



The HUBZone Council is a non-profit, non-partisan, volunteer membership trade association for companies and individuals interested in the HUBZone Empowerment Contracting Program.

INDUSTRY ADVISORY: April 2010



'Employee' Redefined: HUBZone Regulations Change May 3

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September 15-17, 2010
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HUBZone Regulations Change May 3

'Employee' Redefined: Impacts Primary Office Determination & Employee Residence Ratio for HUBZone Certification

The HUBZone Contractors National Council advises its member companies, and all HUBZone businesses, to understand the revisions which go into effect May 3, 2010. The definition of the term 'employee' has been clarified and altered.

The major change is that an 'employee' will be one who works 40 or more hours in a month, rather than the current 30 or more hours per week. The new definition also clarifies a number of other issues relating to who is considered an employee.

These changes are important to HUBZone-certified firms because at least 35% of their employees must reside in HUBZones and their principal office (where most employees work) must be located in a HUBZone to obtain and maintain HUBZone certification.

CURRENT DEFINITION - expires May 3, 2010:

"Employee means a person (or persons) employed by a HUBZone SBC (*small business concern*) on a full-time (or full-time equivalent), permanent basis. Full-time equivalent includes employees who work 30 hours per week or more. Full-time equivalent also includes the aggregate of employees who work less than 30 hours a week, where the work hours of such employees add up to at least a 40-hour work week. The totality of the circumstances, including factors relevant for tax purposes, will determine whether persons are employees of a concern. Temporary employees, independent contractors or leased employees are not employees for these purposes."

NEW DEFINITION - effective May 3, 2010:

"Employee means all individuals employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours per month. This includes employees obtained from a temporary agency, leasing concern, or through a union agreement or co-employed pursuant to a professional employer organization agreement. SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes and those set forth in SBA's Size Policy Statement No. 1, in determining whether individuals are employees of a concern. Volunteers (i.e., individuals who receive deferred compensation or no compensation, including no in-kind compensation, for work performed) are not considered employees. However, if an individual has an ownership interest in and works for the HUBZone SBC a minimum of 40 hours per month, that owner is considered an employee regardless of whether or not the individual receives compensation."

HUBZone Council Chairman Ron Newlan stated, "The HUBZone Contractors National Council wants its members, and all HUBZone-certified companies, to know about these significant changes in the regulations and understand their impact on their businesses."

To obtain more information about this regulation change, refer to the [Federal Register \(Vol. 74, No. 211, pp. 56699-5670\)](#) and/or the [notice on the Small Business Administration's website](#).

<http://www.hubzonecouncil.org/clubportal/images/clubimages/528/091103%20fed%20reg%2013cfr126%20changes.pdf>
http://www.sba.gov/idc/groups/public/documents/sba_program_office/hubzone_rule-change_empl_def.pdf

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