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Press Release

For Immediate Release: November 5, 2009

## HUBZone Regulations Change Regarding Definition of the Term 'Employee'

*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 Small Business Administration (SBA) has just released a significant change in the [HUBZone program regulations \(13 CFR Part 126\)](#) that will impact many HUBZone firms. The definition of the term 'employee' has been clarified and altered. The revised regulations go into effect on May 3, 2010.

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.

This definition is important to HUBZone-certified firms because at least 35% of their employees must reside in HUBZones to obtain and maintain HUBZone certification.

**CURRENT DEFINITION - expires May 3, 2010:**

"Employee means a person (or persons) employed by a HUBZone SBC 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."

Council members may obtain more information about this regulation change in the Members-Only section of the [HUBZone Council website](#). Non-members may refer to the [Federal Register](#) (Vol. 24, No. 211, November 3, 2009, pp. 56699-56702).

*About the HUBZone Council*

*The HUBZone Contractors National Council (HCNC) is a national trade association that represents companies certified as HUBZone firms by the U.S. Small Business Administration. The HUBZone (Historically Underutilized Business Zone) Contracting Empowerment Program provides access to federal contracts to companies located in designated areas, often inner cities and rural regions, to promote job growth and prosperity in these locations.*

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