

The HUBZone Program: *Six Myths Debunked*

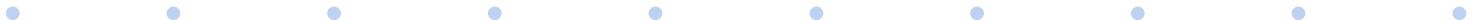
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DOD MID-ATLANTIC REGIONAL COUNCIL MEETING

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Agenda

1. Introduction
2. Myth #1: Date of Eligibility
3. Myth #2: “Attempt to Maintain” Standard
4. Myth #3: HUBZone Protests
5. Myth #4: “Jobsite” Employees
6. Myth #5: Principal Office Location
7. Myth #6: Subcontracting Limits



Introduction

- HUBZone: the “forgotten” program?
 - Reported \$11.97 billion in awards in 2010
 - Decisions and appeals not published
 - Still a vital source of set-aside opportunities
- Why focus on debunking myths?
 - Several components of HUBZone program can be very confusing
 - Confusion can lead to lost contracts, decertification, and even suspension/debarment



Myth #1 – Date of Eligibility

- The Myth: “My eligibility on a HUBZone set-aside contract is determined as of my initial priced offer on the solicitation.”
- The Reality: Unlike size, HUBZone eligibility is determined *both* at the date of the initial priced offer and the date of award.

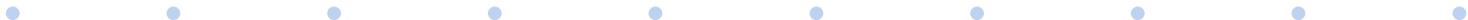


Myth #1 – Date of Eligibility

EXAMPLE

FastDri, LLC submits an offer on a HUBZone set-aside procurement on November 1, 2011. FastDri's HUBZone certification expires on November 15. The agency makes award on November 30.

Result: FastDri is not eligible for award because it was not a certified HUBZone as of the date of award.



Myth #2 – “Attempt to Maintain”

- The Myth: “My company is eligible for a HUBZone set-aside contract so long as I am attempting to maintain compliance with the 35% employee residency requirement.”
- The Reality: A HUBZone-certified company cannot validly bid on new HUBZone set-aside contracts unless it is actually in compliance with the 35% residency requirement.



Myth #2 – “Attempt to Maintain”

EXAMPLE

Central Constructors, Inc. is a HUBZone-certified firm. As of November 10, 2011, only 33% of Central’s employees reside in HUBZones, but Central is actively seeking to regain compliance. Central would like to bid on an active HUBZone set-aside procurement.

Result: Central is not eligible to bid on the new procurement until it actually regains compliance.



Myth #3 – HUBZone Protests

- The Myth: “So long as my company has an active HUBZone certification as of the date it wins a HUBZone contract, my HUBZone eligibility for that contract cannot be protested.”
- The Reality: An active HUBZone certification does not prevent competitors from protesting your HUBZone eligibility.



Myth #3 – HUBZone Protests

EXAMPLE

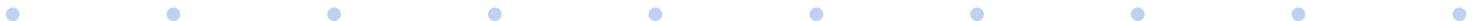
Even though Central Contractors, Inc. only has 33% of its employees residing in HUBZones, it bids on a new HUBZone set-aside procurement, believing that it qualifies because it is attempting to maintain compliance. A competitor files a timely and specific protest with the SBA.

Result: The competitor's protest will be sustained, despite Central's active HUBZone certification.



Myth #4 – “Jobsite” Employees

- The Myth: “Many of my employees work on customers’ jobsites. I do not need to include these employees when making my 35% employee residency count.”
- The Reality: Jobsite employees may be excludable from the principal office calculation, but cannot be excluded from the 35% residency calculation.



Myth #4 – “Jobsite” Employees

EXAMPLE

Central Contractors, Inc. has 10 employees working at its headquarters, 5 at a satellite office, and 53 on-site at federal construction projects.

Result: Central must meet the residency requirement based on its entire workforce of 68 employees. Doing the math, Central must have 24 HUBZone residents.



Myth #5 – Principal Office

- The Myth: “My company’s headquarters is its principal office for HUBZone purposes.”
- The Reality: A company’s principal office is the office where the greatest number of employees at any one location work (excluding jobsite employees). Your headquarters may or may not be your principal office for HUBZone purposes.



Myth #5 – Principal Office

EXAMPLE

FastDri, LLC's headquarters are in Richmond, Virginia. In 2008, FastDri opens a second office in Reston. By November 2011, the Reston office has grown to 30 employees. Twenty-five employees work at headquarters.

Result: The Reston office is FastDri's principal office for HUBZone purposes. If the Reston office is not in a HUBZone, FastDri does not qualify for the program.



Myth #6 – Subcontracting Limits

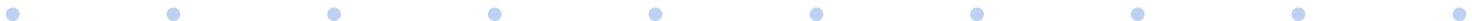
- The Myth: My HUBZone construction company can subcontract up to 85% of a general construction HUBZone set-aside to a large business.
- The Reality: For all HUBZone contracts, including construction, at least 50% of the cost of the contract incurred for personnel must be expended on employees of HUBZone companies (either the prime or subcontractors).

Myth #6 – Subcontracting Limits

EXAMPLE

Central Constructors, Inc. wins a HUBZone set-aside contract. Assuming the ordinary subcontracting limits apply, Central intends to perform 20% of the work itself and subcontract the remaining 80% to a large company.

Result: Central's subcontracting plan violates the special HUBZone performance of work requirements.



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QUESTIONS?

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