



**United States  
General Accounting Office  
Washington, D.C. 20548**

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**Office of the General Counsel**

B-280483

July 14, 1998

The Honorable Christopher S. Bond  
Chairman  
The Honorable John F. Kerry  
Ranking Minority Member  
Committee on Small Business  
United States Senate

The Honorable James M. Talent  
Chairman  
The Honorable Nydia M. Velázquez  
Ranking Minority Member  
Committee on Small Business  
House of Representatives

**Subject: Small Business Administration: HUBZone Empowerment Contracting Program**

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Small Business Administration (SBA), entitled "HUBZone Empowerment Contracting Program" (RIN: 3245-AE02). We received the rule on June 30, 1998. It was published in the Federal Register as a final rule on June 11, 1998. 63 Fed. Reg. 31896.

The final rule implements the HUBZone Empowerment Contracting Program created by the HUBZone Act of 1997 (Pub. L. 105-135, December 2, 1997). The rule sets forth the program requirements for qualification as a HUBZone small business concern (SBC), the federal contracting assistance available to qualified HUBZone SBCs, and other aspects of the program.

Enclosed is our assessment of SBA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SBA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation

work relating to the Small Business Administration is Judy England-Joseph, Director, Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy  
General Counsel

Enclosure

cc: Mr. Mark K. Stephens  
Deputy General Counsel  
Small Business Administration

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY  
THE SMALL BUSINESS ADMINISTRATION  
ENTITLED  
"HUBZONE EMPOWERMENT CONTRACTING PROGRAM"  
(RIN: 3245-AE02)

(i) Cost-benefit analysis

SBA performed a cost-benefit analysis of the final rule. The HUBZone Act increases the government-wide goal for small business concerns (SBCs) from 20 percent to 23 percent of all federal prime contracts and, initially, for HUBZone SBCs a goal of 1 percent of all federal prime contracts. This percentage is to gradually increase to 3 percent by the year 2003. Thus, HUBZone SBCs in 2003 may be awarded \$6 billion in federal contracts (3 percent of the \$200 billion procurement budget).

SBA recognizes that computing the costs of the program is very subjective because the HUBZone program is a new program, and there are three ways under it that contracts can be awarded to HUBZone SBCs. First, if two or more qualified HUBZone concerns will submit offers for a contract and it can be awarded at a fair market price, the cost of the program (aside from administrative costs) would be close to zero. Second, if a contract is awarded on a sole source basis to a qualified HUBZone concern, the cost would be the additional costs over competitive awards normally associated with sole source awards. Finally, if all the contracts were awarded at the 10 percent Price Evaluation Preference, an unlikely scenario according to SBA, the additional cost would be \$600 million, or 10 percent of \$6 billion.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SBA prepared an Initial Regulatory Flexibility Analysis in connection with the proposed rule and a Final Regulatory Flexibility Analysis with the final rule.

The rule will have a significant economic impact on a substantial number of small entities according to the analyses. SBA estimates that as many as 30,000 small business concerns will apply for certification as qualified HUBZone concerns. The economic impact on the small entities is expected to be favorable because of the increased contracting opportunities presented by the final rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not impose a federal intergovernmental or private sector mandate of \$100 million or more, as defined in the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On April 2, 1998, SBA issued a Notice of Proposed Rulemaking (63 Fed. Reg. 16148) and invited comments. Thirty-five comments were received in response and SBA discusses the comments and the actions it took in response in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

The preamble to the final rule contains the information required by the Paperwork Reduction Act, including the reason and need for the collection, who is required to comply with the collection, and the estimated annual burden hours.

The rule requires firms to submit evidence that they meet the eligibility requirements set forth in the rule. Thereafter, the firms must self-certify annually to remain qualified. Any material change in circumstances which could affect eligibility are to be reported to SBA immediately. SBA estimates each concern will be able to complete the application in 1 hour or less.

Statutory authorization for the rule

The final rule was issued pursuant to the authority of Public Law No. 105-135, section 601 et seq., 111 Stat. 2592; 15 U.S.C. §§ 632(a), 634(b)(6), 637(a), and 644(c); and Public Law 102-486, 106 Stat. 2776 and 3133.

Executive Order No. 12866

The final rule was determined to be an "economically significant" regulatory action under Executive Order No. 12866. It was reviewed and approved by the Office of Management and Budget as complying with the requirements of the Order.