



# SBA Policy Notice

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**TO:** HUBZone Program Office and Field Liaisons

**CONTROL NO.:** 6000-828706

**SUBJECT:** HUBZone Program Requirement for Firms to Provide Job Descriptions

**EFFECTIVE:** March 4, 2022

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The purpose of the HUBZone program is to provide federal contracting assistance for qualified small business concerns located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in such areas. 13 CFR 126.100. The HUBZone Program uniquely requires firms to hire HUBZone residents as employees before the firm is able to apply for certification or qualify for federal HUBZone contracts.

Currently, the HUBZone regulations define the term “employee” to mean an individual employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours during the four-week period immediately prior to the relevant date of review. 13 CFR 126.103.

On October 31, 2018, SBA published in the Federal Register a comprehensive proposal to amend the HUBZone program regulations. 83 FR 54812. In this proposed rule, SBA requested comments on whether SBA should revise the requirement in the definition of the term “employee” from 40 hours per month to 20 hours per week, due to concerns that the 40 hours per month standard may be insufficient to stimulate employment in HUBZones. SBA explained, “Considering the purpose of the HUBZone program to stimulate meaningful employment in communities with high unemployment, SBA specifically requests comments on the number of hours SBA should require in order to count an individual as an employee of the firm for HUBZone eligibility purposes.” 83 FR 54812, 54814. In response to this request, SBA received 35 comments opposing this possible change to the definition of “employee.” Of these, 20 commenters cited concerns about the administrative and financial burdens on HUBZone firms and the restrictions it would place on firms’ ability to hire certain groups of potential employees such as students, working parents, interns, individuals with more than one job, or individuals who are otherwise unable to work for a firm 20 hours or more per week. In the final rule, SBA stated: “One of the purposes of the HUBZone program is to provide meaningful employment opportunities for residents of HUBZone areas. After reviewing the comments, SBA agrees that changing the requirement to 20 hours per week would hinder, rather than encourage, firms’ efforts to hire and retain HUBZone-resident employees. Therefore, SBA will retain the existing requirement that an “employee” is an individual who works at least 40 hours per month.” 84 FR 65222, 65224.

In the 2018 proposed rule, SBA also sought comments on whether the definition of “employee” should continue to include temporary and leased employees, individuals obtained through a union agreement, and those co-employed through a professional employer organization (PEO) agreement, or if SBA should count only full-time employees or full-time equivalents. SBA received 30 comments on this issue, with 18 commenters in favor of continuing to use a broad definition of “employee” and 12 in favor of a

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narrower approach that would count only full-time employees or full-time equivalents. After reviewing the comments, SBA decided to retain the definition of “employee” that includes temporary and leased employees, individuals obtained through a union agreement, and those employed through a PEO agreement. SBA explained: “As discussed above, the purpose of the program is to increase employment opportunities for individuals residing in HUBZones. A more inclusive definition of “employee” allows a wider group of people to apply for positions at HUBZone firms and thus gives the firms more opportunities to find employees who fit their needs.” 84 FR 65222, 65224.

In the time since the publication of these rules, SBA has continued to encounter concerns that the 40 hours per month standard may not be sufficient to stimulate employment in HUBZone areas.

Thus, to help ensure that HUBZone firms are providing meaningful employment opportunities for residents of HUBZone areas, the HUBZone program will now require job descriptions for all HUBZone employees who are working less than 30 hours per week. Effective on the date of this notice, all HUBZone program applicants must submit a job description for each HUBZone employee who is working for the firm for less than 30 hours per week.

For currently certified HUBZone firms, effective on the date of this notice, any firm that is subject to a program examination will be required to submit job descriptions for any HUBZone employee who is working less than 30 hours per week.

In general, to meet this requirement, job descriptions will need to address, at a minimum: the job title, the individual’s duties and responsibilities, the expected work product, and the general job schedule.

SBA will interpret the failure to submit a job description as an indication that an employee is not performing meaningful work for the firm and the individual will not be considered an employee for HUBZone program purposes. Applicants that do not meet the 35% HUBZone residency requirement due to failure to submit the required documentation will be deemed ineligible to participate in the HUBZone Program and their application will either be withdrawn or declined. Certified HUBZone small businesses that are found to not meet the 35% HUBZone residency requirement due to failure to submit the required documentation will be deemed ineligible to participate in the HUBZone Program and proposed for decertification.

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