



Testimony  
Before the Committee on Small  
Business, House of Representatives

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# HUBZONE PROGRAM

## Opportunities Exist to Further Improve Oversight

Statement of William B. Shear,  
Director, Financial Markets and Community  
Investment

# GAO Highlights

Highlights of [GAO-16-866T](#), a testimony before the Committee on Small Business, House of Representatives

## Why GAO Did This Study

The purpose of the HUBZone program is to stimulate economic development in economically distressed areas. SBA certified HUBZone firms are eligible for federal contracting benefits, including limited competition awards such as sole-source and set-aside contracts. Small firms in SBA's HUBZone program had almost \$6.6 billion in obligations on active federal contracts for calendar year 2015.

This testimony includes a discussion of (1) how SBA communicates changes in HUBZone designations to firms, including how SBA addressed GAO's 2015 recommendation to improve this process, and (2) SBA's certification and recertification processes for firms, including how SBA addressed GAO's 2015 recommendation to improve recertification.

GAO relied on the work supporting its February 2015 report on SBA's oversight of the program (GAO-15-234) and its March 2016 report on actions taken in response to GAO recommendations (GAO-16-4232R), as well as July and August 2016 interviews with SBA officials on efforts the agency had undertaken to implement GAO's recommendations.

View [GAO-16-866T](#). For more information, contact William B. Shear at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov).

September 7, 2016

## HUBZONE PROGRAM

### Opportunities Exist to Further Improve Oversight

#### What GAO Found

As of August 2016, the Small Business Administration (SBA) had taken steps to better inform firms about changes in the designations of Historically Underutilized Business Zones (HUBZones) but had not yet fully implemented GAO's February 2015 recommendation to improve this process.

- SBA primarily designates economically distressed areas as HUBZones, based on demographic data such as unemployment and poverty rates. The designations include certain census tracts and counties and are subject to periodic changes as economic conditions change. HUBZones that lose qualifying status due to changes in economic conditions become "redesignated" and undergo a 3-year transition period. After the 3-year period, HUBZone certified firms in these areas can no longer apply to and participate in the program and receive contracting preferences.
- GAO found in February 2015 that SBA's communications to firms about programmatic changes (including redesignation) generally were not specific to affected firms and thus some firms might not have been informed they would lose eligibility. GAO recommended SBA better ensure firms were notified of changes that might affect program participation.

In response, SBA revised its approval letters to newly certified firms to include information about the consequences of redesignation (if applicable). But as of August 2016, SBA had not yet implemented changes to help ensure all currently certified firms would be notified of changes that could affect their program eligibility. SBA officials recently told GAO the agency intended to develop a technology solution by spring 2017 to help address GAO's recommendations.

While SBA made changes to its certification and recertification processes, SBA had not fully addressed GAO's recommendation on recertification of firms. To receive initial certification, SBA requires all firms to provide documentation to show they meet the eligibility requirements. SBA also conducts site visits at selected firms (for example, based on the amount of federal contracts received). According to HUBZone regulations, firms wishing to remain in the program without any interruption must recertify their continued eligibility to SBA within 30 days after the third anniversary of their certification date and each subsequent 3-year period. But in 2015, GAO found SBA did not require firms seeking recertification to submit any information to verify continued eligibility and instead relied on firms' attestations of continued eligibility. GAO also found SBA had a backlog for recertifying firms. GAO recommended in February 2015 that SBA implement additional controls for recertification, including criteria for requesting and verifying firm information, and ensuring sufficient staffing for the process so that significant backlogs would not recur. As of August 2016, SBA had plans to eliminate the backlog, but had not issued guidance on requesting supporting documents. SBA officials stated that any potential risk of fraud during recertification would be mitigated by SBA's site visits of firms. But as GAO stated in 2015 and reiterated in 2016, SBA only conducts site visits to about 10 percent of certified firms on an annual basis and characteristics of firms often can change, therefore relying on site visits is not adequate to mitigate this risk.

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Chairman Chabot, Ranking Member Velázquez, and Members of the Committee:

Thank you for the opportunity to discuss our work on the Historically Underutilized Business Zone (HUBZone) program of the Small Business Administration (SBA). As of December 31, 2015, there were about 16,500 designated HUBZones and 4,600 certified firms in the program. For calendar year 2015, firms in the program had almost \$6.6 billion in obligations on active federal contracts directly awarded to bidders.

Congress established the HUBZone program to stimulate economic development in economically distressed communities. The program provides federal contracting preferences to small businesses located in HUBZone-designated areas that also employ residents of the areas.<sup>1</sup> The contracting preferences that a certified HUBZone firm (one that meets program eligibility requirements) can receive include limited-competition contracting awards such as sole-source and set-aside contracts. A HUBZone-certified firm also can receive an award through full and open competition if its price does not exceed the otherwise lowest responsive and responsible offeror's price by more than 10 percent.<sup>2</sup> Federal agencies are responsible for trying to meet an annual statutory goal for awarding contracts to HUBZone firms (3 percent of all prime contracts and subcontracts that are subject to the goaling process). During fiscal year 2015, federal agencies collectively obligated 1.8 percent of eligible contracts to HUBZone-certified firms.

My statement today is based on the key findings in our February 2015 report on SBA's oversight of the HUBZone program and our March 2016 follow-up report on SBA responses to our 2015 recommendations.<sup>3</sup> Specifically, this testimony discusses (1) how SBA communicates changes in HUBZone designations to firms, including how SBA

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<sup>1</sup>HUBZone Act of 1997, Pub. L. No. 105-135, Title VI, 111 Stat. 2592, 2627-36 (1997).

<sup>2</sup>In this case, if the other offerer is a small business concern, the 10 percent price preference does not apply.

<sup>3</sup>GAO, *Small Business Contracting: Opportunities Exist to Further Improve HUBZone Oversight*, [GAO-15-234](#) (Washington, D.C.: Feb. 12, 2015); and *HUBZone Program: Actions Taken on February 2015 GAO Recommendations*, [GAO-16-423R](#) (Washington, D.C.: Mar. 24, 2016).

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addressed our recommendation to improve this process; (2) SBA's certification and recertification processes for firms, including how SBA addressed our recommendations to improve these processes; and (3) how potential changes to designation criteria could affect HUBZones. In preparing this statement, we relied on the work supporting our February 2015 and March 2016 reports, as well as July and August 2016 interviews with SBA officials on efforts they had undertaken to implement our recommendations. More detailed information on our scope and methodology can be found in our February 2015 and March 2016 reports.<sup>4</sup>

The work on which this testimony is based was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The HUBZone Act of 1997 (which established the HUBZone program) identified HUBZones as (1) qualified census tracts, which are determined by area poverty rate or household income; (2) qualified nonmetropolitan counties, which are determined by area unemployment rate or median household income; and (3) lands meeting certain criteria within the boundaries of an Indian reservation.<sup>5</sup> Congress subsequently expanded

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<sup>4</sup>[GAO-15-234](#) and [GAO-16-423R](#).

<sup>5</sup>Small Business Reauthorization Act of 1997, tit.VI, Pub. L. No. 105-135). 111 Stat. 2592, 2627-2636 (codified in several sections, as amended, in title 15, United States Code). Qualified census tracts are generally those the Secretary of the Department of Housing and Urban Development designates for the Low-Income Housing Tax Credit (LIHTC) program.

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the criteria for HUBZones to add former military bases and counties in difficult development areas outside the continental United States.<sup>6</sup>

To be certified to participate in the HUBZone program, a firm must meet the following criteria:<sup>7</sup>

- when combined with its affiliates, be small by SBA size standards;<sup>8</sup>
- be at least 51 percent owned and controlled by U.S. citizens;<sup>9</sup>
- have its principal office—the location where the greatest number of employees perform their work—in a HUBZone;<sup>10</sup> and
- have at least 35 percent of its employees reside in a HUBZone.<sup>11</sup>

SBA recertifies firms (that is, determines that firms continue to meet HUBZone eligibility requirements to participate in the program) every 3 years.

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<sup>6</sup>Difficult development areas have high construction, land, and utility costs relative to area median income, and are designated annually. Consolidated Appropriations Act, 2005 Pub. L. No. 108-447, Div. K, § 152, 118 Stat. 3456-58 (2004), and Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59, § 10203, 119 Stat. 1933-34 (2005). In addition, Section 866 of the National Defense Authorization Act for Fiscal Year 2016 authorized Native Hawaiian Organizations to own HUBZone small business concerns; expanded the definition of “base closure area”; and authorized the inclusion of “qualified disaster areas” under the program. In August 2016, SBA issued a final rule to implement these changes.

<sup>7</sup>Different rules apply for Indian Tribal governments, Alaska Native Corporations, Community Development Corporations, and small agricultural cooperatives. See 13 CFR Part 126.

<sup>8</sup>The firm, with its affiliates, must meet the size standard corresponding to its primary industry classification as defined in 13 CFR Part 121. SBA’s size standards vary by industry and are almost always stated as the average number of employees or average annual receipts of a business.

<sup>9</sup>Qualified HUBZone firms also can be owned and controlled by Alaska Native Corporations, Indian Tribal governments, community development corporations, and agricultural cooperatives.

<sup>10</sup>While a certified HUBZone business must have its principal office in a HUBZone area, HUBZone contracts are not limited to performance in HUBZone areas.

<sup>11</sup>SBA defines an employee as an individual employed on a full-time, part-time, or other basis, and working a minimum of 40 hours per month. This includes employees obtained from a temporary employee agency, leasing concern, or through a union agreement or co-employed pursuant to a professional employer organization agreement.

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## SBA Improved Communications to Firms about Changes to HUBZone Designations but Had Not Fully Implemented GAO's Recommendation

As of August 2016, SBA had taken some actions to address but had not yet fully implemented our recommendation on better informing firms about programmatic changes that could affect their eligibility. In our February 2015 report, we described how HUBZone designations can change with some frequency.<sup>12</sup> SBA generally updates HUBZone designations at least twice a year based on whether they meet statutory criteria (such as having certain income levels or poverty or unemployment rates). SBA generally uses data from other federal agencies to determine if areas still qualify for the HUBZone program. As a result of the updates, additional areas are designated for inclusion while other areas lose their designation. Areas that lose their designation begin a 3-year “redesignation” period during which firms in those areas can continue to apply to and participate in the program and receive contracting preferences. After the 3 years, firms in these areas lose their HUBZone certified firm status and the associated federal contracting award preferences. In 2015, we reported that 17 percent (871) of firms certified at the time were located in a redesignated area.

However, we found that SBA's communications to firms about programmatic changes (including redesignation) generally had not been targeted or specific to firms that would be affected by the changes. In 2015, we found that SBA used a broadcast e-mail (which simultaneously sends the same message to multiple recipients) to distribute program information. According to SBA officials, the e-mail list initially included all certified firms, but firms certified since the list was created in 2013 and up to the time period covered by our 2015 report had not been automatically added to the list. Firms had to sign up through SBA's website to receive the e-mails. As a result, not all certified firms may have done so.

Consequently, we recommended that SBA establish a mechanism to better ensure that firms are notified of changes to HUBZone designations that may affect their participation in the program. This recommendation was intended to address communications to all certified firms, whether newly certified or in the program for years.

In response to the recommendation, SBA has improved notifications to newly certified firms. As we reported in March 2016, SBA revised its

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<sup>12</sup>[GAO-15-234](#).

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certification letters to firms. If SBA identifies during an application review that a firm's principal office is in a redesignated area, it indicates in the certification letter that the firm is in a redesignated area, explains the implications of the designation, and notes when the redesignated status will expire. However, we found in March 2016 that SBA had not yet implemented changes to ensure that all currently certified firms are notified of changes that could affect their program eligibility.<sup>13</sup> It is important that all certified firms potentially affected by such changes receive information about the changes or are made aware in a timely fashion of any effects on their program eligibility.

As of August 2016, SBA had plans to improve its notifications to all firms. SBA recently hired an employee whose responsibilities include helping SBA update its e-mail distribution list. As part of this effort, according to SBA officials, SBA plans to collect all the e-mail addresses for certified firms from its Dynamic Small Business Search database to create a new distribution list.<sup>14</sup> SBA plans to begin adding newly certified firms to the list quarterly. Additionally, SBA officials told us that the agency intends to develop a technology solution similar to SBA One—a database now used to process loan applications—to include the HUBZone program to help collect information and documents from existing firms and address this recommendation. SBA expects to implement this solution by spring 2017.

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<sup>13</sup>[GAO-16-423R](#).

<sup>14</sup>The Dynamic Small Business Search database offers a search engine for contracting officers and serves as a marketing tool for small businesses that register with the system. It contains the profiles of thousands of small firms.

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## SBA Has Taken Some Steps to Address GAO's Recommendation to Strengthen the Recertification Process

We found in February 2015 that SBA had addressed weaknesses in its certification process that we previously identified. However, as of August 2016, SBA had not yet taken steps to fully address our recommendation related to the HUBZone firm recertification process. In February 2015, we reported that SBA had changed its certification process to require all applicant firms to provide documentation supporting their eligibility and to require agency staff to perform a full document review to determine firms' eligibility for the program.<sup>15</sup> Additionally, SBA had conducted site visits on 10 percent of its portfolio of certified firms every year in response to a prior GAO June 2008 recommendation.<sup>16</sup> However, we also found deficiencies relating to the recertification process.

- First, in 2008 and again in 2015, we found that the recertification process had become backlogged—that is, firms were not being recertified within the 3-year time frame.<sup>17</sup> As of September 2014, SBA was recertifying firms that had been first certified 4 years previously. While SBA initially eliminated the backlog following our 2008 report, according to SBA officials the backlog recurred due to limitations with the program's computer system and resource constraints.
- Second, in 2015 we found that SBA relied on firms' attestations of continued eligibility and generally did not request supporting documentation.<sup>18</sup> SBA only required firms to submit a notarized

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<sup>15</sup>In June 2008, we found that SBA relied on data that firms entered in the online application system and performed limited verification of the self-reported information. As a result, the mechanisms that SBA used to certify and monitor firms provided limited assurance that only eligible firms participated in the program. We recommended that SBA develop and implement guidance to more routinely and consistently obtain supporting documentation upon application and conduct more frequent site visits, as appropriate, to ensure that firms applying for certification were eligible. See GAO, *Small Business Administration: Additional Actions Are Needed to Certify and Monitor HUBZone Businesses and Assess Program Results*, [GAO-08-643](#) (Washington, D.C.: June 17, 2008).

<sup>16</sup>In June 2008, we reported that SBA rarely conducted site visits during program examinations to verify a firm's information and recommended that the agency conduct more frequent site visits. [GAO-08-643](#).

<sup>17</sup>According to HUBZone regulations, firms wishing to remain in the program without interruption must recertify their continued eligibility to SBA within 30 calendar days after the third anniversary of their date of certification and for each subsequent 3-year period. 13 CFR §126.500. [GAO-08-643](#) and [GAO-15-234](#).

<sup>18</sup>[GAO-15-234](#).



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recertification form stating that their eligibility information was accurate. SBA officials did not believe they needed to request supporting documentation from recertifying firms because all firms in the program had undergone a full document review, either at initial application or during SBA's review of its legacy portfolio in fiscal years 2010–2012.<sup>19</sup>

As a result, we concluded in 2015 that SBA lacked reasonable assurance that only qualified firms were allowed to continue in the HUBZone program and receive preferential contracting treatment.

Consequently, we recommended that SBA reassess the recertification process and implement additional controls, such as developing criteria and guidance on using a risk-based approach to requesting and verifying firm information, allowing firms to initiate the recertification process, and ensuring that sufficient staff would be dedicated to the effort so that significant backlogs would not recur.

In response to the recommendation, SBA made some changes to its recertification process. For example, instead of manually identifying firms for recertification twice a year, SBA automated the notification process, enabling notices to be sent daily for firms to respond to and attest that they continued to meet the eligibility requirements for the program. According to SBA officials, this change should ultimately help eliminate the backlog by September 30, 2016.

However, as we discussed in our March 2016 report, SBA had not implemented additional controls (such as guidance for when to request supporting documents) for the recertification process because SBA officials believe that any potential risk of fraud would be mitigated by site visits to firms.<sup>20</sup> The officials also cited resource limitations. Based on data that SBA provided, the agency visited about 10 percent of certified firms each year during fiscal years 2013–2015.<sup>21</sup> SBA's reliance on site

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<sup>19</sup>According to agency officials, SBA conducted the portfolio review to verify that firms certified before SBA implemented the full document review complied with the program's eligibility requirements.

<sup>20</sup>[GAO-16-423R](#).

<sup>21</sup>According to SBA officials, SBA anticipates conducting site visits to 12 percent of its portfolio in fiscal year 2016.

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visits alone would not mitigate the recertification weaknesses that were the basis for our recommendation. In recognition of SBA's resource constraints, we said in our 2015 report and reiterated in 2016 that SBA could apply a risk-based approach to its recertification process to review and verify information from firms that appear to pose the most risk to the program. A lack of risk-based criteria and guidance for staff to request and verify firm information during the recertification process increases the risk that ineligible firms obtain HUBZone contracts. And as we stated in 2015 and reiterated in 2016, the characteristics of firms and the status of HUBZone areas—the bases for program eligibility—often can change, and need to be monitored.

SBA officials told us that the agency intends to implement a technology-based solution similar to SBA One to address some of the ongoing challenges with the recertification process by spring 2017. The officials expect that the new solution will help them better assess firms and implement risk-based controls.

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## Potential Changes to HUBZone Designation Criteria Could Affect Program Benefits Realized by Specific Communities

As we reported in February 2015, potential changes to HUBZone designation criteria could be designed to provide additional economic benefits to some communities.<sup>22</sup> However, changes that benefit some communities also could, through competitive market processes, reduce activity by HUBZone firms in existing HUBZones. Likewise, if the potential changes significantly increased the number of HUBZones, new areas could realize economic benefits. However, such changes also could result in diffusion—decreased targeting of areas of greatest economic distress—by lessening the competitive advantage on which small businesses may rely to thrive in economically distressed communities.

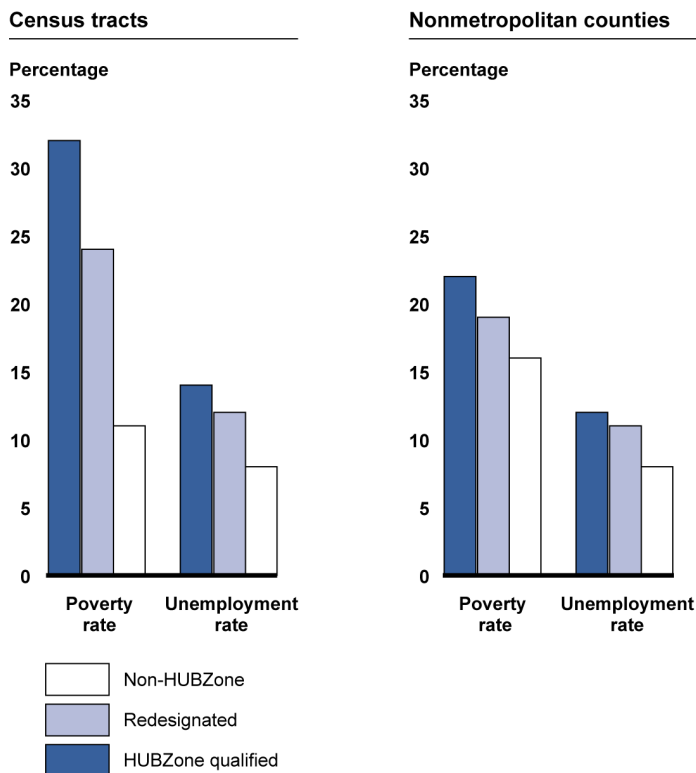
An analysis we performed for our February 2015 report offers examples of the scope of the differences in economic conditions among HUBZone areas (qualified areas), redesignated areas, and non-HUBZone areas (nonqualified tracts or areas). We analyzed the economic conditions of such areas as of 2012 and found that indicators for redesignated areas on average fell between those of qualified and non-qualified areas. For example, as shown in figure 1, qualified census tracts had poverty and

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<sup>22</sup>[GAO-15-234](#).

unemployment rates of 32 percent and 14 percent, respectively; redesignated tracts had rates of 24 percent and 12 percent, respectively; and nonqualified tracts had rates of 11 and 8 percent, respectively. A similar pattern existed for nonmetropolitan counties. Therefore, while allowing redesignated areas with certified firms to remain eligible can generate economic benefits for such areas, such inclusion could limit the benefits realized by qualified areas with more depressed economic conditions.

**Figure 1: Comparison of Unemployment and Poverty Rates by Census Tract and Nonmetropolitan County HUBZone Eligibility Status, as of 2012**



Source: GAO analysis of Bureau of Labor Statistics and American Community Survey data. | GAO-16-866T

In our 2015 report, we explored the potential impact of altering some of the criteria used to designate HUBZones.<sup>23</sup> We examined changes to thresholds for unemployment rate and for the number of census tracts that could qualify for the program in a given metropolitan area. For example, one way a nonmetropolitan county can qualify as a HUBZone is based on its unemployment rate. More specifically, the unemployment rate must be 140 percent or more of the average unemployment rate for the United States or for the state in which the county is located, whichever is less. Under the current definition, two counties in different states with the same unemployment rate would not necessarily both qualify as HUBZones, depending on the unemployment rate of the state in which they are located. In general, every county in a state with an unemployment rate less than the U.S. average would qualify as a HUBZone if its unemployment rate was at least 140 percent of the state's (even if it was less than the U.S. average). In contrast, counties in states with unemployment rates higher than the U.S. average must have an unemployment rate at least equal to 140 percent of the U.S. average to qualify as a HUBZone.

Our application of hypothetical changes to the unemployment rate generally resulted in approximately the same number of areas qualifying compared to the current definition with two exceptions —applying the lowest unemployment rate to all states resulted in approximately four times as many counties qualifying, while applying the highest unemployment rate resulted in approximately eight times fewer counties qualifying (see table 1).

**Table 1: Total Number of Nonmetropolitan Counties by State That Would Qualify If Different Unemployment Rates Were Used, as of 2013**

	Current definition (1-year rate)	Lowest state rate applied to all states	Highest state rate applied to all states	U.S. average	Average state rate	5-year average	10-year average
Total number of qualifying counties	424	1,692	54	301	451	345	377

Source: GAO analysis of Bureau of Labor Statistics data. | GAO-16-866T

<sup>23</sup> [GAO-15-234](#).

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Similarly, we analyzed the potential impact of removing the limit on the number of areas that could qualify as HUBZones pursuant to the definition of “qualified census tract” that was in effect at the time we issued our February 2015 report.<sup>24</sup> We found that about 2,400 more census tracts would qualify as HUBZones if the 20 percent cap were not in place, an increase of 15 percent from the number of qualified tracts as of June 2014.

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Chairman Chabot and Ranking Member Velázquez, this concludes my statement. I would be pleased to respond to any questions you or other Members of the Committee may have.

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## GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact William B. Shear, Director, Financial Markets and Community Investment, at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Harry Medina (Assistant Director), Daniel Newman (Analyst-in-Charge), Pamela Davidson, John McGrail, and Barbara Roesmann.

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<sup>24</sup>At the time we issued our report, the term “qualified census tract” for the HUBZone program had the same meaning as that term was used in the LIHTC program. See 15 U.S.C. § 632(p)(4)(A)(i). The Department of Housing and Urban Development designates qualified census tracts for the LIHTC program. Statutory provisions for LIHTC limit the amount of qualified tracts in any metropolitan statistical area or primary metropolitan statistical area to no more than 20 percent of the total population of the statistical area. For purposes of the rule, all nonmetropolitan areas in a state are treated as if they constituted a single metropolitan area. See 26 U.S.C. § 42(d)(5)(B)(ii)(III). Consequently, some tracts that qualified as HUBZones based on the area’s median household income or poverty rate were not designated as qualified census tracts because of the population cap, and were therefore not included in the HUBZone program. Since the issuance of our report, the term “qualified census tract” for the HUBZone program was amended to provide that the 20 percent population cap does not apply, for a limited time, to census tracts in any metropolitan statistical area in Puerto Rico that otherwise meet the definition’s criteria for household income or poverty rate. Pub. L. No. 114-187, § 412(a)(1), Stat. (2016), codified at 15 U.S.C. § 632(p)(4)(A)(ii).

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