



U.S. Small Business
Administration

Office of Government Contracting and Business Development
U.S. Small Business Administration | 409 3rd Street, SW | Washington, DC 20416

May 12, 2023

Eric Broderson
K & E Plastics Inc. (#60674)
141 Morse Road
Bennington, VT 05201-1661
eric@keplastics.com

Dear Eric Broderson,

SBA has reviewed your request regarding the eligibility of K & E Plastics Inc.'s principal office for the "long-term investment provision". For the reasons set forth below, SBA has determined that K & E Plastics Inc.'s principal office, located at 141 Morse Road, Bennington, VT (Morse Road location), currently meets the requirements of the "long-term investment provision" and may be deemed to be located in a qualified HUBZone for up to 10 years, as long as the firm maintains the long-term lease for the Morse Road location and as long as the Morse Road location continues to qualify as K & E Plastics Inc.'s "principal office," as that term is defined in SBA's regulations.

The laws and regulations governing SBA's Historically Underutilized Business Zone (HUBZone) Program require that a certified HUBZone small business concern must have its principal office located in a HUBZone. 15 U.S.C. § 657a(d)(1)(A); 13 C.F.R. § 126.200(c). "Principal office" means the location where the greatest number of the concern's employees at any one location perform their work. 13 C.F.R. § 103.

On November 26, 2019, SBA published a final rule that included a new provision related to the principal office requirement, referred to as the "long-term investment provision," which incentivizes firms to make long-term investments in qualifying HUBZones by allowing them to maintain their principal office for up to 10 years and continue to be considered to meet the principal office requirement even if the area loses its HUBZone designation. Specifically, this provision provides: "A concern that owns or makes a long-term investment (i.e., a lease of at least 10 years) in a principal office in an area that qualifies as a HUBZone at the time of its initial certification will be deemed to have its principal office located in a HUBZone for at least 10 years from the date of that certification as long as the firm maintains the long-term lease or continues to own the property upon which the principal office designation was made. This does not apply to leases of office space that are shared with one or more other concerns or individuals." 13 C.F.R. § 126.200(c)(1).

In 2021, SBA published additional guidance related to this provision, which included the following clarifications regarding eligibility for this provision:

- This provision may be applied to allow a firm to maintain its HUBZone status for a period of up to 10 years. The 10-year clock starts on the firm's HUBZone certification date (if the investment was made

prior to the firm's certification) or on the firm's certification anniversary date that follows the execution of the lease or deed (if the investment was made after the firm's certification). For example, if a firm was certified on May 1, 2020, and purchased a building on December 1, 2020, the 10-year clock would start when the firm recertifies as of May 1, 2021.

- A firm is only eligible for this provision if the firm purchased a building or signed a long-term lease after December 26, 2019 (the effective date of the final rule implementing this provision).
- A firm is only eligible for this provision if its principal office was located in a Qualified Census Tract, Qualified Non-Metropolitan County, Qualified Base Closure Area, Indian Reservation, or Governor-Designated Covered Area at the time of the investment.
- A firm is not eligible for this provision if its principal office was located in a Redesignated Area or Qualified Disaster Area at the time of investment. However, if a firm's principal office was in a location that is designated as both a qualifying area (e.g., Qualified Census Tract) and a non-qualifying area (e.g., Redesignated Area) at the time of the investment, the firm would be eligible for this provision. \
- A firm is not eligible for this provision if its principal office is shared with one or more other businesses.
- A firm is not eligible for this provision if its principal office is a home office (e.g., a location that also serves as a residence).

The guidance further provided that to invoke this provision, at the time of a firm's annual recertification, the firm must indicate whether its principal office is no longer in a qualifying HUBZone as of its certification anniversary date, but it meets the requirements of the long-term investment provision and is able to provide supporting documentation to demonstrate its compliance with the long-term investment provision.

Finally, the guidance provided that to demonstrate eligibility for the long-term investment provision, a firm must submit the following supporting documentation (at a minimum):

- A copy of the deed or lease for the principal office, showing that the investment was made (i.e., the lease/deed was executed) after December 26, 2019 (the effective date of the final rule implementing this provision).
- A copy of the HUBZone Map determination for the principal office location, showing that at the time of the investment, the firm's principal office was in a Qualified Census Tract, Qualified Non-Metropolitan County, Qualified Base Closure Area, Indian Reservation, or Governor-Designated Covered Area.

K & E Plastics Inc.'s HUBZone certification date was October 30, 2018. According to the documentation submitted to SBA with your request on May 10, 2023, K & E Plastics Inc. entered into a lease agreement with lessor K & E 141 Morse Road, LLC for office space at the Morse Road location on April 14, 2023, with a 10-year term starting May 1, 2023, and ending on May 31, 2033. At the time of the investment, the Morse Road location was located in a HUBZone closed base area. Accordingly, the Morse Road location will be considered to be located in a HUBZone through the term of the lease ending May 31, 2033, as long as K & E Plastics Inc. maintains the lease discussed above and as long as the Morse Road location continues to qualify as K & E Plastics Inc.'s "principal office."

Respectfully,

Laura Maas

Laura Maas
Deputy Director, Office of the HUBZone Program
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