

## HUBZone Challenges: The Basics

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### **HUBZone challenges are administered under 48 CFR 19.306 - Protesting a firm's status as a HUBZone small business concern which states that:**

(a) Definition. As used in this section—Interested party has the meaning given in 13 CFR 126.103.

(b)

(1) For sole source acquisitions, the SBA or the contracting officer may protest the apparently successful offeror's HUBZone small business concern status.

(2) For all other acquisitions, an offeror that is an interested party, the contracting officer, or the SBA may protest the apparently successful offeror's qualified HUBZone small business concern status.

(c) Protests relating to whether a HUBZone small business concern is a small business for purposes of any Federal program are subject to the procedures of subpart 19.3. Protests relating to small business size status for the acquisition and the HUBZone qualifying requirements will be processed concurrently by SBA.

(d) All protests must be in writing and must state all specific grounds for the protest. Assertions that a protested concern is not a qualified HUBZone small business concern, without setting forth specific facts or allegations, are insufficient.

An offeror must submit its protest to the contracting officer. The contracting officer and the SBA must submit protests to SBA's

(e)

(1) The protest of an offeror that is an interested party must be submitted by—

(i) For sealed bids:

(A) The close of business on the fifth business day after bid opening; or

(B) The close of business on the fifth business day from the date of identification of the apparent successful offeror, if the price evaluation preference was not applied at the time of bid opening.

(ii) For negotiated acquisitions, the close of business on the fifth business day after notification by the contracting officer of the apparently successful offeror.

(2) Any protest submitted after these time limits is untimely, unless it is submitted by the SBA or the contracting officer. Any protest received prior to bid opening or notification of intended award, whichever applies, is premature and shall be returned to the protester.

(f) Except for premature protests, the contracting officer shall forward all protests received, notwithstanding whether the contracting officer believes that the protest is not sufficiently specific, timely, or submitted by an interested party.

The contracting officer shall also forward a referral letter with the information required by 13 CFR 126.801(e).

(g)

(1) Protests may be submitted in person or by facsimile, express delivery service, or U.S. mail (postmarked within the applicable time period) to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Fax (202) 205-7167.

(2) The Director/HUB will notify the protester and the contracting officer that the protest was received and indicate whether the protest will be processed or dismissed for lack of timeliness or specificity. A protest will be dismissed if SBA determines the protester is not an interested party.

(h) SBA will determine the HUBZone status of the protested HUBZone small business concern within 15 business days after receipt of a protest. If SBA does not contact the contracting officer within 15 business days, the contracting officer may award the contract to the apparently successful offeror, unless the contracting officer has granted SBA an extension.

The contracting officer may award the contract after receipt of a protest if the contracting officer determines in writing that an award must be made to protect the public interest.

(i) SBA will notify the contracting officer, the protester, and the protested concern of its determination. The determination is effective immediately and is final unless overturned on appeal by SBA's Associate Deputy Administrator for Government Contracting and Administrator for Government Contracting and 8(a) Business Development(AA/GC&BD).

(j) The protested HUBZone small business concern, the protester, or the contracting officer may file appeals of protest determinations with SBA's AA/GC&BD. The AA/GC&BD must receive the appeal no later than 5 business days after the date of receipt of the protest determination. SBA will dismiss any appeal received after the 5-day period.

(k) The appeal must be in writing. The appeal must identify the protest determination being appealed and must set forth a full and specific statement as to why the decision is erroneous or what significant fact the Director/HUB failed to consider.

(l) The party appealing the decision must provide notice of the appeal to the contracting officer and either the protested HUBZone small business concern or the original protester, as appropriate. SBA will not consider additional information or changed circumstances that were not disclosed at the time of the Director/HUB's decision or that are based on disagreement with the findings and conclusions contained in the determination.

(m) The AA/GC&BD will make its decision within 5 business days of the receipt of the appeal, if practicable, and will base its decision only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protester, and the protested HUBZone small business concern. The SBA decision, if received before award, will apply to the pending acquisition.

SBA rulings received after award will not apply to that acquisition. The AA/GC&BD's decision is the final decision.

#### ABOUT THE AUTHOR

Frank V. Reilly is a [Martindale - Hubbell Peer Reviewed Attorney](#) with a perfect 5.0/5.0 Peer Rating. Martindale-Hubbell® Peer Review Ratings™ are the gold standard in attorney ratings, and have been for more than a century.

Mr. Reilly practices federal procurement law in Washington, DC.