

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Part 598**

[Docket No. FR-4281-I-04]

RIN 2506-AB97

**Empowerment Zones: Rule for Second Round Designations**

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule adds new regulations to govern the designation of fifteen urban areas as Empowerment Zones. This new rule is being published to implement the changes made by sections 952-954 of the Taxpayer Relief Act of 1997. That statute authorized designation of a second round of Empowerment Zones, which receive special tax benefits for area businesses. (The Act also authorized HUD to designate two additional EZs under the criteria specified for the first round, for which a separate final rule has been issued.) By specifying the new eligibility criteria to be used in designating a second round of EZs, this rule lays the foundation for designations to be made in response to applications submitted in response to the Notice Inviting Applications published elsewhere in this issue of the **Federal Register**.

**DATES:** Effective date: May 18, 1998.

*Comment due date:* Comments must be submitted by June 15, 1998.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Regulations Division, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Comments should refer to the above docket number and title of the rule. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (weekdays 7:30 a.m. to 5:30 p.m. Eastern time) at the above address. (In addition, see the Paperwork Reduction Act heading under the Findings and Certifications section of this preamble regarding submission of comments on the information collection burden.)

**FOR FURTHER INFORMATION CONTACT:** Elaine Braverman, Empowerment Zone/Enterprise Community Initiative, Department of Housing and Urban Development, Room 7130, 451 Seventh

Street, SW, Washington, DC 20410, telephone (202) 708-6339. (This telephone number is not toll-free.) For hearing- and speech-impaired persons, this telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (toll-free).

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 13301 of the Omnibus Budget Reconciliation Act of 1993 created a new Subchapter U of the Internal Revenue Code, which authorized the Secretary of Housing and Urban Development (HUD) to designate not more than six urban Empowerment Zones and not more than 65 urban Enterprise Communities. It also authorized the Secretary of Agriculture to designate not more than three Empowerment Zones. The two Departments issued separate but parallel interim rules, following a standard format, on January 18, 1994 (59 FR 2700). Notices Inviting Applications were published, and the agencies designated the maximum number of EZs and ECs authorized. HUD issued a final rule, making only technical changes to the interim rule, on January 12, 1995 (60 FR 3034). At that time, HUD responded to comments received on the interim rule. With respect to comments made concerning the designation process, HUD generally responded that, because the designations had already been made under the interim rule, changes to those provisions would not have any effect, but the suggested changes would be considered in any future rulemaking to implement any additional Congressional authorization for new designations. HUD has reconsidered the changes requested, as discussed in the preamble to that final rule, and has decided that they are inappropriate or unnecessary.

Section 952 of the Taxpayer Relief Act of 1997 (Pub. L. 105-34, 111 Stat. 788, enacted on August 5, 1997) (the 1997 Act) amended section 1391 of the Internal Revenue Code (26 U.S.C. 1391) to add a new paragraph (g), that changed the eligibility criteria for the 20 additional Empowerment Zones, 15 of which are to be in urban areas, designated by the Secretary of HUD and 5 of which are to be in rural areas, designated by the Secretary of Agriculture. The Act expanded the eligibility criteria slightly, provided different tax incentives applicable to the new EZs, and made other changes affecting EZs, thus necessitating changes to the implementing regulations. Section 954 of the 1997 Act amended section 1392 to revise eligibility criteria

with respect to Alaska and Hawaii, which changes are also reflected in this interim rule, and section 701 expressly designated a special Empowerment Zone in the District of Columbia, to last five years instead of the usual ten.

Two specific changes in the eligibility criteria in the 1997 Act for new EZs were an increase in the size of zones and elimination of the requirement that at least half of the nominated area consist of census tracts with poverty rates of 35 percent. The requirements for at least a 25 percent poverty rate for 90 percent of the area's census tracts and at least a 20 percent poverty rate for the remainder continue to apply, but census tracts with populations under 2,000 get special consideration for satisfying the 25 percent rate. The requirement that an urban EZ must be located entirely within no more than two contiguous States remains unchanged.

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 Round II EZs are not eligible for the present-law wage credit enjoyed by the Round I EZs.

The strategic plan submitted by an applicant must describe its plans for using these tax benefits, in accordance with § 598.215(b)(4)(ii). (For a full description of the tax benefits, see IRS Publication 954, "Tax Incentives for Empowerment Zones and Other Distressed Communities.")

When the first round of designations was being made, there was funding authorized and appropriated for the U.S. Department of Health and Human Services to award EZ/EC SSBG grants for the Empowerment Zones and Enterprise Communities. It is anticipated that such funding may become available for Round II designees in Fiscal Year 1999. See the Appendix, "Eligible Uses of EZ/EC SSBG Funds," for guidance on uses of these funds.

For the current fiscal year, however, there is \$1.5 million in HUD funding for planning grants and approximately \$502 million in tax benefits. Each of the 15 areas that receives designation under this rule as an EZ will be awarded a \$100,000 planning grant.

**II. New Rule****A. Statutory Changes**

The principal change that affects all areas to be nominated for the second round of designations is the replacement of the existing criteria

concerning poverty rate. For the first round of designations, there were three elements of the poverty rate criterion of eligibility for Empowerment Zone designation: (1) The poverty rate for *each* census tract must be at least 20 percent; (2) the poverty rate for *at least 90 percent of the census tracts* must be at least 25 percent; and (3) the poverty rate for *at least 50 percent of the census tracts* must be at least 35 percent. The areas designated under the revised authority are subject to only the first two of these poverty rate criteria. (See § 598.115(a).)

A new provision excepts up to three "developable sites"—parcels that may be developed for commercial or industrial purposes—from satisfying the two poverty rate criteria that otherwise would be applicable, but restricts the size of the area given this special poverty rate treatment to a total of 2,000 acres. There may be up to three noncontiguous developable sites within a nominated area, which themselves may be noncontiguous with the parcels that do meet the poverty criteria.

Treatment of census tracts with small populations has been changed. Now they must satisfy an additional condition to be treated as if they have a poverty rate of at least 25 percent (the second criterion described above): The *census tract must be contiguous to one or more other census tracts that have a poverty rate of at least 25 percent*, determined without regard to this exception. (See § 598.115(b)(2).)

For the first round of designations, the statute (at section 1391(e)(5)) required that States and local governments certify that no portion of the area nominated is already included in an EZ or in an EC or in an area otherwise nominated for designation. For this round, the statute was amended. We interpret the amendment to permit nomination of areas that were contained in areas nominated for EZ or EC status that were not granted such status. In other words, the certification for Round II requires that the nominated area contain no portion of an area that is part of either an EZ or an area currently being nominated for EZ designation. (See § 598.210(c).)

In the first round, Indian reservations were not permitted to be included in an Empowerment Zone. The statute has been changed to permit them to be included, and to be treated as nominated by both a State and a local government if it is nominated by the reservation governing body. Section 598.500 implements this change, permitting the nomination of the tribal governing body to be treated as a nomination by both a State and a local government where the area included in the nomination is entirely within the reservation. If part of the area nominated is outside the Indian reservation, the State would be required to participate in the nomination. The statute references a determination by the Secretary of the Interior with respect to the Indian reservation's governing body. HUD interprets this to mean that the Indian organizations from whom HUD should accept nominations are those that constitute Federally recognized tribes, those specified by the Department of the Interior. This interpretation is reflected in the new section.

The States of Alaska and Hawaii are given special treatment with respect to satisfying the distress, size, and poverty rate criteria in the revised statute for Round II designations. A nominated area is treated as satisfying those requirements if *20 percent or more of the families of each census tract* have incomes that are no more than 50 percent of the statewide median family income. (See § 598.515.)

The District of Columbia also is singled out in the statute for separate designation. Section 701 of the Act designates the existing Empowerment Zone in DC as the DC special Empowerment Zone, with the addition of all other census tracts for which the poverty rate is at least 20 percent. It has special provisions concerning the issuance of bonds during the period of January 1, 1998 through December 31, 2002, and concerning treatment of capital gains on DC Zone assets. These special provisions for the District of Columbia are not included in this rule, since they are unique to DC. They are being implemented directly, as specified in the statute. This special EZ status

does not disqualify the District of Columbia from seeking designation as a standard EZ, which provides benefits over a ten year period.

#### B. Policy Changes

The language of the rule is being revised to link the EZs to moving people from welfare to work, since that has become a high priority after the enactment of welfare reform legislation. See § 598.2.

#### C. Clarifying Changes

Some terminology used in part 597, the current rule, such as "population census tract" seems confusing, and so is modified when it is replicated in this proposed rule. This rule applies only to Round II designations, which do not include Enterprise Communities designations. Consequently, the references to Enterprise Communities do not appear in this new part.

The section on evaluating the strategic plan that was contained in the rule for Round I has been removed. That level of detail will be provided in the Notice Inviting Applications for Round II. The selection criteria used in making the designations, however, remain in the rule, in § 598.305. The heading has been changed to "Designation factors." That section echoes the statute in providing that HUD will choose among applicants that satisfy the eligibility criteria by evaluating the quality of the strategic plan and other factors to be specified in the Notice Inviting Applications.

#### D. Funding Differences

In Round I, the U.S. Department of Health and Human Services (HHS) awarded EZ/EC SSBG funds to States for each designated Round I EZ and EC. The HUD rule for Round I included guidance about use of those grant funds. Similar grant funding has not been authorized for Round II. If grants are authorized for Round II, HHS will issue guidance about those funds.

#### E. Corresponding Sections Between New Rule and Old Rule

The following chart shows the sections of this new part 598 that correspond to the sections of part 597:

Part 598	Part 597
598.1 Applicability and scope .....	597.1 Applicability and scope
598.2 Objective and purpose .....	597.2 Objective and purpose
598.3 Definitions .....	597.3 Definitions
598.4 Secretarial review * * *	597.4 Secretarial review * * *
598.100 Eligibility requirements .....	597.100 Eligibility requirements * * *
598.105 Data used for elig * * *	597.101 Data utilized for eligibility &
	597.503 Use of census data
598.110 Tests of pervasive pov * * *	597.102 Tests of pervasive poverty, * * *
598.115 Poverty rate .....	597.103 Poverty rate

Part 598	Part 597
598.200 Who nominates an area * * *	597.200(a)&(b) Nominations by State and * * *
598.205 What are the requirements * * *	597.202 Submission of nominations for * * *
598.210 What certifications must the * * *	597.200(a)(4), 597.202(b) Submission of nom * * *
598.215 What are the purpose and content * * *	597.200(c)&(d) Nominations by State and * * *
598.300 Procedure for submitting * * *	597.300 HUD action and review of nomin * * *
598.305 Designation factors * * *	597.301 Selection factors for designation * * *
598.400 HUD grants for planning * * *	NEW
598.405 Environmental review	NEW
598.410 Public access to materials * * *	NEW
598.415 Reporting	597.400 Reporting
598.420 Periodic progress determinations	597.401 Periodic performance reviews
598.425 Validation of designation	597.402 Validation of designation
598.430 Revocation of designation	597.403 Revocation of designation
598.500 Indian Reservations	597.500 Indian Reservations
598.505 Governments	597.501 Governments
598.510 Nominations by EDCs or DC	597.502 Nominations by EDCs or DC
598.515 Alaska and Hawaii	NEW

### III. Findings and Certifications

#### *Justification for Interim Rule*

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1.)

HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, because advance solicitation of comment is both unnecessary and contrary to the public interest.

The Department has already published a rule for notice and comment on the subject of designation of Empowerment Zones, which was codified at 24 CFR part 597. This new rule to implement a second round of designation of Empowerment Zones is patterned on the prior rule. The major differences between this rule and the earlier rule are based on statutory changes, which leave virtually no room for exercise of discretion. Other additions to the rule reflect HUD's experience with the first round, clarifying the expectations of the parties to reflect actual experience. These changes are not controversial and, therefore, do not signal a necessity for advance public comment.

HUD's finding that it would be contrary to the public interest to delay the effectiveness of the rule is based on the practical necessity of preparing an

application for designation as an empowerment zone within the timeframe set by the authorizing statute. The designations are required by the statute (section 1391(g)(2)) to be made before January 1, 1999. The governmental entities and other entities that may work with them in partnership to develop an application for designation need to know the requirements of the program in time to develop their strategic plans and apply for designation. Delay in prescribing the criteria for designating new empowerment zones would delay the development of these cooperative efforts and make it extremely difficult for applicants to develop their strategic plans in a timely fashion.

For these reasons, HUD believes that an interim rulemaking is justified. HUD is soliciting public comments on this rule and will consider these comments in the development of a final rule.

#### *Paperwork Reduction Act*

The information collection requirements contained in this rule, as described in §§ 598.200, 598.205, 598.210, 598.215, 598.415, and 598.430, and the implementing application forms, have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2506–0148. This approval has been granted on an emergency basis through August 31, 1998. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

In addition, HUD will seek an extension of this approval for these information collections. Therefore, HUD asks for comments regarding the information collections contained in the sections of this rule stated above. At the end of the comment period, HUD will submit the proposed information collections to OMB for approval.

Comments regarding the information collections contained in the rule must be submitted by June 15, 1998. Comments on these information collections should refer to the proposal by name and/or OMB control number and must be sent to: Reports Liaison Officer, Shelia E. Jones, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7230, Washington, DC 20410.

Specifically, comments are solicited from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The following table identifies the components of the information collection:

Type of collection	Section of 24 CFR affected	Number of respondents	Frequency of response	Est. ave. response time (hrs.)	Annual burden hrs.
Application .....	598.200 598.205 598.210 598.215	225	1	50	11,250
Periodic Reporting .....	597.400 598.415	87	1	15	1,305
Response to Warning Letter .....	597.403 598.430	5	1	20	100

Total Burden—12,655 hours per year.

#### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment for this rule 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, S.W., Washington, DC 20410.

#### *Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities as distinguished from large entities. The rule does not place any mandates on small entities. It merely authorizes them to seek designation as Empowerment Zones, as authorized by statute.

The burdens placed on applicants derive from the statute, and primary among them is the requirement for a strategic plan. The entity responsible for preparing a strategic plan for HUD funds for a metropolitan area is the local government that generally would be seeking the nomination of an area, not the small businesses that are located or could be located within the area. A small government is defined by the Small Business Administration as one that has a population of less than 50,000. It is possible that a government of that size will seek designation for an area within its boundaries, if it is part of a Metropolitan Statistical Area, as required by the statute. The contents of such an entity's strategic plan would be expected to reflect its size, not the size of a larger applicant.

HUD is sensitive to the fact, however, that the uniform application of requirements on entities of differing

sizes may place a disproportionate burden on small entities. Therefore, HUD is soliciting recommendations for how these small entities might fulfill the purposes of the rule in a way less burdensome to them.

#### *Executive Order 12612, Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that, although this rule may have a substantial direct effect on the States or their political subdivisions that are designated as Empowerment Zones, this effect is intended by the legislation authorizing the program. The purpose of the rule is to provide a cooperative atmosphere between the Federal government and States, local, and Tribal governments, and to reduce any regulatory burden imposed by the Federal government that impedes the ability of States and local governments to solve pressing economic, social, and physical problems in their communities.

#### *Unfunded Mandates*

Executive Order 12875 calls for Federal agencies to refrain, to the extent feasible and permitted by law, from promulgating any regulation that is not required by statute that would create a mandate on a State, local, or Tribal government, unless the agency provides funds for complying with the mandate or the agency first consults with affected State, local, and Tribal governments. Title II of the Unfunded Mandates Reform Act of 1995 (12 U.S.C. 1501) established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

This rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995, because it does not mandate any particular action. The rule just authorizes States, localities, and tribes to apply for designation of areas within their jurisdiction as Empowerment Zones, which permits special tax treatment of business

activities within the areas and may make the areas eligible for other government benefits.

HUD has, nonetheless, had regular contact with the representatives of the already designated EZs and ECs concerning the effect of the statutory changes and on possible means for implementation. In addition, individual citizens, academicians, and members of Congress have inquired about the possible resolution of issues they identified with respect to implementing the statutory changes. All of the information and views provided have been considered in the development of this rule.

#### *Regulatory Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the interim rule after its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division of the Office of General Counsel, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

#### *Catalog of Federal Domestic Assistance.*

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

#### **List of Subjects in 24 CFR Part 598**

Community development, Economic development, Empowerment zones, Housing, Indians, Intergovernmental relations, Reporting and record keeping requirements, Urban renewal.

Accordingly, for the reasons set forth in the preamble, a new part 598 is added to title 24 of the Code of Federal Regulations, to read as follows:

**PART 598—URBAN EMPOWERMENT ZONES: ROUND TWO DESIGNATIONS****Subpart A—General Provisions**

Sec.

- 598.1 Applicability and scope.
- 598.2 Objective and purpose.
- 598.3 Definitions.
- 598.4 Period of designation.

**Subpart B—Eligibility Requirements**

- 598.100 Eligibility requirements.
- 598.105 Data used for eligibility determinations.
- 598.110 Tests of pervasive poverty, unemployment and general distress.
- 598.115 Poverty rate.

**Subpart C—Nomination Procedure**

- 598.200 Who nominates an area for designation?
- 598.205 What are the requirements for nomination?
- 598.210 What certifications must governments make?
- 598.215 What are the purpose and content of the strategic plan?

**Subpart D—Designation Process**

- 598.300 Procedure for submitting a nomination.
- 598.305 Selection factors for designation of urban empowerment zones.

**Subpart E—Post-Designation Requirements**

- 598.400 HUD grants for planning activities.
- 598.405 Environmental review.
- 598.410 Public access to materials and proceedings.
- 598.415 Reporting.
- 598.420 Periodic progress determinations.
- 598.425 Validation of designation.
- 598.430 Revocation of designation.

**Subpart F—Special Rules**

- 598.500 Indian Reservations.
- 598.505 Governments.
- 598.510 Nominations by Economic Development Corporations or the District of Columbia.
- 598.515 Alaska and Hawaii.

**Authority:** 26 U.S.C. 1391; 42 U.S.C. 3535(d).

**Subpart A—General Provisions****§ 598.1 Applicability and scope.**

(a) This part establishes policies and procedures applicable to the second round of designations of urban Empowerment Zones, authorized under Subchapter U of the Internal Revenue Code of 1986 (26 U.S.C. 1391, *et seq.*), as amended by sections 952 and 954 of the Taxpayer Relief Act of 1997.

(b) This part contains provisions relating to area requirements, the nomination process for urban Empowerment Zones, and the designation and evaluation of these Zones by HUD. Provisions dealing with the nomination and designation of rural Empowerment Zones are issued by the Department of Agriculture.

**§ 598.2 Objective and purpose.**

The purpose of this part is to provide for the establishment of Empowerment Zones in urban areas, to stimulate the creation of new jobs—empowering low-income persons and families receiving public assistance to become economically self-sufficient—and to promote revitalization of economically distressed areas.

**§ 598.3 Definitions.**

In addition to the definitions of “HUD” and “Secretary” found in 24 CFR 5.100, the following definitions apply to this part.

*Census tract* means a census tract, as the term is used by the Bureau of the Census, or, if census tracts are not defined for the area, a block numbering area.

*Designation* means the process by which the Secretary designates urban areas as Empowerment Zones eligible for tax incentives and credits established by Subchapter U of the Internal Revenue Code of 1986, as amended (26 U.S.C. 1391, *et seq.*) and for special consideration for programs of Federal assistance.

*Developable site* means a parcel of land in a nominated area that may be developed for commercial or industrial purposes.

*Empowerment Zone* means an urban area so designated by the Secretary in accordance with this part.

*EZ/EC SSBG funds* means any funds that may be provided to States or Tribes by HHS in accordance with section 2007(a) of the Social Security Act (42 U.S.C. 1397f), for use by the designated Round II Empowerment Zone.

*HHS* means the U.S. Department of Health and Human Services.

*Local government* means any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and any combination of these political subdivisions that is recognized by the Secretary.

*Nominated area* means an area nominated by one or more local governments and the State or States in which it is located for designation in accordance with this part.

*Revocation of designation* means the process by which the Secretary may revoke the designation of an urban area as an Empowerment Zone. (See subpart E of this part.)

*State* means any State of the United States.

*Urban area* means:

(1) An area that lies inside a Metropolitan Statistical Area (MSA), as designated by the Office of Management and Budget; or

(2) An area outside an MSA if the jurisdiction of the nominating local government documents:

- (i) The urban character of the area, or
- (ii) The link between the area and the proposed area in the MSA.

**§ 598.4 Period of designation.**

The designation of an urban area as an Empowerment Zone will remain in full effect during the period beginning on the date of designation and ending on the earliest of:

- (a) The close of the tenth calendar year beginning on the date of designation;
- (b) The termination date designated by the State and local Governments in their application for nomination; or
- (c) The date the Secretary modifies or revokes the designation.

**Subpart B—Eligibility Requirements****§ 598.100 Eligibility requirements.**

A nominated urban area is eligible for designation in accordance with this part only if the area:

(a) Has a maximum population that is the lesser of:

- (1) 200,000; or
- (2) The greater of 50,000 or ten percent of the population of the most populous city located within the nominated area;

(b) Is one of pervasive poverty, unemployment and general distress, as described in § 598.110;

(c) Does not exceed twenty square miles in total land area, excluding up to three noncontiguous developable sites that are exempt from the poverty criteria;

(d) Has a continuous boundary, or consists of not more than three noncontiguous parcels meeting the poverty criteria, and not more than three noncontiguous developable sites exempt under § 598.115(c)(1) from the poverty rate criteria;

(e) Is located entirely within the jurisdiction of the unit or units of general local government making the nomination, and is located in no more than two contiguous States; and

(f) Does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the poverty rate for each census tract in the district is not less than 35 percent.

**§ 598.105 Data used for eligibility determinations.**

(a) *Source of data.* The data to be used in determining the eligibility of an area is from the 1990 Decennial Census, and from information published by the Bureau of the Census and the Bureau of Labor Statistics. Specific information on

appropriate data to be submitted will be provided in the application.

(b) *Use of statistics on boundaries.*

The boundary of an urban area nominated for designation as an Empowerment Zone must coincide with the boundaries of census tracts, as defined in § 598.3.

**§ 598.110 Tests of pervasive poverty, unemployment and general distress.**

(a) *Pervasive poverty.* Pervasive poverty is demonstrated by evidence that:

(1) Poverty, as indicated by the number of persons listed as being in poverty in the 1990 Decennial Census, is widespread throughout the nominated area; or

(2) Poverty, as described above, has become entrenched or intractable over time (through comparison of 1980 and 1990 census data or other relevant evidence).

(b) *Unemployment.* Unemployment is demonstrated by:

(1) The most recent data available indicating that the annual rate of unemployment for the nominated area is not less than the national annual average rate of unemployment; or

(2) Evidence of especially severe economic conditions, such as military base or plant closings or other conditions that have brought about significant job dislocation within the nominated area.

(c) *General distress.* General distress is evidenced by describing adverse conditions within the nominated urban area other than those of pervasive poverty and unemployment. Below average or decline in per capita income, earnings per worker, number of persons on welfare, per capita property tax base, average years of school completed, substantial population decline, and a high or rising incidence of crime, narcotics use, homelessness, high incidence of AIDS, abandoned housing, deteriorated infrastructure, school dropouts, teen pregnancy, incidence of domestic violence, incidence of certain health conditions and illiteracy are examples of appropriate indicators of general distress.

**§ 598.115 Poverty rate.**

(a) *General.* In order to be eligible for designation, an area's poverty rate must satisfy the following criteria:

(1) In each census tract within a nominated urban area, the poverty rate must be not less than 20 percent; and

(2) For at least 90 percent of the census tracts within the nominated urban area, the poverty rate must be not less than 25 percent.

(b) *Special rules relating to the determination of poverty rate—(1)*

*Census tracts with populations of less than 2,000.* A census tract that has a population of less than 2,000 is treated as having a poverty rate that meets the requirements of paragraphs (a)(1) and (a)(2) of this section if more than 75 percent of the tract is zoned for commercial or industrial use, and the tract is contiguous to one or more other census tracts that have an actual poverty rate of not less than 25 percent.

(2) *Rounding up of percentages.* In making the calculations required by this section, the Secretary will round all fractional percentages of one-half percent or more up to the next highest whole percentage figure.

(c) *Noncontiguous parcels.* (1) Noncontiguous parcels that are developable sites are exempt from the poverty rate criteria of paragraph (a) of this section, for up to three developable sites.

(2) The total area of the noncontiguous parcels that are developable sites exempt from the poverty rate criteria of paragraph (a) of this section must not exceed 2,000 acres.

(3) A nominated urban area must not contain a noncontiguous parcel unless such parcel separately meets the criteria set forth at paragraphs (a)(1) and (2) of this section, except for up to three developable sites.

(4) There must not be more than three noncontiguous parcels, except that up to three developable sites are not included in this limit.

**Subpart C—Nomination Procedure**

**§ 598.200 Who nominates an area for designation?**

Applicants for empowerment zone designation must be nominated by the State or States and one or more local government(s) in which the area is located, except as provided in §§ 598.500, 598.510, and 598.515. The nomination must be submitted in a form to be prescribed by HUD in the application and in the document announcing the initiation of the designation process, and must contain complete and accurate information.

**§ 598.205 What are the requirements for nomination?**

(a) *General.* No urban area may be considered for designation in accordance with subpart D of this part unless:

(1) The urban area is within the jurisdiction of a State or States and local government(s) that have the authority to nominate the urban area for designation and that provide written assurances satisfactory to the Secretary that the

strategic plan described in § 598.215 will be implemented, and these

governments submit its nomination; (2) All information furnished by the nominating State(s) and local government(s) is determined by the Secretary to be reasonably accurate; and (3) The application for designation is complete, as described in paragraph (b) of this section.

(b) *Contents of application for designation.* The application for designation of an urban area as an Empowerment Zone must do the following:

(1) Demonstrate that the nominated urban area satisfies the eligibility criteria set forth in subpart B of this part;

(2) Include a strategic plan, as described in § 598.215;

(3) Include the certifications described in § 598.210;

(4) Include the 1990 census maps showing the following:

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

(ii) The boundaries of the nominated area, including any developable sites; and

(5) Include such other information as may be required by HUD in the application or in the document announcing the initiation of the designation process.

**§ 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 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).

**§ 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.<sup>1</sup>

(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

<sup>1</sup> The 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.

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

(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.

## 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 an empowerment zone's strategic plan or any revision thereof proposes the use of EZ/EC SSBG funds for activities that are not excluded from environmental review under 24 CFR 50.19(b), an environmental review will be performed as required by applicable law.

#### **§ 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 nondiscrimination 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

required to submit in accordance with this part.

#### **§ 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;

(1) Advising that the Secretary has determined that the nominating local government(s) and/or State(s) has:

(i) Modified the boundaries of the area without written approval from HUD; or

(ii) Is not complying substantially with, or has failed to make progress in implementing the strategic plan; and

(2) Requesting a reply from the nominating entities within 90 days of the receipt of this letter of warning.

(c) *Notice of revocation.* To revoke the designation, the Secretary must issue a final notice of revocation of the designation of the urban area as an

Empowerment Zone, after allowing 90 days from the date of receipt of the letter of warning for response, and after making a determination in accordance with paragraph (a) of this section.

(d) *Notice to affected Federal agencies.* HUD will notify all affected Federal agencies of which it is aware, of its determination to revoke any designation in accordance with this section.

(e) *Effect of revocation.* Upon revocation of an EZ's designation, the designation and remaining benefits may be awarded to the next highest ranked Round II applicant.

(f) *Publication.* The final notice of revocation of designation will be published in the **Federal Register**, and the revocation will be effective on the date of publication.

### **Subpart F—Special Rules**

#### **§ 598.500 Indian reservations.**

(a) An area within an Indian reservation (as defined in section 168(j)(6) if the Internal Revenue Code, 26 U.S.C. 168(j)(6)) 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.

(b) For purposes of paragraph (a) of this section, a reservation governing body must be the governing body of an Indian entity recognized and eligible to receive services from the Bureau of Indian Affairs, United States Department of Interior.

#### **§ 598.505 Governments.**

If more than one State or local government seeks to nominate an urban area under this part, any reference to or requirement of this part applies to all such governments.

#### **§ 598.510 Nominations by economic development corporations or the District of Columbia.**

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 local government.

#### **§ 598.515 Alaska and Hawaii.**

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 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).

Dated: March 27, 1998.

**Saul N. Ramirez, Jr.,**

*Assistant Secretary for Community Planning and Development.*

#### **Appendix—Guidelines on Eligible Uses of EZ/EC SSBG Funds**

##### **(1) Background**

This appendix includes general guidance about allowed uses of any Round II EZ/EC SSBG funds that may be made available for Round II Empowerment Zones (EZs). It is based on the assumption that any Round II EZ/EC SSBG funding will be subject to the same statutory restrictions as the Round I EZ/EC SSBG grants. The U.S. Department of Health and Human Services (HHS) will issue further guidance regarding any Round II EZ/EC SSBG funds soon after it is authorized to award the funds.

##### **(2) Awards to States**

(a) HHS will award Round II EZ/EC SSBG grants to each State that nominated a designated Round II EZ. HHS will award the funds for each Round II EZ to the State agency that typically receives Social Services Block Grants, unless the EZ Lead Entity and its State request HHS to award them to a different agency.

(b) The HHS Terms and Conditions of the Round II EZ/EC SSBG grants will direct the recipient State agency to provide the funds to the appropriate Round II EZ Lead Entity(ies) for activities specified in the EZ's strategic plan and benchmarks/implementation plan. It is expected that the EZs will revise their plans and benchmarks from time to time.

##### **(3) Allowed Uses of Round II EZ/EC SSBG Funds**

(a) The Round II EZs may use Round II EZ/EC SSBG funds for a wide variety of programs, services and activities directed at revitalizing distressed communities and promoting economic independence for residents. Allowed programs, services and activities include, but are not limited to:

- Community and economic development programs and efforts to create employment opportunities;
- Job training and job readiness projects;
- Health programs such as public health education, primary health care, emergency medical services, alcohol and substance abuse prevention and treatment programs, and mental health services;
- Human development services such as child, youth and family development programs, services for the elderly, and child care services;
- Education projects such as after-school activities, adult learning classes, and school-to-work projects;
- Transportation services;

- Environmental clean up programs;
- Policing and criminal justice projects such as community policing efforts and youth gang prevention programs;
- Housing programs;
- Projects providing training and technical assistance to the EZ Lead Entity, its board and committee members, and other organizations; and
- Projects to finance community-focused financial institutions for enhancing the availability of credit such as loan funds, revolving loan funds, and micro-enterprise loan funds as well as other activities for easing financial barriers faced by social services entities, housing organizations and other organizations serving EZ residents.

(b) Round II EZs may use the Round II EZ/EC SSBG funds for projects supported in part with other Federal, State, local or private funds, and they may allocate a portion of the funds to the State grantee agency for its administrative and grant oversight costs. Round II EZs may not use the funds as the source of local matching funds required for other Federal grants.

(c) Round II EZs must ensure that each proposed use of Round II EZ/EC SSBG funds is: Directed at one or more of the EZ/EC SSBG statutory goals; included in the strategic plan; structured to benefit EZ residents; and in compliance with all applicable Federal, State and local laws and regulations.

(d) The statutory goals for uses of EZ/EC SSBG funds are as follows:

- (1) Achieving and maintaining economic self-support for residents, to help them develop and retain the ability to support themselves and their families economically;
- (2) Achieving and maintaining self-sufficiency for residents, to enable them to become and remain able to care for themselves in daily activities and in the long-term; and
- (3) Preventing Neglect and Abuse and Preserving Families, to protect children and adults, who are unable to protect themselves from neglect, abuse or exploitation, and to preserve, rehabilitate or reunite families living in the designated neighborhoods.

(e) All programs, services and activities financed in whole or in part with Round II EZ/EC SSBG funds must be included in the strategic plan and benchmarks/implementation plans. Each project description must indicate the EZ/EC SSBG statutory goal it is attempting to achieve and how it will benefit EZ residents.

(f) All programs, services and activities financed in whole or in part with Round II EZ/EC SSBG funds must be structured to primarily benefit EZ residents; the programs, services and activities may also benefit nonresidents.

(g) To the extent consistent with the local strategic vision, localities may use Round II EZ/EC SSBG funds to finance programs, services and activities for addressing any of the following broad statute-based "program options." EZs that use the funds for any of the program options will have more flexibility in uses of funds. (See section (h) below). The EZs are not required to use the funds for the program options, and may use Round II EZ/EC SSBG funds to finance

programs, services and activities addressing other issues. The program options are as follows:

(1) To provide residential or nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for residents, particularly for pregnant women and mothers and their children;

(2) To support: (A) Training and employment opportunities for disadvantaged adults and youths in construction, rehabilitation, or improvement of affordable housing, public infrastructure, and community facilities; and

(B) Nonprofit organizations such as community and junior colleges providing short-term training courses for disadvantaged adults and youths about entrepreneurship and self-employment, and other types of training that will promote individual self-sufficiency and the interests of the community.

(3) To support projects designed to promote and protect the interests of children and families outside of school hours, including keeping schools open during evenings and weekends for mentoring and study.

(4) To support:

(A) Services designed to promote community and economic development and job support services such as skills training, job counseling, transportation services, housing counseling, financial management, and business counseling;

(B) Emergency and transitional housing and shelters for families and individuals; or

(C) Programs that promote home ownership, education, and other routes to economic independence for families and individuals.

(h) To the extent a program, service or activity in the strategic plan and benchmark/implementation plan document is a statutory program option listed in section (g) above, the EZ may use the Round II EZ/EC SSBG funds to implement that activity including to:

- (1) Purchase or improve land or facilities;
- (2) Make cash payments to individuals for subsistence or room and board;
- (3) Make wage payments to individuals as a social service;
- (4) Make cash payments for medical care; and

(5) Provide social services to institutionalized persons.

(i) To the extent a program, service or activity in the strategic plan and benchmark/implementation plan document is *not* a statutory program option listed in section (g) above, the EZ may use Round II EZ/EC SSBG funds for the following purposes as a component of that activity only after receiving approval from the U.S. Department of Health and Human Services:

- (1) Purchase or improve land or facilities;
- (2) Make cash payments to individuals for subsistence or room and board;
- (3) Make wage payments to individuals as a social service;
- (4) Make cash payments for medical care; or

(5) Provide social services to institutionalized persons.

(j) To the extent a program, service or activity in the strategic plan and benchmark/implementation plan document is not one of

the program options listed in section (g) above, the plan must include a statement explaining why the locality chose that project.

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