

§ 303.9

§ 303.9 Requirements for short-term Planning Investments.

(a) In addition to providing support for CEDS and State plans, EDA may also 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 but are not limited to 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.

PART 304—ECONOMIC DEVELOPMENT DISTRICTS

Sec.

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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 (1) geographic area that is subject to the economic distress criteria set forth in

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§ 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.

§ 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) concerning membership composition, the maintenance of adequate staff support to perform its economic development functions, and its authorities and

responsibilities for carrying out economic development functions. The District Organization's board of directors (or other governing body) must also meet these requirements.

(2) The District Organization must demonstrate that its governing body is broadly representative of the principal economic interests of the Region, and, unless otherwise prohibited by applicable State or local law, must include at least one (1) Private Sector Representative and one (1) or more of the following: Executive Directors of Chambers of Commerce, or representatives of institutions of post-secondary education, workforce development groups or labor groups, all of which must comprise in the aggregate a minimum of thirty-five (35) percent of the District Organization's governing body. The governing body shall also have at least a simple majority of its membership who are elected officials and/or employees of a general purpose unit of State, local or Indian tribal government who have been appointed to represent the government. Upon the District Organization's showing of its inability to locate a Private Sector Representative to serve on its governing body following extensive due diligence, the Assistant Secretary may waive the Private Sector Representative requirement. The Assistant Secretary shall not delegate the authority to grant a waiver under this paragraph.

(3) The District Organization must be assisted by a professional staff drawn from qualified persons in economic development, planning, business development or related disciplines.

(4) The governing bodies of District Organizations must provide access for persons who are not members to make their views known concerning ongoing and proposed District activities in accordance with the following requirements:

(i) The District Organization must hold meetings open to the public at least once a year and shall also publish the date and agenda of such meetings sufficiently in advance to allow the public a reasonable time to prepare in order to participate effectively.

(ii) The District Organization shall adopt a system of parliamentary procedures to assure that board members

and others have access to an effective opportunity to participate in the affairs of the District.

(iii) The District Organization shall provide information sufficiently in advance of decisions to give the public adequate opportunity to review and react to proposals. District Organizations should communicate technical data and other material to the public so they may understand the impact of public programs, available options and alternative decisions.

(iv) The District Organization must make available to the public such audited statements, annual budgets and minutes of public meetings, as may be reasonably requested.

(v) The District Organization and its board of directors must comply with all Federal and State financial assistance reporting requirements and the conflicts of interest provisions set forth in §302.17 of this chapter.

(d) *Operations.* (1) The District Organization shall engage in the full range of economic development activities listed in its EDA-approved CEDS. These activities may include:

(i) Coordinating and implementing economic development activities in the District;

(ii) Carrying out economic development research, planning, implementation and advisory functions identified in the CEDS; and

(iii) Coordinating the development and implementation of the CEDS with other local, State, Federal and private organizations.

(2) The District Organization may at its option contract for services to accomplish the activities listed in paragraphs (d)(1)(i) through (iii) of this section.

§304.3 District modification and termination.

(a) *Modification.* Upon the request of a District Organization and with the concurrence of the State or States affected (unless such concurrence is waived by the Assistant Secretary), EDA may modify the geographic boundaries of a District, if it determines that such modification will contribute to a more effective program for economic development.

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(b) *Termination.* EDA may, upon sixty (60) days prior written notice to the District Organization, member counties and other areas determined by EDA and each affected State, terminate a Region's designation as an Economic Development District when:

(1) A District or District Organization no longer meets the requirements of §§ 304.1 or 304.2; or

(2) EDA determines that the District Organization fails to execute its CEDS according to the development, implementation and other performance measures set forth therein; or

(3) A District Organization has requested termination.

(c) Prior to terminating a District Organization under paragraph (b)(2) of this section, EDA will consult with the District Organization and consider all facts and circumstances regarding the District Organization's operations. EDA will not terminate a District's designation based on circumstances beyond the control of the District Organization (e.g., natural disaster, plant closure, overall economic downturn, sudden and severe economic dislocation, or other situation).

(d) EDA may further modify or terminate a Region's designation as a District according to the standards set forth in an FFO.

§ 304.4 Performance evaluations.

(a) EDA shall evaluate the management standards, financial accountability and program performance of each District Organization within three (3) years after the initial Investment award and at least once every three (3) years thereafter, so long as the District Organization continues to receive Investment Assistance. EDA's evaluation shall assess:

(1) The continuing Regional eligibility of the District, as set forth in § 304.1;

(2) The management of the District Organization, as set forth in § 304.2; and

(3) The implementation of the CEDS, including the District Organization's performance and contribution towards the retention and creation of employment, as set forth in § 303.7 on this chapter.

(b) For peer review, EDA shall ensure the participation of at least one (1)

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other District Organization in the performance evaluation on a cost-reimbursement basis.

PART 305—PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS

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AUTHORITY: 42 U.S.C. 3211; 42 U.S.C. 3141; Department of Commerce Organization Order 10-4.

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

Subpart A—General

§ 305.1 Purpose and scope.

Public Works and Economic Development Investments (“*Public Works Investments*”) intend to help the nation's most distressed communities revitalize, expand and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies and generate or retain long-term private sector jobs and investments. The primary goal of these Investments is the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by chronic high unemployment, underemployment, low per capita income,