

1 AN ACT relating to procurement contracts with small businesses located in  
2 historically underutilized business zones.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
5 READ AS FOLLOWS:

6 *As used in Section 1 to 4 of this Act:*

7 *(1) "Cabinet" means the Finance and Administration Cabinet;*

8 *(2) "HUBZone" means a historically underutilized business zone which is any area*  
9 *located within one (1) or more qualified census tracts or qualified*  
10 *nonmetropolitan counties as published by the United States Small Business*  
11 *Administration;*

12 *(3) "HUBZone small business" means a small business with its principal office*  
13 *located in a HUBZone;*

14 *(4) "Qualified HUBZone small business" means a small business concern that has*  
15 *submitted information to the cabinet which the cabinet has approved under*  
16 *administrative regulation promulgated under Section 4 of this Act as evidence of*  
17 *the following:*

18 *(a) It is a small business concern with its main office located in a HUBZone;*

19 *(b) At least thirty percent (30%) of the permanent full-time employees of the*  
20 *business reside in a HUBZone, and the business shall maintain or increase*  
21 *this percentage during the performance of any contract awarded to the*  
22 *business on the basis of a preference provided under Sections 1 to 4 of this*  
23 *Act; and*

24 *(c) With respect to any subcontract entered into by the qualified HUBZone*  
25 *small business, the qualified HUBZone small business shall ensure that:*

26 *1. In the case of a contract for services other than construction, not less*  
27 *than fifty percent (50%) of the cost of contract performance incurred*

1 for personnel will be expended for its employees or for employees of  
 2 other HUBZone small business concerns; and

3 2. In the case of a contract for procurement of supplies, other than  
 4 procurement from a regular dealer in such supplies, not less than fifty  
 5 percent (50%) of the cost of manufacturing the supplies, not including  
 6 the cost of materials, will be incurred in connection with the  
 7 performance of the contract in a HUBZone by one (1) or more  
 8 HUBZone small business concerns;

9 (7) "Reside" means that someone:

10 (a) Lives in a primary residence at a place located within a HUBZone for at  
 11 least one hundred eighty (180) days; or

12 (b) Is a currently registered voter in a district within a HUBZone and intends to  
 13 live there indefinitely; and

14 (8) "Small business concern" means an independently owned and operated business  
 15 whose daily operations are managed by one (1) or more owners of the business  
 16 with a combined ownership interest of at least fifty-one percent (51%), and:

17 (a) Employs fewer than fifty (50) full-time employees; or

18 (b) Has gross annual earnings of less than one million dollars (\$1,000,000).

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
 20 READ AS FOLLOWS:

21 (1) The cabinet shall establish and maintain a list of qualified HUBZone small  
 22 businesses.

23 (2) The list shall be updated annually by the cabinet and include the name, address,  
 24 and type of business.

25 (3) The cabinet shall provide the list to any state agency or other entity upon request.

26 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
 27 READ AS FOLLOWS:

- 1 (1) There is established within the cabinet a program to provide state and local  
2 government contracting assistance to qualified HUBZone small businesses.
- 3 (2) The cabinet may award sole source contracts under this section to any qualified  
4 HUBZone small business, if:
- 5 (a) The qualified HUBZone small business is determined to be a responsive  
6 and responsible contractor and the cabinet does not have a reasonable  
7 expectation that two (2) or more qualified HUBZone small businesses will  
8 submit offers for the contracting opportunity;
- 9 (b) 1. The anticipated award price of the contract will not exceed:
- 10 a. One million dollars (\$1,000,000) in the case of a manufacturing  
11 contract; or
- 12 b. Three million dollars (\$3,000,000) in the case of all other  
13 contract opportunities; and
- 14 2. Revenue earned from any award of these contracts is not to be  
15 considered by the cabinet when it reviews a HUBZone participant's  
16 gross revenues; and
- 17 (c) In the estimation of the cabinet, the contract can be made at a fair and  
18 reasonable price.
- 19 (3) (a) The cabinet may award contracts competitively bid under KRS 45A.075(1)  
20 and (2) pursuant to this section to a qualified HUBZone small businesses if  
21 the contracting officer has a reasonable expectation that at least two (2)  
22 qualified HUBZone small business concerns may submit offers and that the  
23 contract can be made at a fair market price.
- 24 (b) The price offered by a qualified HUBZone small business shall be deemed  
25 as being lower than the price offered by another offeror, other than another  
26 HUBZone small business, if the price offered by the qualified HUBZone  
27 small business is not more than ten percent (10%) higher than the price

- 1           offered by the otherwise lowest, responsive, and responsible offeror.
- 2   **(4) If a qualified HUBZone small business attains gross annual sales in excess of**  
3           **one million dollars (\$1,000,000) after it has been accepted in the program, the**  
4           **business shall be allowed to continue its participation and to receive the**  
5           **procurement preferences described in this section, so long as:**
- 6           **(a) Its main office remains in the HUBZone; and**
- 7           **(b) The percentage of permanent full-time employees who reside in a**  
8           **HUBZone does not dip below thirty percent (30%).**

9           ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
10 READ AS FOLLOWS:

11   **In carrying out Sections 1 to 4 of this Act, the cabinet shall promulgate administrative**  
12   **regulations pursuant to KRS Chapter 13A necessary to effectively administer Sections**  
13   **1 to 4 of this Act. Administrative regulations may include:**

- 14   **(1) Application procedures for designation as a HUBZone small business;**
- 15   **(2) Verification procedures, including random program examinations by the cabinet,**  
16           **to confirm the accuracy of information provided to the cabinet by a small**  
17           **business seeking to obtain or maintain the HUBZone small business designation;**  
18           **and**
- 19   **(3) Any other matter the cabinet finds necessary for effective administration of**  
20           **Sections 1 to 4 of this Act.**