

§ 310.1 Special Impact Area.

Upon the application of an Eligible Recipient, and with respect to that Eligible Recipient's Project only, the Assistant Secretary may designate the Region which the Project will serve as a Special Impact Area if the Eligible Recipient demonstrates that its proposed Project will:

- (a) Directly fulfill a pressing need and
- (b) Be useful in alleviating or preventing conditions of excessive unemployment or underemployment, or assist in providing useful employment opportunities for the unemployed or underemployed residents of the Region.

§ 310.2 Pressing need; alleviation of unemployment or underemployment.

(a) The Assistant Secretary may find a pressing need to exist if the Region which the Project will serve:

- (1) Has a unique or urgent circumstance that would necessitate waiver of the CEDS requirements of § 303.7 of this chapter;
- (2) Involves a Project undertaken by an Indian Tribe;
- (3) Is rural and severely distressed;
- (4) Is undergoing a transition in its economic base as a result of changing trade patterns (*e.g.*, the Region is certified as eligible by the North American Development Bank Program or the Community Adjustment and Investment Program);
- (5) Exhibits a substantial reliance on a natural resource for its economic well-being;
- (6) Has been designated as a Federally-Declared Disaster area; or
- (7) Has a Special Need.

(b) For purposes of this part, excessive unemployment exists if the twenty-four (24) month unemployment rate is at least 225% of the national average or the per capita income is not more than 50% of the national average. A Region demonstrates excessive underemployment if the employment of a substantial percentage of workers in the Region is less than full-time or at less skilled tasks than their training or abilities would otherwise permit. Eligible Recipients seeking a Special Impact Area designation under this criterion must present appropriate and

compelling economic and demographic data.

(c) Eligible Recipients may demonstrate the provision of useful employment opportunities by quantifying and evidencing the Project's prospective:

- (1) Creation of jobs;
- (2) Commitment of financial investment by private entities; or
- (3) Application of innovative technology that will lead to the creation of jobs or the commitment of financial investment by private entities.

PARTS 311–313 [RESERVED]**PART 314—PROPERTY****Subpart A—General**

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AUTHORITY: 42 U.S.C. 3211; Department of Commerce Organization Order 10-4.

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Subpart A—General**§ 314.1 Definitions.**

In addition to the defined terms set forth in § 300.3 of this chapter, the following terms shall have the following meanings:

Adequate Consideration means the fair market value at the time of sale or lease of any Property, as adjusted, in EDA's sole discretion, by any services, property exchanges, contractual commitments, acts of forbearance or other

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considerations that are in furtherance of the authorized purposes of the Investment Assistance, which are received by the Recipient or Owner in exchange for such Property.

Disposition or Dispose means the sale, lease, abandonment or other disposition of any Property and also includes the Unauthorized Use of such Property.

Estimated Useful Life, as used in this part, means the period of years that constitutes the expected useful lifespan of a Project, as determined by EDA, during which EDA anticipates obtaining the economic development benefits of its Investment.

Federal Interest has the definition ascribed to it in § 314.2(a).

Federal Share has the definition ascribed to it in § 314.5.

Owner means a fee owner, transferee, lessee or optionee of any Property. The term Owner also includes the holder of other interests in a Property where the interests are such that the holder effectively controls the use of such Property.

Personal Property means all tangible and intangible property other than Real Property.

Property means Real Property, Personal Property and mixed property.

Real Property means any land, whether raw or improved, and includes structures, fixtures, appurtenances and other permanent improvements, excluding moveable machinery and equipment. Real Property includes land that is improved by the construction of Project infrastructure such as, but not limited to, roads, sewers and water lines that are not situated on or under the land, where the infrastructure contributes to the value of such land as a specific purpose of the Project.

Successor Recipient means an EDA-approved transferee of Property pursuant to § 314.3(d). A Successor Recipient must be an Eligible Recipient of Investment Assistance.

Unauthorized Use means any use of Property acquired or improved in whole or in part for purposes not authorized by EDA Investment Assistance, PWEDA or this chapter, as set forth in § 314.4.

§ 314.2 Federal Interest.

(a) Property that is acquired or improved, in whole or in part, with Investment Assistance shall be held in trust by the Recipient for the benefit of the Project for the Estimated Useful Life of the Project, during which period EDA retains an undivided equitable reversionary interest in the Property (the “Federal Interest”). The Federal Interest secures compliance with matters such as the purpose, scope and use of a Project and is often reflected by a recorded lien, statement or other recordable instrument setting forth EDA’s Property interest in a Project (*e.g.*, a mortgage, covenant, or other statement of EDA’s Real Property interest in the case of a Project involving the acquisition, construction or improvement of a building. *See* § 314.8.)

(b) When the Federal government is fully compensated for the Federal Share of Property acquired or improved, in whole or in part, with Investment Assistance, the Federal Interest is extinguished and the Federal government has no further interest in the Property.

§ 314.3 Authorized Use of Property.

(a) The Recipient or Owner must use any Property acquired or improved in whole or in part with Investment Assistance only for the authorized purpose of the Project and such Property must not be Disposed of or encumbered without EDA’s prior written authorization.

(b) Where EDA and the Recipient determine that Property acquired or improved in whole or in part with Investment Assistance is no longer needed for the original purpose of the Investment Assistance, EDA, in its sole discretion, may approve the use of such Property in other Federal grant programs or in programs that have purposes consistent with those authorized by PWEDA and by this chapter.

(c) Where EDA determines that the authorized purpose of the Investment Assistance is to develop Real Property to be leased or sold, such sale or lease is permitted provided it is for Adequate Consideration and the sale is consistent with the authorized purpose of the Investment Assistance and with all