



**Written Testimony of**

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**On behalf of**

**HUBZone Contractors National Council**

**House Committee on Small Business Subcommittee on  
Contracting and Infrastructure**

**“A Review and Assessment of the SBA HUBZone  
Program”**

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Chair Mfume, Ranking Member Salazar and Members of the Subcommittee, thank you for the opportunity to testify today.

My name is Shirley Bailey and I am CEO and Managing Member of Summit Federal Services, LLC, located in Oakland, Maryland. My company provides acquisition, business process, training, IT, administrative and security services to multiple federal agencies. We are an SBA-certified Historically Underutilized Business Zones (HUBZone) and woman-owned small business. I am also a member of the Women's Procurement Circle, which advocates for policies that strengthen women-owned companies that do business with the federal government.

I am testifying today on behalf of the HUBZone Contractors National Council, where I serve as the President and Chair of the Board of Directors. The Council is a non-profit trade association providing information and support for companies and professionals interested in the Small Business Administration's (SBA) HUBZone program. The Council strives to promote economic development in underutilized rural and urban communities, as well as maximize success for companies participating in the HUBZone program. The Council's membership includes HUBZone-certified small businesses, other small businesses, large businesses, and organizations interested in the HUBZone Program.

The HUBZone program is designed to provide economic assistance to underserved areas by awarding federal contracts to small businesses that operate and employ workers in those areas. The underlying principle behind the HUBZone program, established 25 years ago, remains the same today – to decrease unemployment and revitalize low-income communities by encouraging businesses to locate in these HUBZone areas. Congress, in its creation of the program, stated that the creation of new jobs in economically distressed areas presented a challenge to all levels of government. The HUBZone program was designed to incentivize businesses to locate in these areas, creating wealth creation through much needed jobs.

We thank the Committee for its continued commitment to support small businesses doing business with the Federal Government. It is because of this Committee's strong commitment to improving the HUBZone program that a substantial modernization effort was signed into law in 2018. This effort added stability to the program by changing the eligibility maps on 5 year intervals, redefining the income formula to increase the number of non-metropolitan areas as qualified HUBZones, adding a governor's petition, implementing an annual recertification, and increasing transparency through reporting. These changes have had many positive impacts on the HUBZone program. However, substantial challenges and barriers continue to plague certified HUBZone firms. Since the program's inception, the government has not met its goal to obligate 3 percent of eligible prime contract dollars to HUBZone small businesses. This represents over 25 years of missed opportunities and unawarded dollars for companies that operate and employ workers in HUBZones. To date, the HUBZone program is the only SBA contracting program where the government continually fails in meeting its established goal.

In the last 2 years, we have seen how crucial it is for government programs to adapt to changing realities, and the HUBZone program should be no exception. The workplace environment has dramatically shifted to embrace telework. Employers and employees alike cite significant cost savings and increased productivity. Although remote work provides substantial advantages and

cost savings for many companies, HUBZone companies must maintain a principal office in a HUBZone to be eligible to participate in the program. While SBA initially relaxed the eligibility requirement for the principal office during the pandemic, the eligibility requirement has been reinstated. This has required HUBZone certified businesses to maintain an office and ensure that their employees are spending the majority of their time in the office in order to maintain the HUBZone principal office eligibility. To account for the large percentage of contractor employees teleworking due to the COVID-19 pandemic, the Council recommends adding flexibility to the principal office requirement and embracing telework by allowing qualified HUBZone employees to count toward the principal office requirement if they are teleworking in a given HUBZone and/or provide an option to increase the HUBZone resident percentage in lieu of principal office.

Navigating business compliance during the pandemic has also been challenging. The shift for many to telework brought additional compliance risks for HUBZone companies, especially with the residency and workforce requirements. A continuing challenge is understanding compliance requirements, and we urge the SBA to provide clear guidance and a reasonable time period for companies to adapt to these regulatory changes.

We recommend the following actions to increase awards to HUBZone companies and the communities they serve:

**Apply the HUBZone Price Evaluation Preference to Task Orders.** The HUBZone price evaluation preference helps level the playing field for HUBZone firms in full-and-open competition, as well as affords federal agencies greater opportunity to devote federal spending to HUBZone firms. Regrettably, federal agencies have interpreted FAR 19.1304 as prohibiting the price evaluation preference to task orders when, in fact, it only prohibits commodities. We urge Congress to direct federal agencies to amend their interpretation to follow the law as Congress intended. As the federal government increasingly drives its spending through IDIQ contracts, such as the “Best in Class” (BIC) contracts, a significant opportunity for HUBZone spending is lost because the HUBZone price evaluation is not being applied in the award of task orders. The Council thanks this Committee for championing H.R. 5879, which passed the House on June 8. Applying the price preference would significantly benefit the SBA, federal agencies, HUBZone firms and the communities they serve.

**Expand Sole Source Contract Opportunities for HUBZone Companies.** As government buying continues to trend toward buying through large contracting vehicles and moving away from direct contracts, the ability for small companies to win sole source awards is more critical than ever. The Council supports eliminating option years for sole source contracts to allow for \$4.5/\$7.5 million each year, instead of over the life of the contract—as changed in House-passed H.R. 190 during the 116th Congress. The Council also believes that creating parity among SBA socioeconomic contracting programs, as it relates to sole source contracts, would incentivize agencies to increase their awards. A current impediment to awarding sole source contracts is the requirement that a contracting officer must show that they do not have a reasonable expectation that offers would be received from two or more HUBZone small business concerns. There is confusion around the language “reasonable expectation,” which leaves this interpretation up to each contracting officer. This presents a barrier to awarding a sole source contract to a HUBZone company, as this could open the door to a protest – an action contracting officers seek to avoid.

Eliminating this requirement for the HUBZone, Women-Owned Small Business (WOSB)/Economically Disadvantaged Women-Owned Small Business (EDWOSB) and Service-Disabled Veteran-Owned Small Business (SDVOSB) programs would increase sole source awards to these socioeconomic categories. Additionally, SBA's Office of Government Contracting and Business Development (GCBD) should develop guidance to provide clarity to the acquisition workforce on how to award sole source contracts to small businesses.

**Increase Acquisition Workforce Training of Small Business Contracting Programs.** Contracting officers have expressed the need for additional training on the HUBZone program and how to use it. Changes to the SBA's small business contracting programs have necessitated the need for recurring training on the requirements of the HUBZone program. The Council suggests creating a requirement for ongoing professional development and allocating funds to make this training possible.

**Expand Highway Trust Fund to Include HUBZone Small Businesses.** Presently, HUBZone small businesses are excluded from competing for opportunities funded under the Department of Transportation (DOT) Trust Fund, which is approximately \$2.3 billion dollars annually. Considering the recent Bipartisan Infrastructure Law, allowing HUBZone firms to compete would invest many of these dollars back into underutilized communities.

**Change Reporting Requirements to Accurately Reflect Contract Set-Asides.** Each year, SBA issues a procurement scorecard, which indicates how agencies performed in meeting their small business goals. The governmentwide goal of contracting with HUBZones is 3 percent. Despite this small number, the federal government has never met its goal – in FY2020, only 2.44 percent of prime contract dollars went to HUBZone certified businesses. The Council believes that even fewer contracts have gone to HUBZone businesses due to inaccurate reporting. Agencies often count the same dollar value towards multiple socioeconomic program goals, even though the contract was not explicitly set-aside for more than one program. For example, if a contract is set-aside for the WOSB program, and the winning company is also a certified HUBZone and SDVOSB, those contract dollars count toward the agency's goals in each of the 3 programs. This practice ultimately inflates the data reported on small business contracting awards. To increase transparency, the Council recommends agencies report progress toward small business goals based on how the contract was solicited. We applaud Representative Peters' proposed amendment to the FY2023 National Defense Authorization Act (NDAA) and urge the House to adopt it into the final bill.

**Revise the Definition of "Reside."** In the past, SBA has permitted firms to count employees that have lived in a HUBZone for less than 180 days if the employees can demonstrate an intent to live in the HUBZone indefinitely. This determination was made by the location in which the individual was registered to vote. Under the changes that took effect in December of 2019, the SBA removed this flexibility. The Council believes rescinding this change is overly restrictive, and recommends SBA revert to the previous definition of "reside." Since voter information is publicly available, this will also ease administrative burden on companies when providing proof of residency. Additionally, SBA should consider an alternative definition for college students and interns, given that their residency is often not year-round. Students are much-needed employees and are key to the success of HUBZone companies.

**Increase Utilization of Small Businesses to Counteract the Impact of Category Management.**

The Council continues to work to minimize negative impacts of category management on HUBZone certified businesses. These efforts resulted in a requirement in the FY2020 NDAA of annual reporting of small business participation on BIC vehicles, and governmentwide reforms issues by the Administration in December 2021. The Council remains dedicated to finding opportunities that ensure maximum participation of HUBZone businesses. We are encouraged by the guidance issued by the Office of Management and Budget (OMB) which directs agencies to consider the effect of category management and contract consolidation on small businesses and encourage the Committee to hold OMB accountable to take these actions. We also applaud Representative Fitzgerald’s proposed amendment to the FY2023 NDAA to exempt certain contracts from category management requirements and urge the House to adopt it into the final bill.

**Redefine the Attempt to Maintain Requirement.** The HUBZone program has a requirement that 35 percent of all employees must reside in a HUBZone area. While all HUBZone companies should strive to meet the 35 percent requirement, only companies performing on a HUBZone prime contract currently benefit from the flexibility under the “attempt to maintain” residency requirement level. The Council believes that if the attempt to maintain requirement was redefined to include all contracts under which the federal agencies and large prime contractors are claiming HUBZone credit, more firms would be able to maintain compliance – largely benefitting the program.

**Prioritize Local Vendors.** As mentioned earlier in my testimony, generating wealth in underserved communities is an important mission of the HUBZone program. We believe the program would be enhanced by an emphasis on using local businesses to perform government contract work in the area of the award. We note that Congressman Andy Kim has introduced H.R. 4321, the “Put Our Neighbors To Work Act,” which prioritizes using businesses within 60 miles of a military construction project. Similarly, the RISE Act sets a precedent by requiring a contracting preference for small businesses located in disaster areas. We encourage Congress to consider prioritizing local contractors for this program.

**Align the Rulemaking Processes of SBA and the FAR Council.** Pervasive inconsistencies exist in government contracting due to discrepancies between final rules issued by the SBA and the Federal Acquisition Regulatory (FAR) Council. This causes confusion for both companies and federal agencies on which guidance they should ultimately follow. Many in the acquisition workforce do not follow changes in small business rules unless it is in the FAR, despite that final rulemaking by SBA is sufficient. In addition, the time lapse between FAR Council action and final rules promulgated by the SBA can span many years. To remedy this problem, the Council suggests requiring the FAR Council issue its rulemaking simultaneously with SBA.

In conclusion, the HUBZone Program is needed now more than ever, as the number of HUBZone locations around the country have roughly doubled since Congress first created the program more than 25 years ago. The HUBZone contractor community is optimistic that the Congressional actions to provide more certainty, flexibility, and fair requirements for the program will help it fulfill its promise for more federal agencies, prime contractors, and HUBZone communities across the country. Our member companies and all HUBZone certified firms are ready to compete on

federal contracts to bring jobs, innovation, training, and economic empowerment to HUBZones. Thank you for allowing the HUBZone Council to testify at this very important hearing. I look forward to answering any questions.