

§ 598.210

the initiation of the designation process.

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

§ 598.210 What certifications must governments make?

Certifications must be submitted by the State(s) and local government(s) requesting designation stating that:

(a) The nominated urban area satisfies the boundary tests of § 598.100(d);

(b) The nominated urban area is one of pervasive poverty, unemployment and general distress, as prescribed by § 598.110;

(c) The nominated urban area contains no portion of an area that is included in an Empowerment Zone or any other area currently nominated for designation as an Empowerment Zone (but it may include an Enterprise Community);

(d) Each nominating governmental entity has the authority to:

(1) Nominate the urban area for designation as an Empowerment Zone;

(2) Make the commitments required of nominating entities by § 598.215(b); and

(3) Provide written assurances satisfactory to the Secretary that the strategic plan will be implemented.

(e) Provide assurances that any Round II EZ/EC SSBG funds that may be provided to the State for the area will not be used to supplant Federal or non-Federal funds for services and activities that promote the purposes of section 2007 of the Social Security Act;

(f) Provide that the nominating governments or corporations agree to make available all information requested by HUD to aid in the evaluation of progress in implementing the strategic plan and reporting on the use of EZ/EC SSBG funds; and

(g) Provide assurances that the nominating State(s) agrees to distribute any EZ/EC SSBG funds that may be awarded to it for use by a designated Empowerment Zone for programs, services, and activities included in the Empowerment Zone's strategic plan to the extent they are consistent with section 2007(a) of the Social Security Act as

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well as other applicable Federal, State, and local laws and regulations.

(h) Provide assurances that the nominating governments will administer the Empowerment Zone program in a manner which affirmatively furthers fair housing on the bases of race, color, national origin, religion, sex, disability, and familial status (presence of children).

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§ 598.215 What are the purpose and content of the strategic plan?

(a) *Principles of strategic plan.* The strategic plan, which accompanies the application for designation, must be developed in accordance with four key principles:

(1) Strategic Vision for Change, which identifies what the community will become and a strategic map for revitalization. The vision should build on assets and coordinate a response to community needs in a comprehensive fashion. It also should set goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the revitalization plan;

(2) Community-Based Partnerships, involving the participation of all segments of the community, including the political and governmental leadership, community groups, local public health and social service departments and nonprofit groups providing similar services, environmental groups, local transportation planning entities, public and private schools, religious organizations, the private and nonprofit sectors, centers of learning, and other community institutions and individual citizens;

(3) Economic Opportunity, including job creation within the community and throughout the region, entrepreneurial initiatives, small business expansion, job training and other important job readiness and job support services, such as affordable child care and transportation services, that may enable residents to be employed in jobs that offer upward mobility;

(4) Sustainable Community Development, to advance the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, environmental, community and human development. These approaches should preserve the environment and historic landmarks, address “brownfields” clean-up and redevelopment, explore the economic development advantages of energy efficiency and use of renewable energy resources, and improve transportation, education, public safety, and enhanced access to information and technology among all segments of the community.

(b) *Elements of strategic plan.* The strategic plan must include the following elements:

(1) *Vision and values:* The community’s strategic vision for change—a statement of what the community believes its future should be, and a statement of the community’s values that guided the creation of the vision. Explain how the vision creates economic opportunity, encourages self-sufficiency and promotes sustainable community development.

(2) *Community assessment:* A comprehensive assessment of existing conditions and trends within the community, which includes, as a minimum:

(i) *Assessment of problems and opportunities.* A description and assessment of the trends and conditions within the community and of the surrounding region that form the basis of the strategic plan. The assessment will include an analysis of the strengths and assets of the community and region, as well as needs and problems, and should include a description of poverty and general distress, barriers to economic development and barriers to human development; and

(ii) *Resource analysis.* An assessment of the resources available to the community, including potential resources outside the nominated area, to address identified problems and needs, and maximize opportunities that exist within the community. Such resources may include financial, technical, human, cultural, educational, leadership, volunteerism, communications, transportation and commerce centers, rail and mass transit linkages, redevelopable land (including land, such as

ports, that can be designated as “developable sites” under the additional 2,000 acres available), public space, infrastructure, and other community and regional assets that form the basis for the formulation and implementation of the strategic plan.

(3) *Goals:* A statement of a comprehensive and holistic set of goals to be achieved through implementation of the strategic plan throughout the 10-year implementation period, and a statement of the strategies the community proposes to use to achieve the strategic plan goals, and the identification of priority objectives.

(4) *Implementation plan:* A detailed plan that outlines how the community will implement its strategic plan. The plan will include:

(i) *Projects and programs.* Provide, for the first two-year implementation period, the following:

(A) A narrative outlining the specific projects and programs that will be implemented that will result in the achievement of the community’s goals;

(B) Proposed timelines for implementing identified projects and programs;

(C) Identification of lead implementers of identified projects and programs, along with innovative partnerships that will be utilized to insure maximum community participation and project sustainability;

(D) Proposed budgets for each identified project or program, including projected costs, and sources of funding. Information on sources of funding will include whether the funding is anticipated or committed, and whether funding is conditioned upon the designation of the community as an Empowerment Zone. Evidence of committed funding is required, and may include letters of commitment, resolutions of support, or similar documentation as outlined in paragraph (b)(6) of this section. Funding may include cash and in-kind support from Federal, State and local governments, non-profit organizations, foundations, private businesses and other entities that will assist in the implementation of the strategic plan. Budgets will also include details about proposed uses of any Round II EZ/EC SSBG funds that may become available

from HHS, in accordance with Guidelines on Eligible Uses of EZ/EC SSBG Funds.¹

(E) Baselines and proposed measurable outputs;

(ii) *Tax incentive utilization plan.* A plan for integrating the new business tax incentives that are available to designated Empowerment Zones into the nominated area's business development efforts. The Round II 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";

(iii) *Developable sites plan.* If the nominated area is to include developable sites, a plan to describe how the use of these parcels would benefit residents and businesses of the nominated area;

(iv) *Governance plan.* A Governance Plan for the administration of the strategic plan implementation process, which will include the following:

(A) The name of the proposed lead implementing entity, and other major administrative entities and their proposed or actual legal status and authority to receive and administer Federal funds. The strategic plan may be implemented by the local governments(s) and/or by the State(s) nominating an urban area for designation and/or by nongovernmental entities identified in the strategic plan;

(B) Evidence that the lead implementing entity and other key entities participating in the strategic plan implementation have the capacity to implement the plan;

(C) Proposed composition and date of establishment of any governance boards, advisory boards, commissions or similar bodies that will be established to manage the implementation of the strategic plan. Specific information will be included regarding representation of residents and businesses

of the proposed Empowerment Zone area, and how members of the boards or commissions will be selected;

(D) The relationship between any governance structure created and local governments and other major community or regional organizations, such as a metropolitan planning organization, operating in the same geographic area;

(E) The methods by which stakeholders within the Zone will be kept informed about Zone activities and progress in implementing the strategic plan, including a description of plans for meetings open to the public. 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; and

(F) The methods and procedures that will ensure continuing community and grassroots participation in the implementation of the strategic plan and in the governance of the Zone's activities.

(v) *Community performance assessment.* 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 as appropriate.

(5) *Strategic planning process documentation.* A description of the process the community used to select the boundaries of the proposed Empowerment Zone, including the developable sites, and to prepare the Strategic Plan. The documentation will:

(i) Explain how the community participated in choosing the area that is being nominated and why the area was nominated;

(ii) Indicate and briefly describe the specific groups, organizations, and individuals participating in the production of the plan and describe the history of these groups in the community;

(iii) Explain how participants were selected and provide evidence that the participants, taken as a whole, broadly represent the racial, cultural, gender, and economic diversity of the community;

(iv) Describe the role of the participants in the creation, development and future implementation of the plan; and

¹The Guidelines were published as an appendix to the interim rule on Empowerment Zones; Second Round Designation, published in the FEDERAL REGISTER on April 16, 1998.

(v) Identify two or three topics addressed in the plan that caused the most serious disagreements among participants and describe how those disagreements were resolved; and

(6) *Documentation of commitments:* Letters of commitment, resolutions committing public or private resources, and other documentation that will demonstrate the level of public and private resources, both inside and outside the nominated area, that will be available to implement the Strategic Plan and increase economic opportunity in the nominated Empowerment Zone.

(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.

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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