

(c) *Prohibition against business relocation.* The strategic plan may not include any action to assist any establishment in relocating from one area outside the nominated urban area to the nominated urban area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if:

(1) The establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations; and

(2) There is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(Approved by the Office of Management and Budget under Control Number 2506-0148)

[63 FR 19155, Apr. 16, 1998, as amended at 63 FR 53262, Oct. 2, 1998; 72 FR 71016, Dec. 13, 2007]

### Subpart D—Designation Process

#### § 598.300 Procedure for submitting a nomination.

(a) *Establishment of submission procedures.* HUD will establish a time period and procedures for the submission of nominations for designation as Empowerment Zones, including submission deadlines and addresses, in a document announcing the initiation of the designation process.

(b) *Acceptance for processing.* HUD will accept for processing those nominations for designation as Empowerment Zones that HUD determines have met the criteria required by this part.

(c) *Publication of designations.* Announcements of those nominated urban areas designated as Empowerment Zones will be made by publication in the FEDERAL REGISTER.

#### § 598.305 Designation factors.

In choosing among nominated urban areas eligible for designation, the Secretary will consider:

(a) *Quality of strategic plan.* The quality of the strategic plan (see § 598.215(b));

(b) *Quality of commitments.* The quality and breadth of the commitments made in connection with the strategic plan (see § 598.215(b)); and

(c) *Other factors.* Other factors established by HUD, as specified in a FEDERAL REGISTER notice.

### Subpart E—Post-Designation Requirements

#### § 598.400 HUD grants for planning activities.

(a) HUD will award planning grants up to \$100,000 to each of the Empowerment Zones designated in accordance with this part.

(b) Eligible recipients for these grants are the lead unit of general local government that received designation under this part, or its designee. These recipients may subgrant all or part of the planning grant to qualified subgrantees, such as community organizations, agencies of local government, regional planning authorities, or planning consultants.

(c) Eligible planning activities include: hiring and development of staff, consulting services, publication of materials, community outreach and participation, governing board training, and similar activities that are intended to:

(1) Expand the planning capacity of the designee local government, the governing board, and/or participating entities, such as community organizations;

(2) Help the designee plan the implementation of the strategic plan; and

(3) Help the designee to develop its performance measurement process.

(d) The document announcing the initiation of the designation process describes the procedures for award of these planning grants, post-award reporting requirements with respect to the grants, and the uniform requirements applicable to all Federal grants.

#### § 598.405 Environmental review.

Where any EZ's strategic plan or any revision thereof proposes the use of HUD EZ Grant Funds for activities

## § 598.408

that are not excluded from environmental review under 24 CFR 50.19(b), the EZ shall supply HUD with all available, relevant information necessary for HUD to perform any environmental review required by 24 CFR part 50.

[72 FR 71016, Dec. 13, 2007]

### § 598.408 Lead-based paint requirements.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and the lead-based paint requirements set forth at part 35, subparts A, B, J, K, and R of this title apply to the activities funded by HUD under this program.

[69 FR 34275, June 21, 2004]

### § 598.410 Public access to materials and proceedings.

After designation, an area designated an EZ must make available to the public copies of the strategic plan and supporting documentation and must conduct its meetings in accordance with applicable open meetings statutes. HUD may make the strategic plan and supporting documentation available to members of the public.

### § 598.415 Reporting.

(a) Empowerment Zones designated in accordance with this part must submit periodic reports to HUD. These reports must identify the community, local government and State actions that have been taken in accordance with the strategic plan and provide notice of updates and modifications to the strategic plan. In addition to these reports, such other information relating to designated Empowerment Zones as HUD requests from time to time, including information documenting non-discrimination in hiring and employment by businesses within the designated Empowerment Zone, must be submitted promptly.

(b) The States must submit periodic reports to HUD, demonstrating compliance with the certifications it is re-

## 24 CFR Ch. V (4-1-13 Edition)

quired to submit in accordance with this part.

(Approved by the Office of Management and Budget under Control Number 2506-0148)

[63 FR 19155, Apr. 16, 1998, as amended at 63 FR 53262, Oct. 2, 1998]

### § 598.420 Periodic progress determinations.

HUD will regularly evaluate the progress of implementation of the strategic plan in each designated Empowerment Zone on the basis of available information. HUD also may commission evaluations of the Empowerment Zone program as a whole by an impartial third party, at such intervals as HUD may establish.

### § 598.425 Validation of designation.

(a) On the basis of the periodic progress determinations described in § 598.420, and subject to the provisions relating to the revocation of designation in § 598.430, HUD will make findings on the continuing eligibility for and the validity of the designation of any Empowerment Zone.

(b) HUD may approve an Empowerment Zone's request for boundary modification, subject to the requirements specified in subpart B of this part.

### § 598.430 Revocation of designation.

(a) *Basis for revocation.* The Secretary may revoke the designation of an urban area as an Empowerment Zone if the Secretary determines, on the basis of the periodic progress determination described at § 598.420, that the State(s) or local government(s) in which the urban area is located:

(1) Has modified the boundaries of the area without written approval from HUD;

(2) Has failed to make progress in implementing the strategic plan; or

(3) Has not complied substantially with the strategic plan.

(b) *Letter of warning.* Before revoking the designation of an urban area and an Empowerment Zone, the Secretary will issue a letter of warning to the nominating State(s) and local government(s), with a copy to all affected Federal agencies of which the Secretary is aware;