

basis of disabilities), and the Department's implementing regulations found at 15 CFR part 8b;

(4) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*) (proscribing discrimination on the basis of age), and the Department's implementing regulations found at 15 CFR part 20; and

(5) Other Federal statutes, regulations and Executive Orders, as applicable.

(b) *Definitions.* (1) For purposes of this section, an “Other Party” means an “other party subject to this part,” as defined in 15 CFR 8.3(l), and includes an entity which (or which is intended to) creates and/or saves 15 or more permanent jobs as a result of Investment Assistance; provided that such entity also is either specifically named in the application as benefiting from the Project, or is or will be located in an EDA building, port, facility, or industrial, commercial or business park constructed or improved in whole or in part with Investment Assistance prior to EDA's final disbursement of award funds.

(2) Additional applicable definitions are provided in 15 CFR part 8.

(c) No Recipient or Other Party shall intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by 42 U.S.C. 3123 or 42 U.S.C. 6709, or because the person has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this section.

(d) All Recipients of Investment Assistance under PWEDA and Stevenson-Wydler, all Other Parties, and all entities receiving Adjustment Assistance under the Trade Act or any other type of assistance under Stevenson-Wydler must submit to EDA written assurances that they will comply with applicable laws, EDA regulations, Department regulations, and such other requirements as may be applicable, prohibiting discrimination.

(e) Reporting and other procedural matters are set forth in 15 CFR parts 8, 8a, 8b, 8c and 20.

[71 FR 56675, Sept. 27, 2006, as amended at 75 FR 4263, Jan. 27, 2010; 79 FR 76129, Dec. 19, 2014; 82 FR 57053, Dec. 1, 2017]

## PART 303—PLANNING INVESTMENTS AND COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

### Subpart A—General

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AUTHORITY: 42 U.S.C. 3143; 42 U.S.C. 3162; 42 U.S.C. 3174; 42 U.S.C. 3211; Department of Commerce Organization Order 10-4.

SOURCE: 71 FR 56675, Sept. 27, 2006, unless otherwise noted.

### Subpart A—General

#### § 303.1 Overview of EDA's Planning Program.

The purpose of EDA Planning Investments is to provide support to Planning Organizations for the development, implementation, revision, or replacement of Comprehensive Economic Development Strategies, and for related State plans and short-term Planning Investments designed to create and retain new and better jobs, particularly for the unemployed and underemployed in the nation's most economically distressed Regions. EDA's Planning Investments support partnerships with District Organizations, Indian Tribes, community development corporations, non-profit Regional planning organizations, and other Eligible Recipients. Planning activities supported by these Investments must be part of a continuous process involving the active participation of the private

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sector, public officials, non-profit organizations, educational institutions, and private citizens, and include:

- (a) Analyzing local economies;
- (b) Defining economic development goals;
- (c) Determining Project opportunities; and
- (d) Formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76129, Dec. 19, 2014]

### § 303.2 Definitions.

In addition to the defined terms set forth in §300.3 of this chapter, the following terms used in this part shall have the following meanings:

*Planning Investment* means the award of EDA Investment Assistance under section 203 of PWEDA and this part.

*Planning Organization* means a Recipient whose purpose is to develop and implement a CEDS for a specific EDA-approved Region under section 203 of PWEDA.

*Strategy Committee* means the committee or other entity identified by the Planning Organization as responsible for the development, implementation, revision or replacement of the CEDS for the Planning Organization.

### § 303.3 Application requirements and evaluation criteria.

(a) For Planning Investment awards, EDA uses the general application evaluation criteria set forth in §301.8 of this chapter. In addition, applications for Planning Investments must include information about the following:

- (1) The proposed scope of work for the development, implementation, revision or replacement of the CEDS, or the relation of the CEDS to the proposed short-term planning activities or the State plan;
- (2) Qualifications of the Eligible Applicant to implement the goals and objectives resulting from the CEDS, short-term planning activities or the State plan;
- (3) The involvement of the Region's business leadership at each stage of the preparation of the CEDS, short-term planning activities or State plan;

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(4) Extent of broad-based representation and involvement of the Region's civic, business, labor, minority and other interests in the Eligible Applicant's economic development activities; and

(5) Feasibility of the proposed scope of work to create and retain new and better jobs through implementation of the CEDS.

(b) In addition to the criteria set forth in paragraph (a) of this section, funded Recipients are evaluated on the basis of the extent of continuing economic distress within the Region, their past performance, and the overall effectiveness of their CEDS.

(c) For Planning Investment awards to a State, the Assistant Secretary also shall consider the extent to which the State will integrate and coordinate its CEDS with local and Economic Development District plans.

(d) The Investment Rates for Planning Investments will be determined in accordance with §301.4 of this chapter.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76129, Dec. 19, 2014]

### § 303.4 Award requirements.

(a) Planning Investments shall be coordinated with and effectively leverage any other available Federal, State, or local planning assistance and private sector investments.

(b) Except in compelling circumstances as determined by the Assistant Secretary, EDA will not provide Planning Investments for multiple CEDS that address the needs of an identical or substantially similar Region.

(c) EDA will provide a Planning Investment for the period of time required to develop, revise or replace, and implement a CEDS, generally in 36-month renewable Investment project periods.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62866, Oct. 22, 2008; 79 FR 76130, Dec. 19, 2014]

### § 303.5 Eligible administrative expenses.

In accordance with applicable Federal cost principles, Planning Investments may be used to pay the direct and indirect costs incurred by a Planning Organization in the development,

implementation, revision or replacement of a CEDS and for related short-term planning activities.

### Subpart B—Partnership Planning Assistance

#### § 303.6 Partnership Planning and the EDA-funded CEDS process.

(a) *Partnership Planning Overview.* Partnership Planning Investments support a nationwide network of Planning Organizations to provide comprehensive economic development planning services to distressed Regions. EDA makes Partnership Planning Investments to enable Planning Organizations to manage and coordinate the development and implementation of CEDS to address the unique needs of their respective Regions.

(b) *CEDS Process.* If EDA awards Investment Assistance to a Planning Organization to develop, revise, or replace a CEDS, the Planning Organization must follow the procedures set forth in this section:

(1) *CEDS Strategy Committee.* The Planning Organization must appoint a Strategy Committee. The Strategy Committee must represent the main economic interests of the Region, which may include Indian tribes, the private sector, State and other public officials, community leaders, private individuals, representatives of workforce development boards, institutions of higher education, minority and labor groups, and others who can contribute to and benefit from improved economic development in the relevant Region. In addition, the Strategy Committee must demonstrate the capacity to undertake a collaborative and effective planning process.

(2) *Public notice and comment.* The Planning Organization must develop and submit to EDA a CEDS that complies with the requirements of § 303.7. Before submission to EDA, the Planning Organization must provide the public and appropriate governments and interest groups in the relevant Region with adequate notice of and opportunity to comment on the CEDS. The comment period shall be at least 30 days and the Planning Organization shall make the CEDS readily available through appropriate means of distribu-

tion, electronically and otherwise, throughout the comment period. The Planning Organization also shall make the CEDS available in hardcopy upon request. EDA may require the Planning Organization to provide any comments received and demonstrate how the comments were resolved.

(3) *Reports and updates.* (i) After obtaining EDA approval of the CEDS, the Planning Organization must submit annually an updated CEDS performance report to EDA.

(ii) The Planning Organization must submit a new or revised CEDS to EDA at least every five years, unless EDA or the Planning Organization determines that a new or revised CEDS is required earlier due to changed circumstances. In connection with the submission of a new or revised CEDS, the Planning Organization shall use its best efforts to obtain renewed commitments from participating counties or other areas within the District to support the economic development activities of the District. Provided the Planning Organization can document a good faith effort to obtain renewed commitments, the inability to secure renewed commitments shall not disqualify a CEDS update.

(iii) Any updated CEDS performance report that results in a change of the requirements set forth in § 303.7(b)(1)(iii) of the EDA-accepted CEDS or any new or revised CEDS, must be available for review and comment by the public in accordance with paragraph (b)(2) of this section.

(4) *Inadequate CEDS.* If EDA determines that implementation of the CEDS is inadequate, it will notify the Planning Organization in writing and the Planning Organization shall submit to EDA a new or revised CEDS.

(5) *Regional Commission notification.* If any part of a Region is covered by one or more of the Regional Commissions as set forth in section 404 of PWEDA, the Planning Organization shall ensure that a copy of the CEDS is provided to the Regional Commission(s).

[79 FR 76130, Dec. 19, 2014, as amended at 82 FR 57054, Dec. 1, 2017]

**§ 303.7 Requirements for Comprehensive Economic Development Strategies.**

(a) *General.* CEDS are designed to bring together the public and private sectors in the creation of an economic roadmap to diversify and strengthen Regional economies. The CEDS should analyze the Regional economy and serve as a guide for establishing Regional goals and objectives, developing and implementing a Regional plan of action, and identifying investment priorities and funding sources. Public and private sector partnerships are critical to the implementation of the integral elements of a CEDS set forth in paragraph (b) of this section. As a performance-based plan, the CEDS will serve a critical role in a Region's efforts to defend against economic dislocations due to global trade, competition and other events resulting in the loss of jobs and private investment.

(b) *Strategy requirements.* (1) A CEDS must be the result of a continuing economic development planning process, developed with broad-based and diverse public and private sector participation. Consistent with section 302 of PWEDA, each CEDS must promote Regional resiliency and be unique and responsive to the relevant Region. Each CEDS must include:

- (i) A summary of economic development conditions of the Region;
- (ii) An in-depth analysis of economic and community development strengths, weaknesses, opportunities, and threats (commonly known as a “SWOT” analysis);
- (iii) Strategies and an implementation plan to build upon the Region's strengths and opportunities and resolve the weaknesses and threats facing the Region, which should not be inconsistent with applicable State and local economic development or workforce development strategies; and
- (iv) Performance measures used to evaluate the Planning Organization's successful development and implementation of the CEDS.

(2) EDA will publish and periodically update specific CEDS content guidelines.

(c) *Consideration of non-EDA funded CEDS.* (1) In determining the acceptability of a CEDS prepared independ-

ently of EDA Investment Assistance or oversight for Projects under parts 305 and 307 of this chapter, EDA may in its discretion determine that the CEDS is acceptable so long as it includes all of the elements listed in paragraph (b) of this section. In certain circumstances, EDA may accept a non-EDA funded CEDS that does not contain all the elements listed in paragraph (b) of this section. In doing so, EDA shall consider the circumstances surrounding the application for Investment Assistance, including emergencies or natural disasters and the fulfillment of the requirements of section 302 of PWEDA.

(2) If the CEDS for a Project under parts 305 and 307 of this chapter is developed under another federally-supported program, it must include acceptable performance measures similar to those set forth in paragraph (b) of this section and information on the state of the Regional economy. To the maximum extent practicable, the CEDS shall be consistent and coordinated with any existing economic development plan for the Region.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76130, Dec. 19, 2014; 82 FR 57054, Dec. 1, 2017]

**Subpart C—State and Short-Term Planning Assistance**

**§ 303.8 Requirements for State plans.**

(a) As a condition of a State receiving a Planning Investment:

(1) The State must have or develop a CEDS that meets the requirements of § 303.7;

(2) Any State plan developed with Planning Investment Assistance must, to the maximum extent practicable, be developed cooperatively by the State, political subdivisions of the State, and the Economic Development Districts located wholly or partially in the State; and

(3) The State must submit to EDA an annual report on any State plan receiving Planning Investment Assistance.

(b) Before awarding a Planning Investment to a State, EDA shall consider the extent to which the State will take into account local and District economic development plans.

**§ 303.9 Requirements for short-term Planning Investments.**

(a) In addition to providing support for CEDS and State plans, EDA also may provide Investment Assistance to support short-term planning activities. EDA may provide such Investment Assistance to:

(1) Develop the economic development planning capacity of States, cities and other Eligible Applicants experiencing economic distress;

(2) Assist in institutional capacity building; or

(3) Undertake innovative approaches to economic development.

(b) Eligible activities may include updating a portion of a CEDS, economic analysis, development of economic development policies and procedures, and development of economic development goals.

(c) Applicants for short-term Planning Investments must provide performance measures acceptable to EDA that can be used to evaluate the success of the program and provide EDA with progress reports during the term of the Planning Investment, as set forth in the Investment agreement.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76130, Dec. 19, 2014]

## PART 304—ECONOMIC DEVELOPMENT DISTRICTS

Sec.

304.1 Designation of Economic Development Districts: Regional eligibility.

304.2 District Organizations: Formation, organizational requirements and operations.

304.3 District modification and termination.

304.4 Performance evaluations.

AUTHORITY: 42 U.S.C. 3122; 42 U.S.C. 3171; 42 U.S.C. 3172; 42 U.S.C. 3196; Department of Commerce Organization Order 10-4.

SOURCE: 71 FR 56675, Sept. 27, 2006, unless otherwise noted.

**§ 304.1 Designation of Economic Development Districts: Regional eligibility.**

Upon the request of a District Organization (as defined in § 304.2), EDA may designate a Region as an Economic Development District if such Region:

(a) Contains at least one geographic area that is subject to the economic distress criteria set forth in § 301.3(a)(1) of this chapter and is identified in an approved CEDS;

(b) Is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than a single geographic area subject to the economic distress criteria set forth in § 301.3(a)(1) of this chapter;

(c) Has an EDA-approved CEDS that:

- (1) Meets the requirements under § 303.7 of this chapter;

(2) Contains a specific program for intra-District cooperation, self-help, and public investment; and

(3) Is approved by each affected State and by the Assistant Secretary;

(d) Obtains commitments from at least a majority of the counties or other areas within the proposed District, as determined by EDA, to support the economic development activities of the District; and

(e) Obtains the concurrence with the designation request from the State (or States) in which the proposed District will be wholly or partially located.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76131, Dec. 19, 2014]

**§ 304.2 District Organizations: Formation, organizational requirements and operations.**

(a) *General.* A “District Organization” is an entity that satisfies the formation and organizational requirements under paragraphs (b) and (c) of this section.

(b) *Formation.* A District Organization must be organized as one of the following:

(1) A public organization formed through an inter-governmental agreement providing for the joint exercise of local government powers; or

(2) A public organization established under State-enabling legislation for the creation of multi-jurisdictional area-wide planning organizations; or

(3) A non-profit organization incorporated under the applicable non-profit statutes of the State in which it is incorporated.

(c) *Organization and governance.* (1) Each District Organization must meet the requirements of this paragraph (c)