



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

August 22, 2012

The Honorable Bob Goodlatte
Member, U.S. House of Representatives
10 Franklin Road, SE, Suite 540
Roanoke, Virginia 24011-2121

Dear Representative Goodlatte:

Thank you for your inquiry on behalf of Mr. Brian Shull, Director of Economic Development for the Town of Harrisonburg, Virginia. He is concerned with the HUBZone designation and eligibility of Harrisonburg based on the 2010 census.

Harrisonburg is located in Harrisonburg County. Harrisonburg County is a part of the Harrisonburg, metropolitan area and is considered a Metropolitan county.

Metropolitan counties may have Qualified Census Tracts (QCTs). The Small Business Act defines a QCT as having the meaning set forth in Section 42 of the Internal Revenue Code (IRC) of 1986. That section of the tax code defines a QCT for purposes of the Low Income Housing Tax Credit (LIHTC) Program. The U.S. Department of Housing and Urban Development (HUD) designates QCTs for purposes of the LIHTC Program.

The LIHTC statute provides two criteria for QCT eligibility. A census tract must have either:

- 1) a poverty rate of at least 25%; or
- 2) 50% or more of its householders must have incomes below 60% of the area median household income.

Further, the LIHTC statute requires that no more than 20% of the metropolitan area population reside within designated QCTs. This limit also applies collectively to the nonmetropolitan counties in each state. Thus, it is possible for a tract to meet one or both of the above criteria, but not be designated as a QCT. The LIHTC statute does not provide for an appeal process to change the QCT designation of an individual census tract.

With respect to the census tracts, the Census Bureau defines them in cooperation with local authorities every 10 years for the purposes of the decennial census and, following a public comment period, has recently completed defining tract boundaries for the 2010 Census. Note that when census tract boundaries are set, they remain unchanged for the next decade. Thus, the 2010 tract boundaries will not be changed until the 2020 Decennial Census.

There are currently 2 QCTs in Harrisonburg County, which were based on the 2000 decennial Census. In designating QCTs, the IRC Section 42(d)(5)(B)(ii)(I) directs HUD to use “the most recent year for which census data are available on household income by tract,” and IRC Section 42(d)(5)(B)(iv)(I) says that “population shall be determined on the basis of the most recent decennial census for which data are available.” The most recent data for which household income by tract is available is from the 5-year average of 2005–2009 American Community Survey (ACS). This data, however, was released using the 2000 Census tract boundaries, while the 2010 decennial census population counts were released using the 2010 Census tract boundaries. The geography of the population counts does not match the geography of the income and poverty rate information. This makes the most recent data incompatible for QCT designation, meaning that HUD cannot designate QCTs in accordance with statute.

The most recent census tract-level data from the ACS, which is the 2006–2010 5-year average using 2010 Decennial Census boundaries, was released in December 2011. Since the LIHTC Program, for which QCTs are designated, operates on a calendar-year annual allocation cycle, HUD’s standing practice is to designate QCTs in the Fall prior to the effective date, which coincides with the calendar year. This provides lead time for the LIHTC developers and administrators to adjust plans in accordance with the revised designations. On April 20, 2012, HUD published a notice in the Federal Register designating the 2013 QCTs for purposes of the LIHTC. In this notice, HUD explains that it listed the QCTs for 2013 earlier than it has in recent years to provide more time for the public to adjust to the revised list of QCTs because QCTs have not changed substantially since 2007. However, the effective date of the revised list of QCTs will still be the beginning of calendar year 2013 and SBA will update the list of QCTs at that time. Once the new QCTs are designated, the firms that are located within their boundaries can apply for HUBZone certification provided they meets all HUBZone eligibility criteria as prescribed in Title 13 of the Code of Federal Regulations Part 126. Therefore, the options available to the small businesses of Harrisonburg County, listed in the proposed decertification letters, remain the current choices it may take to respond.

We appreciate your continued support of the SBA and the Virginia small business community. If you and your staff have any questions, please contact SBA’s Office of Congressional and Legislative Affairs at (202) 205-6700.

Sincerely,

Mariana Pardo
Director
HUBZone Program