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## Contractor Alert: Help Available for Small Businesses in the HUBZone Program

Recognizing that our country -- our "team," if you will -- is stronger when all our players are on the field and playing to their full potential, our federal and some state governments have developed programs to help disadvantaged entrepreneurs get started on the path of business ownership.

These programs mandate a portion of the money spent on taxpayer-funded projects be directed to minorities and women, groups who have paid taxes like all Americans but have historically suffered from discrimination or lack of opportunity in awarding of public contracts. The same preferences have been extended to businesses owned by veterans, and particularly disabled veterans.

To ensure participants actually meet the program criteria, the government established a process of certification -- an audit. This article is the first in a series describing the requirements for participation in these programs. We will begin with the HUBZone program.

HUBZone stands for "Historically Underutilized Business Zone." The HUBZone program has a goal of stimulating economic development in communities by providing federal contracting assistance and preferences to small businesses.

## Get It In Writing ... Please!

by [Stephanie U. Roberts](#), Member

What do a church, comedy club and bingo parlor have in common? It turns out, construction. To be more specific, a lot of electrical work. It starts with the recent decision of the South Carolina Court of Appeals in *Boykin Contracting, Inc. v. K Wayne Kirby d/b/a Carolina Gold Bingo*, Case No. 2012-209067 (Richland County; Aug. 28, 2013).

Back in 2007, a church in Columbia, South Carolina hired a bingo promoter to operate Carolina Gold Bingo. The promoter leased two suites in a former grocery store and hired a general contractor to upfit the space for \$316,400. When funds to complete construction ran out, the general contractor stopped working in November 2007.

[Read more.](#)

## Tweaked & Overhauled: The Latest on Virginia Construction Law

by [Travis A. Knobbe](#), Counsel

Each year, Virginia's legislature overhauls or tweaks existing legislation and occasionally enacts entirely new legislation of which construction industry operators should remain aware. This year was no exception. This article is a summary of

The program arose from provisions in the Small Business Reauthorization Act of 1997, in cooperation with the Small Business Administration.

Three types of contracts are available through the HUBZone program:

1. Competitive HUBZone contracts can be awarded if there is reason to believe at least two HUBZone small businesses will submit bids and the contract will be awarded at a fair-market price.
2. Sole-source HUBZone contracts can be awarded if it is unlikely two or more qualified HUBZone small businesses are likely to submit offers and the total contract price will not exceed \$5 million for a manufacturing job or \$3 million for a non-manufacturing job.
3. Full and open competitive contracts are awarded where several HUBZone businesses are expected to bid on the job. The HUBZone small business may get a preference to do the work as long as its bid price is not 10% higher than that of the non-HUBZone business.

HUBZone program firms can qualify for higher SBA-guaranteed surety bonds on construction and service contract bids. Some can also benefit from employer tax credits, tax-free facility bonds and investment tax deductions.

To qualify for the HUBZone program, a business must meet the following criteria:

- It must be a small business by the SBA definition;
- Its principal office must be located within a Historically Underutilized Business zone;
- It must be owned and controlled by one or more U.S. citizens, a Community Development Corporation or an Indian tribe; and,
- At least 35% of its employees must reside in a HUBZone.

Existing businesses choosing to move into qualified areas can become eligible. In order to meet the requirement that 35% of a HUBZone company's employees reside in a HUBZone, employees must live in a primary residence within the area for at least 180 days, or be currently registered as a voter in that area. The [SBA's website](#) can help you determine whether your business qualifies as a HUBZone company or find potential relocation sites that qualify as such.

We at Spilman Thomas & Battle are available to help you with your search, with qualification audits and to help you complete the necessary forms for this and other SBA programs.

those changes.

[Read more.](#)

## A Full 180 -- The West Virginia Supreme Court of Appeals' New Position on Liability Insurance and Defective Workmanship

by [David A. Bosak](#), Associate

Since 1965, the West Virginia Supreme Court of Appeals has consistently held that defective workmanship that caused bodily injury or property damage did not constitute an "occurrence" under a policy of commercial general liability insurance, and therefore the insurer was not obligated to pay for the damage or tender a defense. See *McGann v. Hobbs Lumber Co.*, 150 W. Va. 364, 145 S.E.2d 476 (1965). The Court maintained this position because "faulty workmanship claims are essentially contractual in nature" and thus are "outside the risks assumed by a traditional commercial general liability policy." Syl. pt. 3, *Webster County Solid Waste Authority v. Brackenrich and Associates, Inc.*, 217 W. Va. 304, 617 S.E.2d 851 (2005).

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## "Twenty Years" is Actually "Six Years" for Contractors and Manufacturers in North Carolina

by [Mary Kathryn \(Katie\) King](#), Senior Attorney

This year the North Carolina Court of Appeals issued an opinion that significantly limits many construction warranties. In *Christie v. Hartley Construction, Inc., et al.*, No. COA12-1385, the Court limited any action for damages for breach of construction-related warranties to six years, even when the contractor or product manufacturer expressly provides a longer one.

[Read more.](#)

Featured Construction Team Member

[Travis A. Knobbe](#), Counsel



Mr. Knobbe's practice includes general commercial litigation, construction law, and bankruptcy/creditors' rights. His construction-specific practice involves advising clients regarding construction contracts between contractors and owners and contractors and subcontractors and litigating disputes between parties to various construction contracts. He is also experienced with mechanic's liens. Mr. Knobbe is admitted to practice in all state and federal courts in Virginia and before the United States Court of Appeals for the Fourth Circuit.

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