



CHATTANOOGA
AREA CHAMBER OF COMMERCE

May 25, 2011

Mr. Andrew McGilvray
Executive Secretary
Foreign-Trade Zones Board
International Trade Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
Room 2111
Washington, DC 20230

Re: Docket Number ITA-2010-0012, RIN 0625-AA81

Dear Mr. McGilvray:

On behalf of the Chattanooga Chamber Foundation, Grantee of Foreign-Trade Zone No. 134, I am writing to address several concerns that we have regarding the proposed changes to the Foreign-Trade Zones Board regulations.

Our first concern is with the proposed provision (400.42) that would require all FTZ user fees to be paid to the Grantee. We believe that there are good reasons why grantees should be allowed to have user fees paid to and collected by third parties serving as Zone Project Administrators. This arrangement works well for us and our Zone users because the services of the Zone Project Administrator are fully funded by user fees. We obtain marketing and technical services with the support of funds supplied by the local beneficiaries of the Zones program, and Zone users have a source of technical help that they can call upon at any time as part of the service provided to them by our Zone project. This arrangement – which is clearly set forth in the three-way User Agreement among the Zone user, the Chamber Foundation and the Zone Project Administrator – is clear and transparent to all parties and works well. The Board's regulations should not force the Chamber Foundation to invest time and financial resources to implement systems and procedures to take over accounting tasks related to the FTZ that are currently being handled effectively and efficiently by our Zone Project Administrator. This would create administrative effort and cost for nothing other than what appears to be some sort of perceived regulatory ideal. Grantees should have the latitude to decide how their Zone projects should be financed, funded and managed without micromanagement by government regulation that would in some cases force inefficiencies.

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Our second and most significant concern is with the proposed provision (400.43) that would prohibit any party who performs certain Grantee "functions" from providing Zone-related services or products to other Zone "participants" within that Zone project. I am sure that there have been isolated cases in which people or companies who perform the services described in the proposed regulations as Grantee "functions" have buffaloeed Zone participants into using their services or products. It is legitimate for the FTZ Board to be concerned about any such practices and take measures to eliminate them. Unfortunately, the proposed regulations impose what might be best described as a "nuclear" solution. It utterly wipes out instances in which Zone participants may, based on their own self-interests, wish to contract with a local entity who also does work for and on behalf of the Zone Grantee. As long as the existing relationships are transparent and as long as the Zone participant has freedom of choice with regard to service providers, then the "conflicts of interest" do no harm. The proposed restriction, however, would do harm by narrowing the field of consultants that Zone users may use, and more importantly, it would force some Zone users to purchase FTZ management software from one single vendor. The proposed regulations in 400.43 should be significantly modified in order to address abuses without impinging on the ability of Zone Grantees and their contracted service providers to bring a full range of Zone-related services to the local trade community.

I think it is important to let you know that the concerns I have expressed concerning this issue represent a perspective that is more than local or parochial. I am sure that you are aware that over the past decade or two, more and more Zone grantees have chosen to contract with Zone project administrators to help provide Zone services of higher quality and at lower costs to the trade communities they serve. I think it's incorrect to assume that an administrator's handling of certain Zone-related accounting and administrative functions is out of the ordinary; on the contrary, these services are often needed and relied upon by a number of grantees. In our case, we share the expertise of our Zone Project Administrator with other Zone projects in our general geographic area. This is a good thing. Why?...Because our Zone project can provide real expertise to our trade community without the cost of establishing in-house management, advisory, marketing and administrative functions. Ultimately, Zone users save and benefit. I fully understand how neither grantees nor their contracted advisors should be allowed to pressure Zone users into contracting with them for Zone-related consulting services or products. However, the broad-stroke exclusion proposed in 400.43 means that potential and existing Zone users would be denied the use of local professional resources, and, it would guarantee that grantees would be unable to provide a full range of services to the trade communities that they serve.

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Our third major concern is with the proposed provision (400.46) that would enable complaints about certain matters to be made to the Board on a "confidential" basis. If there is a complaint about the manner in which our Zone project conducts its business, I want to know about it as soon as possible. If the facts warrant corrective action, then I want to be able to implement that corrective action as soon as practicable. If the facts are such that the complaint is not legitimate, then I do not want some secret process to be occurring during which the actions or policies of my Zone project may be misrepresented to the Foreign-Trade Zones Board staff. Furthermore, if a complaint is made on a "confidential" basis, then I wonder how the Board's intervention to correct a problem could realistically be made without at some point revealing the source of the complaint and addressing the complaint openly. This provision looks like an open opportunity for mischief makers to prejudice the Board staff against Grantee organizations using incorrect or misleading information without knowledge by the Grantee organizations that any complaint exists. At worst, this provision looks like a recipe for lawsuits; at best, it looks like a poor way of conducting the Board's business if transparency is the Board's goal.

We appreciate the opportunity to make these public comments and hope that they are useful to you.

Sincerely,



Tom Edd Wilson, President and CEO
Chattanooga Chamber Foundation