generally and for specific types of small businesses, including HUBZone small businesses.

97 *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).

98 For further information and legal analysis, see CRS Report R40591, *Set-Asides for Small Businesses: Recent Developments in the Law Regarding Precedence Among the Set-Aside Programs and Set-Asides Under Indefinite-Delivery/Indefinite-Quantity Contracts*, by Kate M. Manuel. Also see GAO, *Mission Critical Solutions*, B-401057, May 4, 2009, at http://www.gao.gov/decisions/bidpro/401057.pdf; 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.

99 For further analysis of the 8(a) program, see CRS Report R40744, *The "8(a) Program" for Small Businesses Owned and Controlled by the Socially and Economically Disadvantaged: Legal Requirements and Issues*, by Kate M. Manuel.

100 P.L. 108-375, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, §807. Inflation adjustment of acquisition-related dollar thresholds requires an adjustment for inflation every five years of all acquisition-related thresholds. See Department of Defense, General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds," 75 *Federal Register* 53129, August 30, 2010.

Program Administration

SBA's Office of Inspector General Audits, 2003-2006

The SBA's administration of the HUBZone program has been criticized for a number of years. In 2003, the SBA's Office of Inspector General (OIG) completed an audit of 15 HUBZone firms operating in Idaho Falls, Idaho, after receiving a complaint that a relatively large number of certified HUBZone firms in that city may not be qualified to participate in the program.[101] At that time, HUBZone businesses self-certified in their application materials that they met the requirements for being a HUBZone business. Validating documentation, such as a copy of a business owner's birth certificate as proof of U.S. citizenship or a copy of the lease agreement to verify the business concern's principal office's location within a qualified HUBZone, was not required. The OIG's audit found that

> over two-thirds of the 15 subject companies were either not in compliance with HUBZone eligibility requirements or had presumably gone out of business. We also found that the Office of HUBZone Empowerment's internal controls were inadequate to ensure that only eligible firms are certified and remain certified. Therefore, there is little assurance that the program will provide increased employment, investment and economic development for depressed areas. Since ineligible companies could receive HUBZone contracts, the program is also vulnerable to federal contracting fraud.[102]

As a result of that audit, the SBA revised its program examination and recertification processes to provide "a more careful review" of HUBZone applications and implemented an online application process that was designed to "prescreen" potential applicants, "resulting in only those most-qualified actually submitting a completed application."[103] Citing the efficiencies brought about by the automation of HUBZone applications, the SBA reduced the number of staff in the Office of the HUBZone Program, which was responsible for program examinations, from 12 full-time equivalent employees in 2004 to 8 full-time equivalent employees in 2006.[104]

In 2006, the OIG reported that there was a two-year backlog in HUBZone program examinations. It noted that it was concerned "that workload resources had not been adequately devoted to eliminating this two-year backlog" and that firms that should be decertified from the program remained on the list of certified HUBZone businesses and potentially were "inappropriately receiving HUBZone contracts between the time they are initially certified and subsequently examined/recertified."[105]

---

[101] SBA, Office of the Inspector General, *Audit Report of the Eligibility of 15 HUBZone Companies and a Review of the HUBZone Empowerment Contracting Program's Internal Controls*, January 22, 2003, at https://www.sba.gov/sites/default/files/oig/Audit%203-05%20Audit%20of%20the%20Eligibility%20of%2015%20HUBZone%20Companies%20and%20a%20Review%20of%20the%20HUBZone%20Empowerment%20Contracting%20Program%27s%20Internal%20Controls%201.22.03.pdf.

[102] Ibid., p. 3.

[103] SBA, Office of the Inspector General, *HUBZone Program Examination and Recertification Processes*, May 23, 2006, p. 5.

[104] SBA, *SBA Budget Request & Performance Plan: FY2004 Congressional Submission*, p. 44.

[105] SBA, Office of the Inspector General, *HUBZone Program Examination and Recertification Processes*, May 23, 2006, pp. 3, 6.

As a result of the OIG's second, follow-up audit of the HUBZone program, the SBA committed to reviewing 5% of all certifications "through a full-scale program of examinations."[106] The audit also resulted in heightened congressional attention to the issue of potential fraud within the HUBZone program.

GAO's Audits, 2007-2010

In 2007, Representative Nydia M. Velázquez, then-chair of the House Committee on Small Business, asked GAO to review the HUBZone program, including the criteria and processes that the SBA uses to identify and map HUBZone areas, the mechanisms the SBA uses to ensure that only eligible small businesses participate in the program, and the actions the SBA has taken to assess the program's results.[107]

GAO conducted its audit of the SBA's administration of the HUBZone program from August 2007 through June 2008. It reported on June 17, 2008, that

- the map used by the SBA to publicize qualified HUBZone areas was inaccurate, resulting in ineligible small businesses participating in the program and excluding eligible businesses;
- the mechanisms used by the SBA to certify and monitor HUBZone firms provided limited assurance that only eligible firms participated in the program;
- the SBA had not complied with its own policy of recertifying HUBZone firms every three years (about 40% of those firms had not been recertified); and
- the SBA lacked formal guidance that would specify a time frame for processing HUBZone firm decertifications (1,400 of 3,600 firms proposed for decertification had not been processed within the SBA's self-imposed goal of 60 days).[108]

GAO released another report on the HUBZone program on July 17, 2008, stating that it had "identified substantial vulnerabilities in SBA's application and monitoring process, clearly demonstrating that the HUBZone program is vulnerable to fraud and abuse."[109] Using fictitious employee information and fabricated documentation, GAO obtained HUBZone certification for four bogus firms. In one of its applications, GAO claimed that its principal office was the same address as a coffee store that happened to be located in a HUBZone. GAO argued that if the SBA "had performed a simple Internet search on the address, it would have been alerted to this fact."[110] Two of GAO's applications used leased mailboxes from retail postal services centers. GAO argued that "a post office box clearly does not meet SBA's principal office requirement."[111] In

[106] 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.

[107] GAO, *Small Business Administration: Additional Actions are Needed to Certify and Monitor HUBZone Businesses and Assess Program Results*, GAO-08-643, June 17, 2008, p. i, at http://www.gao.gov/new.items/d08643.pdf.

[108] Ibid., pp. 1-5.

[109] GAO, *HUBZone Program: SBA's Control Weaknesses Exposed the Government to Fraud and Abuse*, GAO-08-964T, July 17, 2008, pp. i, 4, 5, 7-9, at http://www.gao.gov/new.items/d08964t.pdf.

[110] Ibid.

[111] Ibid.

addition, it identified "10 firms from the Washington, D.C. metro area that were participating in the HUBZone program even though they clearly did not meet eligibility requirements."[112]

The SBA responded to GAO's findings by announcing that it would undertake "a complete re-engineering of the program" designed to

- ensure that its HUBZone maps were up to date and
- minimize program risk by collecting additional supporting documentation of all HUBZone applicants to support program eligibility.[113]

In response to GAO's findings and the SBA's response to those findings, Representative Velázquez asked GAO to determine "whether cases of fraud and abuse in the HUBZone program exist outside of the Washington, D.C. metropolitan area" and to assess the SBA's efforts to establish an effective fraud prevention system for the HUBZone program.[114]

On March 25, 2009, GAO reported that, as of that date, the SBA had

- updated its HUBZone map but had not implemented procedures to ensure that it remains accurate,
- made little progress in ensuring the eligibility of firms in the HUBZone program, and
- eliminated its backlog of recertifications but had not established a process or procedures to prevent future backlogs.[115]

GAO also reported that it had selected four geographical areas for analysis to determine whether cases of fraud and abuse exist for HUBZone businesses located outside of the Washington, DC, metropolitan area: Dallas, Texas; Huntsville, Alabama; San Antonio, Texas; and San Diego, California. GAO conducted its analysis of HUBZone businesses in those four areas from September 2008 through March 2009. It found "fraud and abuse" in all four metropolitan areas, including 19 firms that "clearly are not eligible" and highlighted 10 firms that it "found to be egregiously out of compliance with HUBZone program requirements."[116]

The SBA responded to GAO's audits and congressional criticism of its administration of the HUBZone program by "reengineering business processes to reduce fraud and abuse within the program."[117] In 2009, it "moved from verifying a sample of HUBZone firms to verifications of

---

[112] Ibid., pp. 5, 10-20.

[113] SBA, *Fiscal Year 2010 Congressional Budget Justification*, p. 65, at https://www.sba.gov/sites/default/files/Congressional_Budget_Justification_2010.pdf.

[114] GAO, *HUBZone Program: Fraud and Abuse Identified in Four Metropolitan Areas*, GAO-09-440, March 25, 2009, p. 2, at http://www.gao.gov/new.items/d09440.pdf.

[115] GAO, *Small Business Administration: Status of Efforts to Address Previous Recommendations on the HUBZone Program*, GAO-09-532T, March 25, 2009, pp. 5-8, at http://www.gao.gov/new.items/d09532t.pdf.

[116] GAO, *HUBZone Program: Fraud and Abuse Identified in Four Metropolitan Areas*, GAO-09-440, March 25, 2009, p. 7, at http://www.gao.gov/new.items/d09440.pdf.

[117] SBA, *FY2011 Congressional Budget Justification and FY2009 Annual Performance Report*, pp. 72, 73, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification.pdf.

100% of HUBZone firms receiving contracts in the previous fiscal year."[118] In 2010, the SBA reported that its standard HUBZone business process

> now requires all firms to submit supporting documentation verifying the information and statements made in their application. Previous practice required firms only to submit an electronic application.
>
> In addition, the Program Office implemented a new business process for recertifying HUBZone firms which requires all firms that are due for recertification to certify via wet signature that they still conform to the eligibility requirements. Previous practice required firms to submit an electronic verification.[119]

On April 21, 2010, Karen Mills, the SBA's Administrator at that time, testified before the House Committee on Small Business that the SBA is "working to ensure that only legitimate and eligible firms are benefiting from HUBZone" and has "made dramatic increases in the number of site visits to HUBZone firms."[120] The SBA conducted 680 HUBZone site visits in FY2008, 911 in FY2009, 1,070 in FY2010, 988 in FY2011, 788 in FY2012, 511 in FY2013, and 550 in FY2014.[121]

The SBA's new, more labor-intensive certification process, coupled with an increase in applications for HUBZone certifications, resulted in what the SBA described as "significant delays in the processing of new applications for certification."[122] Noting that individual applications "can vary greatly depending on the complexity of the case and the applicant's responsiveness to any requests for supporting information," the SBA reported in 2010 that the final HUBZone determination time frames "vary from 5 months to 12 months, with an average of 8 to 10 months."[123] The SBA has since decreased the average time to process HUBZone applications, with about 61% of applications processed in three months or less.[124]

On June 25, 2010, GAO released another report concerning the SBA's efforts to reduce fraud in the HUBZone program. GAO submitted applications for HUBZone certification for "four new bogus firms … using false information and fabricated documents ... fictitious employee information and bogus principal office addresses" including "the addresses of the Alamo in Texas,

---

[118] Ibid., p. 76.

[119] Ibid., pp. 72, 73.

[120] Testimony of Karen G. Mills, then-SBA administrator, before the U.S. House of Representatives Committee on Small Business, "Accountability Update," April 21, 2010, at http://www.house.gov/smbiz/democrats/hearings/hearing-04-21-10-oversight/Mills.pdf.

[121] SBA,*FY2015 Congressional Budget Justification and FY2013 Annual Performance Report*, p. 113, at https://www.sba.gov/sites/default/files/files/FY15_CBJ_FY%202013_APR.pdf; and SBA, *FY2016 Congressional Budget Justification and FY2014 Annual Performance Report*, p. 133, at https://www.sba.gov/sites/default/files/1-FY%202016%20CBJ%20FY%202014%20APR.PDF.

[122] SBA, "HUBZones: Frequently Asked Questions," at https://www.sba.gov/content/frequently-asked-questions.

[123] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, May 4, 2010.

[124] SBA, *FY2013 Congressional Budget Justification and FY2011 Annual Performance Report*, p. 72, at https://www.sba.gov/sites/default/files/files/1-508%20Compliant%20FY%202013%20CBJ%20FY%202011%20APR%281%29.pdf; and Michael A. Chodos, SBA, "Testimony before the U.S. House of Representatives Committee on Oversight and Government Reform," June 26, 2013, at http://docs.house.gov/meetings/GO/GO00/20130626/101044/HHRG-113-GO00-Wstate-ChodosM-20130626.pdf.

a public storage facility in Florida, and a city hall in Texas as principal office locations."[125] The SBA certified three of the four bogus firms and lost GAO's documentation for its fourth application "on multiple occasions," forcing GAO to abandon that application.[126] GAO reported that "the SBA continues to struggle with reducing fraud risks in its HUBZone certification process despite reportedly taking steps to bolster its controls."[127] It stated that

> A simple Internet search by SBA could have revealed these as phony applications. While the agency has required more documentation in its application process since GAO's July 2008 report, GAO's testing shows that SBA does not adequately authenticate self-reported information and, for these cases, did not perform site visits to validate the addresses. Further, the changes have significantly increased the time it takes SBA to process applications. Specifically, SBA took 7 or more months to process each of the bogus applications—at least 6 months longer than for GAO's previous investigations.[128]

GAO also reported that in response to its test, SBA officials "stated that it was unreasonable to expect them to have identified our fictitious firms because of bogus documentation that we included in our applications," that "the submission of false affidavits would subject an applicant to prosecution," and that "competitors may identify fraudulent firms and likely protest if those firms were awarded a HUBZone contract."[129] GAO also reported that SBA officials stated that "because of resource constraints, they primarily conduct site visits on certified firms that receive large prime HUBZone contracts."[130] GAO argued that "while the threat of prosecution is an important deterrent, it does not help to identify firms that attempt to commit fraud, as our testing shows."[131] GAO also argued that "while competitors may identify some ineligible firms that were awarded contracts, SBA is responsible for ensuring that only eligible firms participate in the HUBZone program."[132] In addition, GAO reported that "if the SBA had conducted site visits at the addresses of the firms represented in our applications, those applications would have been identified as fraudulent."[133]

SBA's Office of Inspector General Audit, 2013

On November 19, 2013, the OIG released the results of an audit of 12 of the 357 firms that received HUBZone certification between July 2012 and December 2012. The 12 firms accounted for 94% of the federal contract dollars awarded to those 357 firms during that time period. The OIG found that 3 of the 12 firms "received certification without meeting the requirements of the program."[134] Specifically, the OIG found "one firm [that] did not meet the principal office

---

[125] GAO, *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-759, June 25, 2010, Highlights section and p. 2, at http://www.gao.gov/new.items/d10759.pdf.

[126] Ibid., p. 4.

[127] Ibid.

[128] Ibid., Highlights section.

[129] GAO, *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-920T, July 28, 2010, p. 3, at http://www.gao.gov/new.items/d10920t.pdf.

[130] Ibid.

[131] Ibid.

[132] Ibid.

[133] Ibid.

[134] SBA, Office of the Inspector General, *Opportunities Exist to Further Improve Quality and Timeliness of HUBZone Certifications*, November 19, 2013, p. 6, at https://www.sba.gov/sites/default/files/Audit%20Report%2014-03%20Opportunities%20Exist%20to%20Further%20Improve%20Quality%20and%20Timeliness%20of%20HUBZone (continued...)

requirement, one firm [that] did not meet the 35% residency requirement, and one instance where a possibly fraudulent application was missed."[135] The OIG also noted that (1) the HUBZone program's standard operating procedures (SOP) manual was last updated in November 2007, when firms self-certified their HUBZone eligibility, and does not account for the SBA's new certification process; and (2) the SBA did not make its eligibility determination within 30 calendar days of the receipt of a complete application for all 12 of the nonfraudulent applications reviewed as required under the SBA's existing regulations,[136] and the SBA did not make its eligibility determination within its proposed 90 calendars days of the receipt of a complete application, a change to the existing regulations that the SBA is seeking due to the shift from self-certification to full document review, for 5 of the 12 firms.[137]

The SBA responded to the OIG's audit on November 12, 2013. The SBA indicated that it planned to update and publish a new HUBZone program SOP by the end of 2014, issue decertification notices for the three firms cited in the OIG's audit, and amend the certification process "so that actions are completed within an average of 90 days from the date the application is electronically verified."[138]

The new HUBZone SOP was not published in 2014. It is now expected to be published by the end of 2015. The delay may be related to the SBA's recent announcement of its intent to issue a proposed rule during 2015 "to clarify current HUBZone Program regulations and implement various new procedures."[139]

Legislation

During the 112th Congress, S. 633, the Small Business Contracting Fraud Prevention Act of 2011, which was introduced on March 17, 2011, and agreed to by the Senate, with amendment, by unanimous consent on September 21, 2011, would have required the SBA to implement GAO's recommendations to

- maintain a correct, accurate, and updated map to identify HUBZone areas;
- implement policies that ensure only eligible firms participate in the program;
- employ appropriate technology to control costs and maximize efficiency;
- notify the Small Business Committees of any backlogs in applications or recertifications with plans and timetables for eliminating the backlog;

(...continued)

%20Certifications.pdf.

135 Ibid.

136 See 13 C.F.R. §126.306. "SBA will make its determination within 30 calendar days after receipt of a complete package whenever practicable."

137 SBA, Office of the Inspector General, *Opportunities Exist to Further Improve Quality and Timeliness of HUBZone Certifications*, November 19, 2013, p. 10, at https://www.sba.gov/sites/default/files/Audit%20Report%2014-03%20Opportunities%20Exist%20to%20Further%20Improve%20Quality%20and%20Timeliness%20of%20HUBZone%20Certifications.pdf.

138 Ibid., p. 14.

139 SBA, "Semiannual Regulatory Agenda: Small Business HUBZone Program," 79 *Federal Register* 76791, December 22, 2014.

- ensure small businesses meet the 35% HUBZone residency requirement at the time of bid as well as at the time of the contract award; and
- extend the redesignated status of HUBZone areas that lose that status due to the release of economic data from the 2010 decennial census for three years after the first date on which the SBA publishes a HUBZone map that is based on the results from that census.[140]

In addition, S. 3572, the Restoring Tax and Regulatory Certainty to Small Businesses Act of 2012, was introduced on September 19, 2012, and referred to the Senate Committee on Finance. It included, among other provisions, the HUBZone provisions contained in S. 633.

The SBA did not formally respond to the legislation. It has argued at congressional hearings and in its congressional budget justification documents that it has taken steps to implement GAO's recommendations.[141]

Performance Measures

As part of its 2008 audit of the HUBZone program, GAO reported that the SBA had taken "limited steps" to assess the effectiveness of the HUBZone program.[142] It noted that the SBA's performance measures—the number of applications approved and recertifications processed, the annual value of federal contracts awarded to HUBZone firms, and the number of program examinations completed—provide data on program activity but "do not directly measure the program's effect on firms (such as growth in employment or changes in capital investment) or directly measure the program's effect on the communities in which the firms are located (for instance, changes in median household income or poverty levels)."[143] GAO recommended that the SBA "further develop measures and implement plans to assess the effectiveness of the HUBZone program that take into account factors such as the economic characteristics of the HUBZone area."[144]

[140] The bill's sponsor, then-Senator Olympia Snowe, introduced similar legislation in 2010, S. 3020, the HUBZone Improvement Act of 2010. See Senator Olympia Snowe, "Statements on Introduced Bills and Joint Resolutions," remarks in the Senate, *Congressional Record*, daily edition, vol. 156 (February 23, 2010), p. S702.

[141] 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 Document Number 111-012 (Washington: GPO, 2009), pp. 4-27, 32-38; Testimony of Karen G. Mills, then-SBA administrator, before the U.S. House of Representatives Committee on Small Business, "Accountability Update," April 21, 2010, at http://www.house.gov/smbiz/democrats/hearings/hearing-04-21-10-oversight/Mills.pdf; SBA, *FY2011 Congressional Budget Justification and FY2009 Annual Performance Report*, pp. 72, 73, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification.pdf; and SBA, *FY2012 Congressional Budget Justification and FY2010 Annual Performance Report*, pp. 77-79, at https://www.sba.gov/sites/default/files/aboutsbaarticle/FINAL%20FY%202012%20CBJ%20FY%202010%20APR_0.pdf.

[142] GAO, *Small Business Administration: Additional Actions are Needed to Certify and Monitor HUBZone Businesses and Assess Program Results*, GAO-08-643, June 17, 2008, p. 5, at http://www.gao.gov/new.items/d08643.pdf.

[143] Ibid., p. 34.

[144] Ibid., p. 45.

The SBA responded to GAO's findings by announcing that it "would develop an assessment tool to measure the economic benefits that accrue to areas in the HUBZone program" and that it "would then issue periodic reports accompanied by the underlying data."[145]

On March 25, 2009, GAO reported that, as of that date, the SBA had not developed measures or implemented plans to assess the program's effectiveness.[146] GAO noted that the SBA did commission an independent review of the HUBZone program's economic impact. That study was released in May 2008. It concluded that the HUBZone program

> has not generated enough HUBZone contract dollars to have an impact on a national scale. When spread over an eight-year period across 2,450 metropolitan areas and counties with qualified census tracts, qualified counties, and Indian reservations, $6 billion has a limited impact….
>
> About two-thirds of HUBZone areas have HUBZone businesses; just under one-third have HUBZone vendors that have won HUBZone contracts; and about 4 percent of HUBZone areas have received annual-equivalent HUBZone contract revenues greater than $100 per capita, based on HUBZone population….
>
> The program has a substantial impact in only a very small percentage of HUBZones. Where the impact is largest, there generally is at least one very successful vender in the HUBZone. Thus, the program can be effective. At present, however, the impact in two-thirds of all HUBZones is nil.[147]

GAO also noted that the SBA had issued a notice in the *Federal Register* on August 11, 2008, seeking public comment on a proposed methodology for measuring the economic impact of the HUBZone program.[148] The notice presented a two-step economic model that the SBA had developed to estimate the impact on HUBZone areas directly attributable to the HUBZone program, the SBA's non-HUBZone programs, and other related federal procurement programs. The notice indicated that economic impact "will be measured by the estimated growth in median household income and employment (or a reduction in unemployment) in a specific HUBZone area."[149]

GAO criticized the SBA for relying on public comments to refine the proposed methodology "rather than conducting a comprehensive effort" that considered relevant literature and input from experts in economics and performance measurement.[150] GAO concluded that "based on our review, we do not believe this effort was a sound process for developing measures to assess the

---

[145] Ibid., p. 46.

[146] GAO, *Small Business Administration: Status of Efforts to Address Previous Recommendations on the HUBZone Program*, GAO-09-532T, March 25, 2009, p. 8, at http://www.gao.gov/new.items/d09532t.pdf.

[147] Henry Beale and Nicola Deas, "The HUBZone Program Report," Washington, DC: Microeconomic Applications, Inc., prepared for the SBA, Office of Advocacy, May 2008, pp. i–iii, at https://www.sba.gov/content/hubzone-program-report.

[148] SBA, "Notice of methodology for measuring the economic impact of the HUBZone Program," 73 *Federal Register* 46698-46703, August 11, 2008.

[149] Ibid., p. 46701.

[150] GAO, *Small Business Administration: Status of Efforts to Address Previous Recommendations on the HUBZone Program*, GAO-09-532T, March 25, 2009, p. 9, at http://www.gao.gov/new.items/d09532t.pdf.

effectiveness of the program" and reported that the SBA had abandoned that proposal and "had initiated a new effort to address this issue."[151]

The SBA indicated in its FY2011 budget justification report to Congress that it had developed "a methodology for measuring the economic impact of the HUBZone program" to "provide for the continuous study and monitoring of the program's effectiveness in terms of its economic goals."[152] However, it did not provide any details concerning the methodology and has continued to use its previous performance measures—the number of small businesses assisted (applications approved and recertifications processed), the annual value of federal contracts awarded to HUBZone firms, and the number of program examinations completed—to assess the program's performance.[153]

Legislation

During the 112th Congress, S. 633, the Small Business Contracting Fraud Prevention Act of 2011, would have required the SBA to implement GAO's recommendation to "develop measures and implement plans to assess the effectiveness of the HUBZone program."[154] It also would have required the SBA to identify "a baseline point in time to allow the assessment of economic development under the HUBZone program, including creating additional jobs" and take into account "the economic characteristics of the HUBZone and contracts being counted under multiple socioeconomic subcategories."[155]

The SBA did not formally respond to the legislation. It has argued at congressional hearings and in its congressional budget justification documents that it is taking steps to implement GAO's recommendation.[156] Since then, no legislation has been introduced that directly addresses HUBZone performance measures.

One possible option available to Congress to further evaluate the HUBZone program's impact on small businesses and economically distressed communities is to require the SBA to commission a multiyear time series study of the HUBZone program's impact on small businesses and economically distressed communities. The SBA is currently required to conduct an annual assessment of the effectiveness of the assistance provided by the SBA's three major education and training program resource partners (Small Business Development Centers, Women Business Centers, and SCORE).[157] That ongoing study, started in 2003, is designed "to measure the

---

[151] Ibid.

[152] SBA, *FY2011 Congressional Budget Justification and FY2009 Annual Performance Report*, p. 73, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification.pdf.

[153] Ibid.

[154] S. 633, the Small Business Contracting Fraud Prevention Act of 2011, §6. HUBZone Improvements.

[155] Ibid.

[156] 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 Document Number 111-012 (Washington: GPO, 2009), pp. 4-27, 32-38; SBA, *FY2011 Congressional Budget Justification and FY2009 Annual Performance Report*, pp. 72, 73, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification.pdf; and SBA, *FY2012 Congressional Budget Justification and FY2010 Annual Performance Report*, pp. 77-79, at https://www.sba.gov/sites/default/files/aboutsbaarticle/FINAL%20FY%202012%20CBJ%20FY%202010%20APR_0.pdf.

[157] SBA, Office of Entrepreneurial Development, *Impact Study of Entrepreneurial Dynamics: Office of Entrepreneurial Development Resource Partners' Face-to-Face Counseling*, September 2012, at https://www.sba.gov/sites/default/files/
(continued...)

performance of SBA resource partner face-to-face counseling programs and the impact they have on growing and sustaining small business clients."[158]

Small Business Contracting Goals

As mentioned previously, the federal government has established procurement contracting goals for small businesses generally (at least 23% of the total value of all small business eligible prime contract awards for each fiscal year), small disadvantaged businesses (5% of the total value of all small business eligible prime contract awards and subcontract awards for each fiscal year), women-owned small businesses (5% of the total value of all small business eligible prime contract awards and subcontract awards for each fiscal year), HUBZone small businesses (3% of the total value of all small business eligible prime contract awards and subcontract awards for each fiscal year), and service-disabled veteran-owned small businesses (3% of the total value of all small business eligible prime contract awards and subcontract awards for each fiscal year).[159]

A number of bills have been introduced over the past several Congresses to increase the small business procurement contracting goals. Generally speaking, the executive branch, during both Democratic and Republican Administrations, has not advocated increasing these goals. Although no official reason has been provided for not advocating an increase in these goals, it is generally recognized that the sitting Administration is often blamed when small business contracting goals are not achieved. Since 2005, the 5% contracting goal for small disadvantaged businesses has been achieved each fiscal year through FY2014, the 23% contracting goal for small businesses generally was achieved three times (23.41% in FY2005, 23.39% in FY2013, and 24.99% in FY2014), and the 3% contracting goal for service-disabled veteran-owned small businesses was achieved twice (3.38% in FY2013 and 3.68% in FY2014). The federal government did not achieve the 5% contracting goal for women-owned small businesses or the 3% contracting goal for HUBZone small businesses in any of these fiscal years.[160]

Because the federal government has frequently not been able to meet most of its small business contracting goals, sitting Administrations have generally been reluctant to advocate an increase in these goals. From the executive branch's perspective, increasing the goals could subject the sitting Administration to a greater risk of being labeled as *antibusiness* or *anti-small business* even if the executive branch increases its contracting with small businesses from the previous fiscal year. As a result, proposals to increase the small business contracting goals have originated in the legislative, as opposed to the executive, branch.

Legislation

Several bills were introduced during the 112th Congress to increase the federal government's small business contracting goals, including H.R. 2424, the Expanding Opportunities for Main Street Act of 2011, and its companion bill in the Senate (S. 1334); H.R. 2921, the Expanding

(...continued)

files/SBA_Converted_2012_d.pdf.

[158] Ibid., p. 1.

[159] 15 U.S.C. §644(g)(1)-(2).

[160] U.S. General Services Administration, Federal Procurement Data System—Next Generation, "Small Business Goaling Reports, FY2005-FY2014," at https://www.fpds.gov/fpdsng_cms/index.php/reports.

Opportunities for Small Businesses Act of 2011; H.R. 2949, the Small Business Opportunity Expansion Act of 2011; H.R. 3850, the Government Efficiency through Small Business Contracting Act of 2012; H.R. 6078, the Small Business Contracting Opportunities Expansion Act of 2012; and S. 3213, the Small Business Goaling Act of 2012. In addition, as passed by the House on May 18, 2012, H.R. 4310, the National Defense Authorization Act for Fiscal Year 2013, included a provision that would have increased the 23% contracting goal for small businesses generally to 25%. The bill would have also established a 40% goal for small businesses generally of the total value of all subcontract awards for each fiscal year. These provisions were subsequently dropped from the bill.

During the 113th Congress, S. 259, the Assuring Contracting Equity Act of 2013, would have increased the federal government's 23% contracting goal for small businesses generally to 25%, raised the 5% contracting goals for small disadvantaged businesses and women-owned small businesses to 10%, and increased the 3% contracting goals for HUBZone small businesses and service-disabled veteran-owned small businesses to 6%.[161]

In addition, H.R. 4093, the Greater Opportunities for Small Business Act of 2014, which was reported by the House Committee on Small Business on April 9, 2014, would have increased the federal government's 23% contracting goal for small businesses generally to 25% and established a 40% subcontracting goal for small businesses generally. H.R. 4435, the Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, which was passed by the House on May 22, 2014, also contained these two provisions. The Senate's national defense reauthorization bill (S. 2410) did not include this language.

During the 114th Congress, H.R. 273, the Minority Small Business Enhancement Act of 2015, would increase the federal government's 23% contracting goal for small businesses generally to 25%, and the 5% contracting goals for small disadvantaged businesses and women-owned small businesses to 10%.

Advocates of increasing the federal government's small business contracting goals argue that higher goals are necessary to ensure that small businesses receive "a fair proportion of the total purchases and contracts for property and services for the government in each industry category."[162] They also contend that higher goals will "increase prime contracting and subcontracting opportunities for small businesses" and that "each time the goal has previously been increased, small business contracting, with its inherent benefits, has increased."[163]

During consideration of H.R. 4310, the National Defense Authorization Act for Fiscal Year 2013, the Obama Administration opposed the House's provisions that would have increased the 23% contracting goal for small businesses generally and established a 40% subcontracting goal for small businesses generally:

---

[161] H.R. 4093, the Greater Opportunities for Small Business Act of 2014, was introduced on February 26, 2014, and reported by the House Committee on Small Business on March 5, 2014. It would have increased the federal government's 23% contracting goal for small businesses generally to 25%. It did not address the contracting goal for HUBZone small businesses.

[162] U.S. Congress, House Committee on Small Business, *Greater Opportunities for Small Business Act of 2014*, report to accompany H.R. 4093, 113th Cong., 2nd sess., April 9, 2014, H.Rept. 113-409 (Washington: GPO, 2014), p. 3.

[163] U.S. Congress, House Committee on Small Business, *Government Efficiency Through Small Business Contracting Act of 2012*, report to accompany H.R. 3850, 112th Cong., 2nd sess., December 21, 2012, H.Rept. 112-70 (Washington: GPO, 2012), pp. 5-6.

> The Administration strongly supports efforts to increase Federal contracting with small businesses, but opposes section 1631, which would establish a laudable but overly ambitious government-wide small business procurement goal and unrealistic individual agency goals that could undermine the goals process and take away the Government's ability to focus its efforts where opportunities for small business contractors are greatest.[164]

Concluding Observations

Congressional interest in the SBA's HUBZone program has increased in recent years to levels not seen since the initial debate over whether the program should be authorized. Debates over the program's effect on economically distressed communities, as reflected in GAO's recommendation for new SBA performance measures; concerns, which were addressed by P.L. 111-240, the Small Business Jobs Act of 2010, over the potential impact of the U.S. Court of Federal Claims ruling in *Mission Critical Solutions vs. United States* providing the HUBZone program preference in federal contracting when two or more federal contract set-aside programs could be used; and the reduction in the number of HUBZone areas in FY2012 have all served to elevate congressional interest in the program. But perhaps the most influential reason for the increased level of congressional interest has been GAO's finding of fraud in the program.

The SBA has attempted to overhaul the program. It reported in its FY2011 congressional budget justification that it had "met its primary goal during FY2009" to reengineer its "business processes to reduce fraud and abuse with the program."[165] On April 21, 2010, then-SBA Administrator Karen Mills testified before the House Committee on Small Business that progress has been made but "we know there's more work to do."[166] She testified that "At the front-end, it means more upfront certification and eligibility. For small businesses already in the program, it means more efforts with compliance and site visits. And if they're found to be out of compliance, it means pursuing and removing bad actors."[167] Also, in its FY2013 congressional budget justification, the SBA indicated that

> To further reduce fraud, waste, and abuse, the HUBZone program began the systematic Legacy Portfolio Review of firms that were certified as a HUBZone prior to the FY2009 policy of full document review for initial certification. During FY2011, 2,040 firms completed the Legacy Portfolio Review. The SBA also conducted and received 987 site visit reports from its field staff conveying whether or not the firm appeared to be operating from the HUBZone principal office. This amount is in sharp contrast with the seven site visits that had been conducted in FY2008. In FY2012, the SBA will be rolling out a HUBZone recruitment initiative to target firms that may be HUBZone eligible and educate them on the benefits of the program.[168]

---

[164] U.S. Office of Management and Budget, "Statement of Administration Policy: H.R. 4310 – National Defense Authorization Act for FY2013," May 15, 2012, p. 8, at http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saphr4310r_20120515.pdf.

[165] SBA, *FY 2011 Congressional Budget Justification and FY 2009 Annual Performance Report*, p. 72, at http://www.sba.gov/sites/default/files/Congressional_Budget_Justification.pdf.

[166] Testimony of Karen G. Mills, then-SBA administrator, before the U.S. House of Representatives Committee on Small Business, "Accountability Update," Washington, DC, April 21, 2010, at http://www.house.gov/smbiz/democrats/hearings/hearing-04-21-10-oversight/Mills.pdf.

[167] Ibid.

[168] SBA, *FY2013 Congressional Budget Justification and FY2011 Annual Performance Report*, p. 72, at http://www.sba.gov/sites/default/files/files/FY%202013%20CBJ%20FY%202011%20APR.pdf.

One of the immediate by-products of the SBA's new business processes was an increase in the processing time for new HUBZone certifications. In the past, the SBA had a self-imposed goal of making those certifications within 30 calendar days after receipt of a complete application package, subject to the need for additional information or clarification of information contained in the application. Now, depending on the complexity of the application and the need for additional information, the SBA reports that it takes, on average, about three months to make those certifications. It remains to be determined if the SBA's new processes will reduce the incidence of fraud within the program. The resolution of that question could determine the future of the HUBZone program.

Author Contact Information

Robert Jay Dilger
Senior Specialist in American National Government
rdilger@crs.loc.gov, 7-3110