

Minority Views

H.R. 5450, The Enhancing Competition in Contracting Orders Act

The Small Business Administration's (SBA) Historically Underutilized Business Zone (HUBZone) program is one of four small business federal contracting programs, and the only one that assists small businesses based on their geographic location. When the government invests in small businesses, small businesses invest in their communities. They create local jobs and buy local products. That is a driving force behind the HUBZone program.

The program works to "promote job growth, capital investment, and economic development to historically underutilized business zones... to small businesses located in these economically distressed communities."¹

To level the playing field for small business competing in the federal market, Congress has established an annual 3% goal for contract dollars to HUBZone small businesses. Unfortunately, most federal agencies fall short of meeting the HUBZone goals. In FY 22, the federal government sent 2.6% of spend to HUBZone small businesses, and saw a reduction in the number of HUBZone smalls participating in the federal market.² The HUBZone prime contracting goal has never been met government-wide.

There are three contracting authorities that federal agencies can use on certified HUBZone small businesses: (a) set aside the contract exclusively for HUBZone competition; (b) sole source the contract directly to a qualified HUBZone when certain conditions are met; and (c) provide a price preference to HUBZone firms who have bid on work in full-and-open competitions. The preference is applied when a qualified HUBZone small businesses bids on a contract. The firms bid is then "deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10% higher than the price offered by the otherwise lowest, responsive, and responsible offeror."

This bill will provide additional clarification to federal agencies on how and when to apply the preference. Currently, the HUBZone price evaluation preference is not widely used because some agencies have incorrectly interpreted that the preference does not apply to orders, only standalone contracts.

¹ Small Business Administration, Office of the HUBZone Program: <https://www.sba.gov/about-sba/sba-locations/headquarters-offices/office-hubzone-program>.

² FY2022 Small Business Procurement Scorecard: <https://www.sba.gov/agency-scorecards/scorecard.html?agency=GW&year=2022>.

As the Federal Government increasingly drives its spending through these vehicles, significant opportunities for HUBZone small businesses are being lost because the HUBZone price evaluation is not being applied in the award of task orders—as Congress originally intended.

Sincerely,

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Ranking Member