

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4353-N-01]

**Notice Inviting Applications: Second
Round Designation of Fifteen Urban
Empowerment Zones**

AGENCY: Office of the Assistant
Secretary for Community Planning and
Development, HUD.

ACTION: Notice inviting applications.

SUMMARY: The Taxpayer Relief Act of 1997 authorizes the Secretary to designate 15 Round II Urban Empowerment Zones. This Notice invites applications for designation of nominated areas as Empowerment Zones. The designation of the new Empowerment Zones will be made in accordance with the designation process described in this Notice. The new Urban Empowerment Zones will receive between \$130 million and \$230 million in tax-exempt bond authority to create economic opportunity for area residents and businesses.

APPLICATION DUE DATE: Completed applications (one original and 2 copies) must be submitted no later than October 9, 1998. See below for specific procedures governing the form of application submission (e.g., mailed application, express mail, overnight delivery). No facsimile (FAX) applications will be accepted for consideration by HUD.

Delivered Applications. Completed applications (one original and two copies) must be submitted no later than 5:00 p.m. eastern time, on October 9, 1998. Up until 5:00 p.m. on the deadline date, completed applications will be accepted at the address and room number specified below.

Mailed Applications. Applications will be considered timely if postmarked on or before October 9, 1998 and received by HUD Headquarters on or before October 19, 1998, at the address and room number specified below.

Applications Sent by Overnight Delivery. Overnight delivery items will be considered filed on time if received on or before October 9, 1998, or, as long as the application review process has not been completed, upon submission of documentary evidence acceptable to HUD, in its sole discretion, that they were placed in transit with the overnight delivery service on or before October 8, 1998.

ADDRESSES: Address for submitting applications. Completed applications (one original and two copies) should be submitted to: the Office of Community Planning and Development, c/o

Processing and Control Unit, Room 7255, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, by mail or hand delivery.

For Application and Other Materials. For a copy of all EZ Round II publications, including the Application Guide, Nomination Forms, the interim rule (24 CFR part 598, published elsewhere in this issue of the **Federal Register**), and the "Guidelines for Use of EZ/EC SSBG Funds" (which is also provided as an appendix to the interim rule), please call the Community Connections Information Clearinghouse at (800) 998-9999. The Round II publications are also available on the HUD web site: <http://www.hud.gov/ezeclist.html>. Requests for application materials should be made immediately to insure sufficient time for application preparation. Hearing- or speech-impaired persons should use the Federal Information Relay Service telephone number, (800) 877-8339, to obtain application materials.

The Round II publications consist of:

- Round II Interim Rule;
- Application Guide for Empowerment Zones Round II (Application Guide);
- Nomination Forms for a Federal Empowerment Zone (Nomination Forms) (form HUD 40003);
- Strategic Planning Guide;
- Performance Measurement System Guide;
- Federal Programs Guide;
- IRS Publication 954, "Tax Incentives for Empowerment Zones and Other Distressed Communities."

A series of application workshops will be held in several locations around the country during the months of April and May. Information about the workshops will be disseminated in several ways, including the HUD web site, by facsimile, by mail, and by calling the Community Connections Information Clearinghouse at (800) 998-9999.

FOR FURTHER INFORMATION: For technical questions, contact Elaine Braverman, Empowerment Zone/Enterprise Community Initiative, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7130, Washington, DC 20410, (202) 708-6339. Hearing- or speech-impaired individuals may call (800) 877-8339 (the Federal Information Relay Service-TTY).

SUPPLEMENTARY INFORMATION:

I. Summary

A. Purpose and Authority

The Taxpayer Relief Act of 1997 (the Act) authorizes the Secretary to designate 15 new Urban Empowerment Zones. The new Urban Empowerment Zones will receive between \$130 million and \$230 million in tax-exempt bond authority to create economic opportunity for area residents and businesses. The Act makes several changes with respect to satisfying poverty rate criteria. It permits Zones to identify noncontiguous parcels that are "developable sites" that can be used for commercial and industrial purposes, which need not satisfy the poverty rate and size criteria applicable to other noncontiguous sites; eliminates the requirement that some of the tracts have at least 35 percent poverty; and makes it slightly more difficult for census tracts with small populations to meet the poverty criteria. Alaska and Hawaii are now eligible for Empowerment Zone designation and the Act permits Indian reservations to be included in an area nominated as an Urban or Rural Empowerment Zone.

B. Available Resources

The tax benefits that apply to the Round II EZs are the following: tax-exempt bond financing, welfare-to-work tax credit, work opportunity tax credit, environmental cleanup cost deduction ("brownfields" tax incentive), and up to \$20,000 of additional section 179 (accelerated depreciation) expensing. The first round of Empowerment Zone and Enterprise Community designations made in 1994 featured grants from the U.S. Department of Health and Human Services to States for the designated Empowerment Zones and Enterprise Communities. While similar grant funds have not been authorized for the Round II EZs, HUD anticipates that funding may become available for Round II Urban Empowerment Zones in Fiscal Year 1999. Should EZ/EC SSBG funds become available before the application deadline of October 9, 1998, the Department will issue a notice of the amount of such funds available to each zone. (Note: If the EZ/EC SSBG funds are made available, an environmental review for all activities proposed to be funded with EZ/EC SSBG funds and are not excluded under 24 CFR 50.19(b) will be performed, as required by applicable law.)

C. Uses of Funds

General guidelines concerning uses of EZ/EC SSBG funds are included in the Appendix to the Interim rule published elsewhere in this issue of the **Federal**

Register and on the Internet at the following address: <http://aspe.os.dhhs.gov/progsys/HHSguide.htm>. Applicants are encouraged to review the guidelines and ensure that all proposed projects to be financed with the anticipated grant funds conform to them.

II. Application Preparation

A. Notice of Intent to Participate

Applicants should submit a Notice of Intent to Participate form as early as possible. The Notice should be submitted on the form provided in the Nomination Forms publication. Submission of the Notice of Intent to Participate is not mandatory, but it will ensure that an applicant receives updated information. The Notice of Intent to Participate may be mailed, or submitted by facsimile (FAX). The address for submitting the Notice of Intent to Participate is: U.S. Department of Housing and Urban Development, Ms. Elaine Braverman, EZ/EC Team, Room 7130, 451 Seventh St., SW, Washington, DC. 20410. The facsimile number is (202) 401-7615.

B. Application Requirements

1. The application must include an original and two copies of the items listed below. To facilitate review, please submit applications in such a form that they can be taken apart. Loose leaf binders are preferable.

2. The application submitted on behalf of a nominated urban area shall include:

a. Nomination Form Parts I through IV, including the required certifications and written assurances;

b. A strategic plan which meets the requirements of the Interim rule, including the content specified in § 598.215 of the rule; and

c. 1990 census maps showing:

(i) The boundaries of the local government(s); and

(ii) The boundaries of the nominated area, including developable sites, if any.

3. Preferably, the Strategic Plan will contain no more than 150 pages.

4. The application should contain only the necessary documentation. Appendices or additional information extraneous to evaluation components will not be reviewed. Examples of such extraneous information include: meeting sign-in sheets, and copies of applications for other funds.

C. Strategic Plan Requirements

The Strategic Plan shall conform to the requirements set forth in § 598.215 of the Interim rule, and the criteria stated in this Notice. Requirements set

forth in the interim rule will be used in the evaluation process.

III. Designation Process

A. General

HUD will accept for processing those nominations meeting the submission deadline stated in this Notice, and the Eligibility Requirements listed in Subpart B of the Interim Rule. Nominating procedures are described in Subpart C of the Interim rule.

B. Exceptions

The Secretary may waive a non-statutory provision of the Interim Rule for good cause where it is determined that the application of the provision would result in undue hardship to the applicant.

C. Application Review

A threshold review will be conducted to ensure the application requirements in Section II(B) of this Notice are satisfied, and the applicant meets the eligibility requirements listed below. Applications determined eligible will receive a technical review under the rating factors described in Section IV of this Notice. Specific maximum point scores for each rating factor are listed in Section IV. Applications will be evaluated against the rating factors, then placed in rank order. Evaluation and ranking of applications will be made relative to other applications received.

To review and rate applications, the Department may establish panels including employees of other Federal agencies to obtain certain expertise and outside points of view.

1. Eligibility Requirements

a. To be considered for designation, a nominated urban area, with the exception of areas described below in the Special Rules, must meet all of the eligibility requirements of § 598.100.

The only sources of census data that will be used in determining the eligibility of an area are: the 1990 Decennial Census, and information published by the Bureau of Census and the Bureau of Labor Statistics. The boundary of an urban area nominated for designation as an Empowerment Zone must coincide with the boundaries of census tracts. Census tract means a census tract as the term is used by the Bureau of the Census, or, if and only if census tracts are not defined for the area, a block numbering area.

b. A nominated urban area, with the exception of areas described below in the Special Rules, must demonstrate poverty, unemployment and general distress, as described in § 598.110. In addition, each nominated area must

satisfy the specific poverty rate criteria in § 598.115.

c. Special Rules.

(i) A nominated area in Alaska or Hawaii is deemed to satisfy the criteria of distress, size, and poverty rate detailed in § 598.100(b), (c), (d), and (f), and § 598.110 if, for each census tract or block numbering area within the nominated area, 20 percent or more of the families have income that is 50 percent or less of the statewide median family income (as determined under section 143 of the Internal Revenue Code).

(ii) An area within an Indian reservation (as defined in section 168(j)(6) of the Internal Revenue Code) may be included in an area nominated as an Empowerment Zone by State and local governments. An area completely within an Indian reservation may be nominated by the reservation governing body, and in that case, the area is treated as if it also were nominated by a State and a local government. Where two or more governing bodies have joint jurisdiction over an Indian reservation, the nomination of a reservation area must be a joint nomination.

(iii) Any urban area nominated by an Economic Development Corporation chartered by the State in which it is located or by the District of Columbia shall be treated as nominated by a State and a local government.

2. Technical Review

a. *General.* The technical review will evaluate the quality of the application against the following rating factors:

(i) Quality of the Strategic Plan; and
(ii) Quality of the Commitments made in connection with the Strategic Plan.

The criteria against which HUD will measure these factors, and the maximum points that will be awarded for each factor are described below in Section IV. An application may receive up to 100 total points.

b. *Corrections to Deficient Applications.* HUD will notify an applicant in writing, or by FAX, of any technical deficiencies in the application, and HUD will maintain a log of such communications.

The notification will specify the date by which HUD must receive the applicant's correction of all technical deficiencies, which shall be within 14 calendar days from the date of HUD's notification. If the fourteenth day falls on a Saturday, Sunday, or holiday, the correction must be received by HUD on the next business day. The date and time of receipt of corrections by HUD shall be determined in the same way as the receipt of the application.

Technical deficiencies relate to items that:

(i) Are not necessary for HUD review under the rating factors; and

(ii) Would not improve the substantive quality of the proposal. Examples of technical deficiencies would be a failure to submit proper certifications or failure to submit an application containing an original signature by an authorized official.

If any of the items identified in HUD's written notification of technical deficiencies are not corrected and submitted within the correction period, the application will be ineligible for further consideration.

c. *Clarification of Application and Request for Additional Information.* The Department may contact an applicant to obtain clarification of the terms of an applicant's application. Clarification may include, for example, a request for information to ensure HUD

understanding of the terms of an applicant's application. In obtaining clarifying information, the Department may contact an applicant telephonically or in person. The Department will conduct all requests for clarification from an applicant according to uniform procedures and will document all requests.

In addition, the Department reserves the right to conduct independent site inspections of proposed EZ/EC sites to accurately rate and rank an applicant's application under the selection criteria provided in this Notice. Should HUD decide to conduct site visits, it will visit sites according to uniform procedures. The Department will document site visit findings.

HUD employees involved in the review of applications and the making of designation decisions will refrain from providing advance information to any person (other than an authorized

employee of HUD) concerning designation decisions, or from otherwise giving any applicant an unfair competitive advantage.

D. Designation Announcements

Designations will be made before January 1, 1999. The nominated urban areas designated as Empowerment Zones will be published in the **Federal Register**.

IV. Designation Factors

In choosing among nominated areas eligible for designation, HUD will consider the following factors:

- Quality of the Strategic Plan; and
- Quality of the Commitments made in connection with the Strategic Plan.

The following chart identifies the points that will be assigned to each rating factor. The criteria HUD will use to rate the applications on the factors follow the chart.

Rating factors	Maximum points
Quality of Strategic Plan (75 points):	
1. Vision/Values	5
2. Community Assessment	10
3. Goals	10
4. Implementation Plan	35
a. Projects/Programs	(15)
b. Tax Incentive Utilization Plan	(10)
c. Governance Plan	(7)
d. Community Performance Assessment	(3)
5. Strategic Planning Process Documentation	15
Quality of Strategic Plan Subtotal	75
Quality of Commitments Made in Connection With Strategic Plan (25):	
1. Resources Leveraged	10
2. Resource Commitments Documented	15
Quality of Commitments Subtotal	25
Total Points	100

A. Quality of the Strategic Plan (Maximum Points: 75)

The strategic plan must be developed in accordance with four key principles, described in § 598.215: strategic vision for change, community-based partnerships, economic opportunity, and sustainable community development. The elements required in the strategic plan reflect the key principles. Innovation and creativity are encouraged in fulfilling all elements of the plan.

1. Vision and Values (Maximum Points: 5)

This element is a consensus of what the community believes its future should be. The shared vision of the future should drive the development of

the community's goals. The shared values that guided the creation of the vision should also be described. HUD will consider the extent to which this element:

- a. States a clear vision for the future;
- b. Develops the foundation upon which the goals are established and specific projects and programs are based;
- c. Demonstrates collaboration of the community's diverse stakeholders in arriving at its vision and values statement;
- d. Provides an effective vision for the community's long-term transformation; and
- e. Exhibits innovation and creativity.

2. Community Assessment (Maximum Points: 10)

This element describes and assesses the existing conditions and trends in the community and the surrounding region. It examines strengths and assets, as well as issues and problems. In evaluating this element, HUD will consider the extent to which:

- a. The analysis of the strengths and opportunities of the area is balanced against the area's needs and problems;
- b. A variety of resources have been identified to address the needs and problems;
- c. The assessment demonstrates a grasp of the trends that will affect the community and the surrounding region over the period of the designation; and

d. The analysis includes the identification of developable sites, as appropriate, and an assessment of the opportunities available within these developable sites.

3. Goals (Maximum Points: 10)

This element describes the comprehensive set of goals to be achieved over the 10-year program period, along with the strategies that will be used. In evaluating this element, HUD will consider the extent to which:

- a. The goals serve as the framework for specific strategies;
- b. The strategies proposed to achieve the strategic plan goals have been effectively described, and demonstrate the link between the goals and proposed projects and programs; and
- c. The goals are designed to move the community toward its desired future.

4. Implementation Plan (Maximum Points: 35)

This element contains a detailed plan of how the community will implement its strategic plan. The components of the Implementation Plan are: Projects and Programs, Tax Incentive Utilization Plan, and a Governance Plan. These components must provide detailed information for the first 2 years of designation. However, applicants also must provide a general description of all activities that are proposed for the 10-year designation period and a description of how all EZ/EC SSBG funds, if available, will be used.

a. *Projects and Programs (maximum points: 15)*. This element describes the specific projects and programs to be implemented during the first two years of the designation. Timelines and budgets must be provided for the 2-year plan. HUD will evaluate this component considering the extent to which:

- (i) The narrative clearly outlines the specific projects and programs that will be implemented, including use of any developable sites, and demonstrates that the projects and programs will result in the achievement of the community's goals;
- (ii) Proposed timelines for implementing identified projects and programs are appropriate for the 2-year plan;
- (iii) The lead implementing entities are identified;
- (iv) Innovative partnerships that ensure maximum community participation and project sustainability are identified;
- (v) Proposed budgets are identified for each project or program, and costs and sources of funding are realistic;
- (vi) Baselines and proposed measurable outputs are provided; and

(vii) The component exhibits innovation and creativity.

b. *Tax Incentive Utilization Plan (maximum points: 10)*. This element addresses a significant aspect of the EZ initiative—the use of the business tax incentives available to designated Empowerment Zones to support economic revitalization. If the applicant includes developable sites, this element must include a statement of how developable sites will maximize the use of tax incentives. In evaluating this element, HUD will consider the extent to which the plan:

(i) Provides an effective strategy for integrating the new business tax incentives into the nominated area's business development efforts. The Round II business tax incentives include: Tax-Exempt Bond Financing, Increased Section 179 Deduction, Welfare-to-Work Credit, Environmental Cleanup Cost Deduction (i.e., "Brownfields Tax Incentive"), and the Work Opportunity Tax Credit. For a description of the tax incentives see IRS Publication 954, "Tax Incentives for Empowerment Zones and Other Distressed Communities."

(ii) Addresses the involvement of all appropriate segments of the community and the extent to which their participation will maximize the use of the business tax incentives;

(iii) Provides a realistic strategy for marketing the incentives; and

(iv) Exhibits innovation and creativity.

c. *Governance Plan (Maximum Points: 7)*. This element describes how the strategic plan will be implemented.

HUD will evaluate the extent to which:

(i) The proposed lead implementing entity, has or will have, the legal status and authority to receive and administer Federal funds;

(ii) The Governance Plan demonstrates that both the lead implementing entity and other key organizations participating in the implementation of the strategic plan have the capacity to implement the plan;

(iii) The proposed composition of governance boards, advisory boards, commissions or similar bodies that will manage strategic plan implementation is representative of the EZ area. The representation of residents and businesses, and the method of selecting members of such boards should provide a clear picture of the use of partnerships;

(iv) The relationships between the governance structure created and local governments, and other major community or regional organizations, such as a metropolitan planning

organization, will strengthen the implementation of the strategic plan;

(v) The Governance Plan includes methods by which stakeholders within the Zone will be kept informed about Zone activities and progress in implementing the strategic plan, including an explanation of how the Governance Board will conduct its meetings in accordance with applicable open meetings acts. The community should utilize modern communication techniques and incorporate the Internet in order to enhance the communication and access to information among all stakeholders and participants;

(vi) The Governance Plan will ensure continuing community and grassroots participation in the implementation of the strategic plan and the governance of the Zone's activities; and

(vii) The plan exhibits innovation and creativity.

d. *Community Performance Assessment (maximum points: 3)*. This element examines the methods the community will use to assess its own performance in implementing the strategic plan, and the process it will use to continually review the plan and amend it as appropriate. In evaluating community performance assessment, HUD will consider:

(i) The process the applicant will use to periodically evaluate its performance;

(ii) The process the applicant will use to modify its strategic plan based on the results obtained in (i);

(iii) The participation of stakeholders in (i) and (ii) above.

5. Strategic Planning Process Documentation (Maximum Points: 15)

This element provides a description of the process the community used to select the boundaries of the proposed Empowerment Zone, including any developable sites, and the process used to prepare the strategic plan. In evaluating this element, HUD will consider the extent to which the documentation:

a. Fully explains how the community participated in choosing the area, including any developable sites; and how the area ultimately nominated was selected over other areas considered;

b. Indicates the specific groups, organizations, and individuals that participated in the production of the plan, describes the history of these groups in the community, and describes their role in creating the plan;

c. Explains how participants were selected and provides evidence that the participants, taken as a whole, broadly represent the racial, cultural, gender and economic diversity of the community; and

d. Identifies two or three topics addressed in the plan that caused the most serious disagreements among participants, and a description of how those disagreements were resolved.

B. Quality of Commitments Made in Connection With the Strategic Plan (Maximum Points: 25)

In § 598.210 of the Interim rule, nominated areas are required to provide written assurances that the Strategic Plan will be implemented. In addition to the certification, it is essential that HUD is able to evaluate the breadth and quality of such commitments.

1. Resources Leveraged (Maximum Points: 10)

In evaluating this element, HUD will consider the extent to which the applicant has leveraged resources, such as funding and/or in-kind services from governmental entities, business, faith-based organizations, non-profit organizations, foundations, educational institutions, and other entities to implement the strategic plan.

2. Resource Commitments Documented (Maximum Points: 15)

The applicant must provide evidence of public and private sector commitments by including letters of commitment, memoranda of understanding or agreement, or other documentation indicating the nature of the participation and the financial and non-financial resources to be contributed. The letters or agreements must be signed by an official of the organization able to make such commitments.

V. Period of Designation

The designation period will commence on the date of designation and will continue for 10 years, closing at the end of the 10th calendar year, except:

1. When the nominating entities have specified an earlier date; or

2. When the designation is revoked by the Secretary.

VI. Findings and Certifications

A. Information Collection Requirements

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget on an emergency basis through August 31, 1998 and assigned control number 2506-0148. See the interim rule on "Empowerment Zones: Rule for Second Round Designations" published elsewhere in this issue of the **Federal Register** for additional information on this subject, including the opportunity to comment including information on the opportunity to comment on the burden of the information collections.

B. Catalog

The Catalog of Federal Domestic Assistance Program number assigned to this program is 14.244.

C. Environmental Impact

A Finding of No Significant Impact with respect to the environment for this Notice has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

D. Federalism, Executive Order 12612

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this Notice will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal Government and

the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the Notice is not subject to review under the Order.

E. Documentation and Public Access Policy

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this Notice are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this Notice. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(3) *Ethics Related Questions.* Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708-3815. (This is not a toll-free number.)

Dated: April 10, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary for Community Planning and Development.

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