

(2) 42 U.S.C. 3123 (proscribing discrimination on the basis of sex in Investment Assistance provided under PWEDA) and 42 U.S.C. 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program), and the Department's implementing regulations found at 15 CFR part 8a;

(3) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) (proscribing discrimination on the 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(1), and includes an entity which (or which is intended to) creates and/or saves fifteen (15) or more permanent jobs as a result of Investment Assistance; provided that such entity is also 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 Investment Assistance 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, all Other Parties and all entities receiving Adjustment Assistance under the Trade Act must submit to EDA written assurances that they will comply with appli-

cable 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]

EFFECTIVE DATE NOTE: At 79 FR 76129, Dec. 19, 2014, §302.20 was amended by revising paragraph (b)(1), effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 302.20 Civil rights.

* * * * *

(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(1), 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.

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PART 303—PLANNING INVESTMENTS AND COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

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- 303.9 Requirements for short-term Planning Investments.

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.

§ 303.1

§ 303.1 Purpose and scope.

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 short-term Planning Investments and State plans designed to create and retain higher-skill, higher-wage 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 Private Sector Representatives, public officials 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.

EFFECTIVE DATE NOTES: 1. At 79 FR 76129, Dec. 19, 2014, §303.1 through §303.5 were designated as subpart A under the following heading, effective Jan. 20, 2015.

Subpart A—General

2. At 79 FR 76129, Dec. 19, 2014, §303.1 was amended by revising the section heading and introductory text, effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

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

* * * * *

§ 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;
- (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 higher-skill, higher-wage 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 shall also 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.

EFFECTIVE DATE NOTE: At 79 FR 76130, Dec. 19, 2014, §303.3 was amended by revising paragraphs (a)(5) and (c), effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§303.3 Application requirements and evaluation criteria.

(a) * * *

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

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§303.4 Award requirements.

(a) Planning Investments shall function in conjunction with any other available Federal, State or local planning assistance to ensure adequate and effective planning and economical use of funds.

(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 thirty-six (36) month renewable Investment project periods.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62866, Oct. 22, 2008]

EFFECTIVE DATE NOTE: At 79 FR 76130, Dec. 19, 2014, §303.4 was amended by revising paragraphs (a) and (c), effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§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.

* * * * *

(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.

§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.

§303.6 EDA-funded 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:

(a) The Planning Organization must appoint a Strategy Committee. The Strategy Committee must represent the main economic interests of the Region and must include Private Sector Representatives as a majority of its membership. In addition, the Planning Organization should ensure that the Strategy Committee includes public officials, community leaders, representatives of workforce development boards, institutions of higher education, minority and labor groups, and private individuals. The Strategy Committee

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representing Indian Tribes or States may vary.

(b) The Planning Organization must develop and submit to EDA a CEDS that:

(1) Complies with the requirements of § 303.7; and

(2) Was made available for review and comment by the public for a period of at least thirty (30) days prior to submission to EDA.

(c)(1) After obtaining EDA approval of the CEDS, the Planning Organization must submit annually an updated CEDS performance report to EDA.

(2) The Planning Organization must submit a new or revised CEDS to EDA at least every five (5) years, unless EDA or the Planning Organization determines that a new or revised CEDS is required earlier due to changed circumstances.

(3) Any updated CEDS performance report that results in a change of the requirements set forth in § 303.7(b)(3) 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.

(d) 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.

(e) 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).

EFFECTIVE DATE NOTES: 1. At 79 FR 76130, Dec. 19, 2014, § 303.6 and § 303.7 were designated as subpart B under the following heading, effective Jan. 20, 2015.

Subpart B—Partnership Planning Assistance

2. At 79 FR 76130, Dec. 19, 2014, § 303.6 was revised, effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

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

(a) *Partnership Planning Overview.* Partnership Planning Investments support a nation-

wide 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, including the private sector, 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 Region. In addition, the Strategy Committee must demonstrate the capacity to undertake a collaborative and effective planning process. The Strategy Committee representing Indian Tribes or States may vary.

(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 distribution, 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.

(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).

§ 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) *Technical requirements.* A CEDS must be the result of a continuing economic development planning process, developed with broad-based and diverse public and private sector participation, and shall contain the following:

(1) A background of the economic development situation of the Region with a discussion of the economy, population, geography, workforce development and use, transportation access, resources, environment and other pertinent information;

(2) An in-depth analysis of economic and community development problems and opportunities, including:

(i) Incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State and local workforce investment strategies; and

(ii) An identification of past, present and projected future economic develop-

ment investments in the Region covered;

(3) A section setting forth goals and objectives necessary to solve the economic development problems of the Region;

(4) A discussion of community and private sector participation in the CEDS effort;

(5) A section listing all suggested Projects and the projected numbers of jobs to be created as a result thereof;

(6) A section identifying and prioritizing vital Projects, programs and activities that address the Region's greatest needs or that will best enhance the Region's competitiveness, including sources of funding for past and potential future Investments;

(7) A section identifying economic clusters within the Region, focusing on those that are growing or in decline;

(8) A plan of action to implement the goals and objectives of the CEDS, including:

(i) Promoting economic development and opportunity;

(ii) Fostering effective transportation access;

(iii) Enhancing and protecting the environment;

(iv) Maximizing effective development and use of the workforce consistent with any applicable State or local workforce investment strategy;

(v) Promoting the use of technology in economic development, including access to high-speed telecommunications;

(vi) Balancing resources through sound management of physical development; and

(vii) Obtaining and utilizing adequate funds and other resources; and

(9) A list of performance measures used to evaluate the Planning Organization's successful development and implementation of the CEDS, including but not limited to the following:

(i) Number of jobs created after implementation of the CEDS;

(ii) Number and types of investments undertaken in the Region;

(iii) Number of jobs retained in the Region;

(iv) Amount of private sector investment in the Region after implementation of the CEDS; and

(v) Changes in the economic environment of the Region; and

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(10) A section outlining the methodology for cooperating and integrating the CEDS with a State’s economic development priorities.

(c) *Consideration of non-EDA funded CEDS.* (1) In determining the acceptability of a CEDS prepared independently 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 without fulfilling all the requirements of 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.

EFFECTIVE DATE NOTE: At 79 FR 76130, Dec. 19, 2014, §303.7(b) was revised, effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 303.7 Requirements for Comprehensive Economic Development Strategies.

* * * * *

(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

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(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.

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§ 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.

EFFECTIVE DATE NOTE: At 79 FR 76130, Dec. 19, 2014, §303.8 and §303.9 were designated as subpart C under the following heading, effective Jan. 20, 2015.

Subpart C—State and Short-Term Planning Assistance

§ 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.

EFFECTIVE DATE NOTE: At 79 FR 76130, Dec. 19, 2014, §303.9 was amended by revising paragraphs (a) introductory text and (b), effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§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:

* * * * *

(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.

* * * * *

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 Eco-

nomic Development District if such Region:

(a) Contains at least one (1) 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.

EFFECTIVE DATE NOTE: At 79 FR 76131, Dec. 19, 2014, §304.1 was amended by revising paragraph (a) and paragraph (c) introductory text, effective Jan. 20, 2015. For the convenience of the user, the revised text is set forth as follows:

§304.1 Designation of Economic Development Districts: Regional eligibility.

* * * * *

(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;

* * * * *

(c) Has an EDA-approved CEDS that:

* * * * *

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

(a) General. A "District Organization" is an entity that satisfies the formation and organizational requirements