



DEPARTMENT OF THE NAVY

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IN REPLY REFER TO:
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MEMORANDUM FOR DISTRIBUTION

Subj: HUBZONE PROGRAM

Ref: (a) Title VI of Public Law 105-135 (Small Business Reauthorization Act of 1997,
Enacted 12/02/97)
(b) HUBZone Program Final Rule

Encl: (1) Index of HUBZone Program Final Rule
(2) Small Business Administration letter dated October 6, 1999

1. Reference (a) established the HUBZone program sometimes referred to as the "HUBZone Empowerment Contracting Program." The purpose of the HUBZone program is to provide federal contracting assistance for qualified small business concerns located in historically underutilized business zones, in an effort to increase employment opportunities, investment and economic development in those areas. This program applies to firms that are currently located within HUBZones, start-up businesses that are located in these areas, and existing firms that choose to move their business to qualified areas.

2. All types of contracts normally authorized under the Federal Acquisition Regulation will be available under this program. FAR 19.1304 lists exclusions under the HUBZone program. DOD HUBZone prime contractor award goals are as follows: 1% for FY99, 1.5% for FY00, 2% for FY01, 2.5% for FY02, 3% for FY03 and each FY thereafter. DOD goaling procedures provide that achievement toward the HUBZone prime contract award goals will be measured as a percent of total prime contract awards to U.S. firms. DOD HUBZone program subcontracting goals are identical to the HUBZone Prime Contractor Award goals. Department of Navy (DON) subcontracting program achievements are measured as a percentage of total subcontracts administered by DON contracting activities. Reference (b), Final Rule for the HUBZone Program consists of 60 documents presented as answers to questions regarding the implementation, maintenance and verification of the program. An un-indexed copy of the Final Rule can be found at www.sba.gov. A copy of the Final Rule indexed by topic and page number can be found at www.efdnorth.navfac.navy.mil under Small Business Information. The index is provided as enclosure (1).

3. The status of a qualified HUBZone Small Business Concern is determined by the Small Business Administration in accordance with 13 CFR Part 126. As per FAR 19.1303 (b), SBA will issue all qualified HUBZone small business concerns a certification and list qualified HUBZone Small Business Concerns on its PRONET

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Internet website at www.sba.gov/hubzone. Per enclosure (2), SBA's PRONET system is the only official on-line source for locating or identifying 8(a), SDB and HUBZone certified contractor companies. According to the SBA, HUBZone firms must be certified at the time they submit a bid or proposal.

4. Section 126.600 of the Final Rule states that HUBZone contracts are awarded to a qualified HUBZone small business contractor through sole source awards, set-aside awards based on competition restricted to qualified HUBZone firms, or awards to qualified HUBZone firms through full and open competition after application of a price evaluation preference (PEP) in favor of qualified HUBZone firms. Section 126.607 of the Final Rule establishes the first priority for qualified HUBZone/8(a) concerns and then other 8(a) concerns. After these preferences the Contracting Officer must use a HUBZone set-aside competition as per FAR 19.1305. Considering the requirements of sections 126.600 and 126.607 and the exemption of the HUBZone Program from the requirements of the Competitiveness Demonstration Program, the list of priorities for contracts above the simplified acquisition threshold are ranked from first to last as follows:

- a) NISH (Facility Support Contracts)
- b) HUBZone Small Business/8(a) concerns
- c) Other 8(a) Concerns
- d) HUBZone Set-Aside
- e) Small Business Set-Aside (if not excluded by Competitiveness Demonstration Program)
- f) Unrestricted

Note: (1) Priorities for all contracts will be provided by the Small Business Programs Set-Aside Precedence Matrix.

(2) Sole Source HUBZone is not listed as one of the priorities since it is dependent on Contracting Officer compliance with FAR 6.302.

(3) Solicitations of services from firms that are HUBZone Small Businesses and 8(a) Small Businesses or other 8(a) Concerns are to be conducted as per FAR 19.8.

5. NAVFACENGCOM Associate Director for Small Business has advised that whenever possible awards to qualified HUBZone Small Business/8(a) concerns should be made using 8(a) procedures. This will allow the Contracting Officer to receive credit for awarding a HUBZone contract and an 8(a) contract. For awards made to a contractor that is a HUBZone firm and a SBA certified Small Disadvantaged Business (SDB) the Contracting Officer can receive credit for a HUBZone small business award and SDB award.

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6. As per FAR 19.1305 (a), the Contracting Officer shall consider HUBZone set-asides before considering HUBZone sole source awards or small business set-asides. The Contracting Officer shall set aside acquisitions exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns when there is a reasonable expectation that offers will be received from two or more HUBZone small business concerns; and award will be made at a fair market price. The Contracting Officer may set-aside acquisitions exceeding the micro-purchase threshold but not exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns provided the same reasonable expectations exist concerning anticipated number of offers and price. If the Contracting Officer receives only one acceptable offer from a qualified HUBZone small business concern in response to a set-aside, the Contracting Officer should make an award to that concern if the firm is responsible and its price is considered fair and reasonable. If the Contracting Officer receives no acceptable offers from HUBZone small business concerns, the HUBZone set-aside shall be withdrawn and the requirement, if still valid, set-aside for small business concerns, as appropriate. FAR 19.1305(e) discuss the process for SBA to appeal the Contracting Officer decision not to set-aside an acquisition for competition restricted to qualified HUBZone small business concerns.

7. According to the SBA, before a Contracting Officer decides whether to issue a HUBZone set-aside for construction work they should answer the following questions:

- a) According to Pronet is their a certified HUBZone Small Business/8(a) Concern capable of performing the work located in the SBA District where the work is being performed?
- b) According to Pronet is there a certified 8(a) Concern capable of performing the work located in the SBA District where the work is being performed?
- c) According to Pronet are there two or more certified HUBZone Small Businesses located within the states nearest to where the work is being performed? If yes, based on Procuring Contracting Officer's (PCO) examination of information about the companies are they capable of performing the required services? If yes, the PCO should publicize notice of HUBZone set-aside as per FAR 5.101.

8. FAR 19.1306 addresses HUBZone sole source awards. The Contracting Officer may award contracts to HUBZone small business concerns on a sole source basis without considering small business set-asides under the conditions set forth in FAR 19.1306(a). Per FAR 19.1306 (a)(1), the Contracting Officer must justify why only one HUBZone firm can satisfy the requirement. If the qualified HUBZone concern is also an 8(a) concern and you follow 8(a) rules, a justification is not required. FAR 19.1306(b) specifies rights of SBA to appeal the Contracting Officer decision not to make a HUBZone sole source award.

9. FAR 19.1307 mandates use of the Price Evaluation Preference (PEP) in acquisitions conducted using full and open competition. Exceptions to PEP are cited in FAR 19.1307 (a).

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As a consequence of the PEP, a HUBZone Small Business company may displace the apparent low offeror (other than a small business) if its price is not more than 10% higher than the otherwise lowest, responsive and responsible offeror. The following example is provided to facilitate your understanding of PEP:

<u>NAME OF CONTRACTORS</u>	<u>TYPE OF BUSINESS</u>	<u>OFFER</u>	<u>10% PEP</u>	<u>EVALUATED PRICE</u>
ABC Co.	Large Business	\$900K	\$90K	\$990K
LMP Co.	HUBZone Small Business	\$960K	None	\$960K
XYZ Ltd.	Small Business	\$980K	None	\$980K

10. In the above example, the contract would be awarded to the HUBZone small business contractor, LMP Company. However, if this acquisition were a source selection, the award decision would be based upon the evaluation criteria, which would consider both technical as well as price elements. FAR 19.1307(d) provide guidance for calculation of the HUBZone small business PEP and small disadvantaged business price evaluation adjustment (PEA). Additional guidance regarding the PEP is found in DFARS 219.11. Use of the PEA has been suspended and guidance on calculation of PEA will be provided in future.

11. The relevant clauses prescribed by FAR 19.1308 are listed below:

Clauses/Dates		Prescriptions	Comments
52.219-3	1/99	19.1308(a)	Insert this clause in solicitations that are set aside for HUBZone small business concerns under FAR 19.1305 or 19.1306.
52.219-4	1/99	19.1308(b)	Use in solicitations and acquisitions conducted using full and open competition that exceeds the simplified acquisition threshold.

12. If you have any questions, or need additional information, please contact your Command Deputy for Small and Disadvantaged Business Utilization as follows: EFD North, Jerry Chapman (610) 595-0629, EFA Chesapeake, Irene Hunter (202) 685-0088, and MIDLANT, Priscilla J. Adkins, (757) 444-8065, ext. 3052.

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13. This Policy Memorandum applies throughout the Atlantic Division.



D. A. LAMOUREUX
Head, Contracts Office

Distribution:

Part I

List A (only 1-4, 15, 17-21)

List C (only 6-8, 10, 12, 14, 21, 22)

List D (only 12 – 9 copies)

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PART II

List J (only 2)

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U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20415

October 6, 1999

Director of Procurement
Naval Facilities Engineering Command
Northern Division
10 Industrial Highway Mail Stop #82

Dear Director,

The Small Business Administration (SBA) wants to ensure that all Department of Defense's procurement /acquisition offices are aware of the many advantages of the Internet-based PRO-Net system.

PRO-Net is an electronic gateway to procurement information -- for and about small businesses. It is a search engine for contracting officers, a marketing tool for small firms and a "link" to procurement opportunities and other relevant information. It is designed to be a "virtual" one-stop procurement-shop.

Of particular interest to DoD procurement specialists is immediate access to profile information on more than 180,000 small businesses. Based on appropriate key words and/or SIC codes, they may quickly identify firms with desired

PRO-Net is the only official on-line source for locating or identifying 8(a), Small Disadvantaged Business (SDB) and HUBZone certified companies

capabilities and that are part of special emphasis programs such as minority, Veteran-Owned, Woman-Owned etc. In fact, PRO-Net is also the only official on-line source for locating or identifying 8(a), Small Disadvantaged Business (SDB) and HUBZone certified companies.

For firms having websites, purchasing agents may access them to get a more complete idea of the firm's products, services and qualifications.

Using the e-mail addresses provided in the profiles, purchasing agents may forward solicitations to or otherwise communicate directly with a number of small firms at one time.

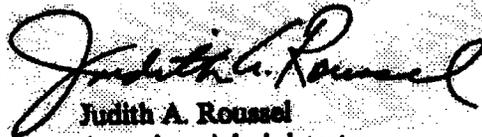
PRO-Net has its own URL. It can be found at <http://pronet.sba.gov>

We have enclosed a comprehensive tutorial on CD. It explains and demonstrates the many facets of the PRO-Net system.



Please feel free to contact us by e-mail at pronet@sba.gov if you have any questions concerning the system or if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith A. Roussel". The signature is written in a cursive style with a large initial "J".

Judith A. Roussel
Associate Administrator
for Government Contracting

Enclosure