

Foreign-Trade Zones Board, Commerce

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corporations to apply for a grant of authority shall be supported by a enabling legislation of the legislature of the state in which the zone is to be located, indicating that the corporation, individually or as part of a class, is authorized to so apply.

(c) *Private for-profit corporations.* The eligibility of private for-profit corporations to apply for a grant of authority shall be supported by a special act of the state legislature naming the applicant corporation and by evidence indicating that the corporation is chartered for the purpose of establishing a zone.

(d) *Applicants for subzones—(1) Eligibility.* The following entities are eligible to apply for a grant of authority to establish a subzone:

(i) The zone grantee of the closest zone project in the same state;

(ii) The zone grantee of another zone in the same state, which is a public corporation, if the Board, or the Executive Secretary, finds that such sponsorship better serves the public interest; or

(iii) A state agency specifically authorized to submit such an application by an act of the state legislature.

(2) *Complaints.* If an application is submitted under paragraph (d)(1) (ii) or (iii) of this section, the Executive Secretary will:

(i) Notify, in writing, the grantee specified in paragraph (d)(1)(i) of this section, who may, within 30 days, object to such sponsorship, in writing, with supporting information as to why the public interest would be better served by its acting as sponsor;

(ii) Review such objections prior to filing the application to determine whether the proposed sponsorship is in the public interest, taking into account:

(A) The complaining zone's structure and operation;

(B) The views of State and local public agencies; and

(C) The views of the proposed subzone operator;

(iii) Notify the applicant and complainants in writing of the Executive Secretary's determination;

(iv) If the Executive Secretary determines that the proposed sponsorship is in the public interest, file the applica-

tion (see §400.47 regarding appeals to decisions of the Executive Secretary).

§ 400.23 Criteria for grants of authority for zones and subzones.

(a) *Zones.* The Board will consider the following factors in determining whether to issue a grant of authority for a zone project:

(1) The need for zone services in the port of entry area, taking into account existing as well as projected international trade related activities and employment impact;

(2) The adequacy of the operational and financial plans and the suitability of the proposed sites and facilities, with justification for duplicative sites;

(3) The extent of state and local government support, as indicated by the compatibility of the zone project with the community's master plan or stated goals for economic development and the views of State and local public officials involved in economic development. Such officials shall avoid commitments that anticipate outcome of Board decisions;

(4) The views of persons and firms likely to be affected by proposed zone activity; and

(5) If the proposal involves manufacturing or processing activity, the criteria in §400.31.

(b) *Subzones.* In reviewing proposals for subzones the Board will also consider:

(1) Whether the operation could be located in or otherwise accommodated by the multi-purpose facilities of the zone project serving the area;

(2) The specific zone benefits sought and the significant public benefit(s) involved supported by evidence to meet the requirement in §400.31(c); and

(3) Whether the proposed activity is in the public interest, taking into account the criteria in §400.31.

§ 400.24 Application for zone.

(a) *In general.* An application for a grant of authority to establish a zone project shall consist of a transmittal letter, an executive summary and five exhibits.

(b) *Letter of transmittal.* The transmittal letter shall be currently dated and signed by an authorized officer of

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the corporation and bear the corporate seal.

(c) *Executive summary.* The executive summary shall describe:

- (1) The corporation's legal authority to apply;
- (2) The type of authority requested from the Board;
- (3) The proposed zone site and facilities and the larger project of which the zone is a part;
- (4) The project background, including surveys and studies;
- (5) The relationship of the project to the community's and state's overall economic development plans and objectives;
- (6) The plans for operating and financing the project; and
- (7) Any additional pertinent information needed for a complete summary description of the proposal.

(d) *Exhibits.* (1) Exhibit One (Legal Authority for the Application) shall consist of:

- (i) A certified copy of the state enabling legislation described in § 400.22;
- (ii) A copy of pertinent sections of the applicant's charter or organization papers; and
- (iii) A certified copy of the resolution of the governing body of the corporation authorizing the official signing the application.

(2) Exhibit Two (Site Description) shall consist of:

- (i) A detailed description of the zone site, including size, location, address, and a legal description of the area proposed for approval; a table with site designations shall be included when more than one site is involved;
- (ii) A summary description of the larger project of which the zone is a part, including type, size, location and address;
- (iii) A statement as to whether the zone is within or adjacent to a customs port of entry;
- (iv) A description of zone facilities and services, including dimensions and types of existing and proposed structures;
- (v) A description of existing or proposed site qualifications including: land-use zoning, relationship to floodplain, infrastructure, utilities, security, and access to transportation services;

(vi) A description of current activities carried on in or contiguous to the project;

(vii) If part of a port facility, a summary of port and transportation services and facilities; if not, a summary description of transportation systems indicating connections from local and regional points of arrival to the zone; and

(viii) A statement as to the possibilities and plans for zone expansion.

(3) Exhibit Three (Operation and Financing) shall consist of:

(i) A statement as to site ownership (if not owned by the applicant or proposed operator, evidence as to their legal right to use the site);

(ii) A discussion of the operational plan (if the zone or a portion thereof is to be operated by other than the grantee, a summary of the selection process used or to be used, the type of operation agreement and, if available, the name and qualifications of the proposed operator);

(iii) A brief explanation of the plans for providing facilities, physical security, and for satisfying the requirements for Customs automated systems;

(iv) A summary of the plans for financing capital and operating costs, including a statement as to the source and use of funds; and

(v) The estimated time schedule for construction and activation.

(4) Exhibit Four (Economic Justification) shall include:

(i) A statement of the community's overall economic goals and strategies in relation to those of the region and state;

(ii) A reference to the plan or plans on which the goals are based and how they relate to the zone project;

(iii) An economic profile of the community including identification and discussion of dominant sectors in terms of percentage of employment or income, area resources and problems, economic imbalances, unemployment rates, area foreign trade statistics, and area port facilities and transportation networks;

(iv) A statement as to the role and objective of the zone project, and a justification for each of the proposed sites;

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(v) A discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, U.S. international trade, and environmental impact;

(vi) A statement as to the need for zone services in the community, with information on surveys of business, and specific expressions of interest from proposed zone users, with letters of intent from those firms that are considered prime prospects; and

(vii) A description of proposed manufacturing and processing operations, if applicable, with information covering the factors described in § 400.31(b), including the nature and scope of the operation and production process, materials and components used, items to be foreign sourced with relevant tariff information, zone benefits anticipated and how they will affect the firm's plans, and the economic impact of the operation on the community and on related domestic industries.

(5) Exhibit Five (Maps) shall consist of:

(i) The following maps and drawings:

(A) State and county maps showing the general location of the zone in terms of the area's transportation network;

(B) A local community map showing in red the location of the proposed zone; and

(C) A detailed blueprint of the zone or subzone area showing zone boundaries in red, with dimensions and metes and bounds, or other legal description, and showing existing and proposed structures.

(ii) Proposals involving existing zones shall include a drawing showing existing zone sites and the proposed changes.

(e) *Additional information.* The Board or the Executive Secretary may require additional information needed to adequately evaluate a proposal.

(f) *Amendment of application.* The Board or the Executive Secretary may allow amendment of the application.

(g) *Drafts.* Applicants may submit a draft application to the Executive Secretary for review.

(h) *Format and number of copies.* Unless the Executive Secretary alters the requirements of this paragraph, submit

an original and 8 copies of the application on 8½" × 11" (216 × 279 mm) paper. Exhibit Five of the original application shall contain full-sized maps, and copies shall contain letter-sized reductions.

(i) *Where to file.* Address and mail the application to the Secretary of Commerce, Attention: Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

(Approved by the Office of Management and Budget under control number 0625-0139)

[56 FR 50798, Oct. 8, 1991, as amended at 62 FR 53535, Oct. 15, 1997]

§ 400.25 Application for subzone.

(a) *In general.* An application to establish a subzone as part of a proposed or existing zone shall be submitted in accordance with the format in § 400.24, except that the focus of the information provided in Exhibit Four shall be on the specific activity involved and its net economic effect. The information submitted in Exhibit Four shall include:

(1) A summary as to the reasons for the subzone and an explanation of its anticipated economic effects;

(2) Identity of the subzone user and its corporate affiliation;

(3) Description of the proposed activity, including:

(i) Products;

(ii) Materials and Components;

(iii) Sourcing plans (domestic/foreign);

(iv) Tariff rates and other import requirements or restrictions;

(v) Information to assist the Board in making a determination under §§ 400.31(b)(1)(iii) and 400.31(b)(2);

(vi) Benefits to subzone user;

(vii) Information required in § 400.24(d)(4)(vii);

(viii) Information as to whether alternative procedures have been considered as a means of obtaining the benefits sought;

(ix) Information on the industry involved and extent of international competition; and

(x) Economic impact of the operation on the area;

(4) Reason operation cannot be conducted within a general-purpose zone;