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DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 312

Docket No.: 160615526-6999-02

RIN 0610-AA68

Regional Innovation Program

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Administration (“EDA” or “the Agency”), U.S. Department of Commerce (“DOC”), is issuing a Final Rule implementing the Regional Innovation Program as authorized by section 27 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (“Stevenson-Wydler” or the “Act”). Through the Regional Innovation Strategies Program (“RIS Program”), the centerpiece of the Regional Innovation Program, EDA currently awards grants for capacity-building programs that provide proof-of-concept and commercialization assistance to innovators and entrepreneurs and for operational support for organizations that provide essential early-stage funding to startup companies. This Final Rule lays out the overarching regulatory framework for the Regional Innovation Program and specifically focuses on outlining the structure of the RIS Program.

On September 21, 2016, EDA published a Notice of Proposed Rulemaking (“NPRM”) and received two public comments, one non-germane and one substantive.

The Final Rule responds to the substantive comment by making two clarifying edits and one conforming edit to the section regarding eligible RIS Program project activities. EDA also made one technical correction, unrelated to the substantive comment, to the general terms and conditions section relating to the RIS Program.

DATES: This Final Rule becomes effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EDA posted both public comments on the Federal Rulemaking Portal, www.regulations.gov, without change.

FOR FURTHER INFORMATION CONTACT: Mara Quintero Campbell, Regional Counsel, Office of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Suite 72023, Washington, DC 20230; telephone: (202) 482-9055.

SUPPLEMENTARY INFORMATION:

Background on Regional Innovation Program

History

In recent years, concerns about America’s global competitiveness led to calls for the Federal Government to more actively foster innovation and better coordinate Federal support for scientific and technological research and development, technology transfer, and commercialization. In particular, without Federal support, local communities struggled to effectively support the development of regional innovation clusters (defined below), which research has shown to be a significant catalyst of economic development. At the same time, regional innovation was hampered by limited access to the capital

necessary to implement the innovative manufacturing technologies required to compete in the twenty-first century global economy.

In response to these concerns and with a desire to maintain America's role as a leader in innovation, Congress enacted section 27 of Stevenson-Wydler ("section 27" or "Regional Innovation Program") as part of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, Public Law 111-358 (Jan. 4, 2011) ("COMPETES Act"). As originally enacted by Congress, section 27 authorized the Secretary of Commerce ("Secretary") to "establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks." In 2014, Congress enacted legislation that narrowed the scope of the Regional Innovation Program. See Public Law No. 113-235 (Dec. 16, 2014). This legislative change is discussed more fully below. The Regional Innovation Program now encompasses two complementary sub-programs: the Regional Innovation Strategies Program ("RIS Program") set forth in section 27(b) of the Act, and the Regional Innovation Research and Information Program ("RIRI Program") set forth in section 27(c) of the Act.

Given EDA's leadership in and support of innovation and entrepreneurship as key elements of a robust economy, the Secretary turned to EDA to develop and implement the Regional Innovation Program. Established under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.) ("PWEDA"), EDA leads the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA

makes investments to facilitate job creation for U.S. workers, increase private-sector investment, promote American innovation, and accelerate long-term sustainable economic growth. EDA’s regulations, codified at 13 CFR parts 300 through 315, provide the framework through which the Agency administers its economic development assistance programs.

Structure

Through the RIS Program (section 27(b) of Stevenson-Wydler), the core of the Regional Innovation Program, EDA competitively awards grants to eligible applicants for activities related to the formation and development of regional innovation clusters. 15 U.S.C. 3722(b). Stevenson-Wydler defines a regional innovation cluster as “a geographically bounded network of similar, synergistic, or complementary entities that— (A) are engaged in or with a particular industry sector and its related sectors; (B) have active channels for business transactions and communication; (C) share specialized infrastructure, labor markets, and services; and (D) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.” 15 U.S.C. 3722(f)(1).

The RIRI Program (section 27(c) of Stevenson-Wydler) is designed to formulate and disseminate best practices for regional innovation strategies, provide technical assistance for the development and implementation of regional innovation strategies, support the development of metrics to evaluate regional innovation strategies, collect and publicize data on regional innovation cluster activity in the United States, and fund competitive research grants to support the goals of the RIRI Program.

This Final Rule (hereafter “Rule”) focuses on the RIS Program because EDA has not yet implemented the RIRI Program. However, these regulations—and, in particular,

the definition sections—are structured to incorporate the RIRI Program into a future subpart C of part 312 of title 13 of the Code of Federal Regulations once EDA implements the RIRI Program.

EDA’s economic development assistance programs under PWEDA and the RIS Program seek to increase economic growth and resilience, enhance prosperity, and improve quality of life, but they approach the goal from different angles, as reflected in the enabling statutes and regulations. For example, the focus of PWEDA’s core programs is increasing employment and private investment in economically distressed regions. Funding generally is limited to regions that meet chronic high unemployment or low per capita income criteria, and grant rates increase with the level of economic distress up to a maximum of 100 percent in limited circumstances. Conversely, the RIS Program focuses on encouraging scientific and technological innovation and collaboration; it thus provides funding to a broader range of entities and does not require applicants to demonstrate economic distress. Moreover, it also is capped at a 50 percent grant rate.

In addition to awarding grants under the RIS and RIRI Programs, EDA anticipates conducting at a future date COMPETES Act prize competitions that support the goals and objectives of the Regional Innovation Program. See 15 U.S.C. 3719.

Implementation

EDA publicly launched the RIS Program in September 2014 when it announced the first round of competitions for funding under the Program. The announcement of a Federal Funding Opportunity (“FFO”) identified three separate competitions for a total of \$15 million in Federal funding: the i6 Challenge, Science and Research Park Development Grants, and Seed Fund Support (“SFS”) Grants (formerly known as Cluster

Grants for Seed Capital Funds). The i6 Challenge, first launched in 2010 as part of the multi-agency Startup America Initiative, is designed to support the creation of programs for innovation and entrepreneurship—specifically, the development, creation, or expansion of proof-of-concept and commercialization programs that increase the development of innovations, ideas, intellectual property, and research into viable companies. Science and Research Park Development Grants supported feasibility and planning studies to create innovation hubs for driving the results of applied research and development to the commercial marketplace by supporting the entire product or process lifecycle from idea generation to business creation. SFS Grants support activities related to the feasibility, planning, formation, launch, or expansion of cluster-based seed capital funds to assist innovation-based startups with high growth potential. After considering 241 applications, in early 2015, EDA awarded 17 i6 Grants, 12 Science and Research Park Development Grants, and 9 SFS Grants to applicants throughout EDA’s six regions.

In 2014, Congress amended the Regional Innovation Program in section 705 of the Revitalize American Manufacturing and Innovation Act of 2014, Public Law No. 113-235 (Dec. 16, 2014) (“RAMI”). Under RAMI, Congress eliminated the provisions authorizing Science and Research Park Development Grants and Loan Guarantees for Science Park Infrastructure but did maintain eligibility for such parks to apply for RIS Program awards. Accordingly, when EDA announced a second round of RIS Program competitions in August 2015, it included \$10 million in Federal funding for i6 Challenge Grants and SFS Grants, and no longer had a separate Science and Research Park Development Grant competition. In addition, consistent with changes made by Congress in RAMI to section 27(b)(7) of the Act, EDA implemented a targeted outreach program

to ensure that public and private sector entities in rural communities were aware of the opportunity. After considering 168 applications for funding, EDA awarded 17 i6 Grants and 8 SFS Grants in early 2016.

A third round of competitions for \$15 million in funding for i6 Challenge Grants and SFS Grants was completed in November 2016. After considering 215 applications for funding, EDA awarded 27 i6 Grants and 8 SFS Grants.

With EDA's RIS Program funding, successful applicants have undertaken transformative projects such as the development of a hardware entrepreneurship ecosystem, expansion of a seed capital fund focused on commercializing water technology, and investigation of the feasibility of constructing a test track for connected and autonomous vehicles. Grant recipients are required to provide semi-annual reports, using EDA-developed metrics that are consistent across grantees, that EDA uses to evaluate the impact of the RIS Program.

Administration

Administration and management of the Regional Innovation Program is an EDA-wide responsibility. The Regional Innovation Program (including the RIS Program) is broadly overseen by the Office of Innovation and Entrepreneurship ("OIE"), which was established by the Secretary pursuant to section 25 of the Act. 15 U.S.C. 3720. Housed within EDA, OIE works to foster a more innovative U.S. economy focused on turning new ideas and inventions into products and technologies that spur job growth and competitiveness while promoting economic development through innovation and entrepreneurship. In addition, EDA's Deputy Assistant Secretary for Regional Affairs has

served as the Grants Officer for RIS Program awards, with day-to-day administration of these awards being handled by the Agency's regional offices.

The Final Rule

Because of the significant differences in EDA's authority under PWEDA and Stevenson-Wydler, there is a need for a standalone regulatory framework for the Regional Innovation Program. This Rule creates such a framework. From the outset, the Rule makes it clear that the Regional Innovation Program is made up of two sub-programs, the RIS and RIRI Programs, administered by EDA. While focusing on the RIS Program given that EDA has not yet implemented the RIRI Program, the Rule is designed to accommodate future implementation of the RIRI Program by defining terms applicable to the RIRI Program and reserving a subpart for future implementing regulations.

The Rule establishes definitions applicable to the Regional Innovation Program generally and a set of terms specific to the RIS Program. In addition, the Rule describes the purpose and scope of the RIS Program and delineates the eligible recipients, eligible program activities, investment rate, matching share, application components, application evaluation and selection criteria, and general terms and conditions applicable to the RIS Program.

Public Comments and Summary of Changes to Final Rule

On September 21, 2016 EDA published an NPRM in the Federal Register (81 FR 64805) requesting public comments on EDA's proposed regulations for the Regional Innovation Program. The public comment period closed on November 21, 2016. EDA received two public comments in response to the NPRM. One comment was non-

germane. The other, from a nonprofit organization, was generally supportive of the Rule while raising five specific issues, which are addressed below. EDA is also making one technical correction to Section 312.12, unrelated to the substantive comment, that is discussed in more detail below.

Issue One: Eligible Project Activities for the RIS Program

The commenter advocates for removing several items from the list of “Eligible project activities” under Section 312.7—namely, the purchase of equipment (312.7(a)(9) of the NPRM), construction (312.7(a)(10) of the NPRM), and other activities approved by the Assistant Secretary (312.7(a)(11) of the NPRM). It suggests eliminating equipment and construction funding to avoid compromising the core value and unique nature of the RIS Program, or, in the alternative, it recommends permitting the purchase of equipment with matching share but not Federal funds. It similarly expresses concern that Section 312.7(a)(11) “could be used to expand the program beyond the legislation’s intent.”

While EDA disagrees with the commenter’s position that these activities should be ineligible, EDA does acknowledge that some clarification of eligible activities will be helpful in overcoming any misperceptions that these regulations somehow dilute the essence of the RIS Program or conflict with Congressional intent. In response to the comment on equipment and construction, EDA is combining Sections 312.7(a)(9) and (10) into a new Section 312.7(a)(9) to make clear that construction activities may be funded only as ancillary activities necessary to permit the installation of equipment. The Rule further removes ambiguity by expressly providing in new Section 312.7(a)(9) that the purchase of equipment and its installation are allowable only if necessary to support

another eligible activity. Accordingly, projects involving only the purchase and/or installation of equipment will not be funded, keeping the core purposes of the RIS Program intact. EDA is also modifying a cross-reference in Section 312.7(b)(3), part of the list of ineligible activities, to account for the consolidation of these sections.

Likewise, EDA is adding language to new Section 312.7(a)(10) (312.7(a)(11) in the NPRM) to address the commenter's concern that this provision has the potential to extend the RIS Program beyond what Congress intended. Stevenson-Wydler clearly affords the Assistant Secretary (through delegation from the Secretary) broad discretion to add to the inventory of activities already authorized by the statute by stating that “[g]rants awarded under this subsection may be used for activities determined appropriate by the Secretary” and then identifying a non-exhaustive list of some permissible activities. See 15 U.S.C. 3722(b)(2). However, EDA recognizes that the Assistant Secretary's discretion is appropriately limited by the statutorily established purpose of the RIS Program (“to encourage and support the development of regional innovation strategies, including regional innovation clusters”, see 15 U.S.C. 3722(a)). To emphasize this point, EDA is modifying new Section 312.7(a)(10) by adding the phrase “consistent with section 27(b) of Stevenson-Wydler” to the end of the paragraph.

Issue Two: Use of RIS Program Funds for Equity Investments

Referencing the NPRM preamble, the commenter agrees with EDA's position that Stevenson-Wydler does not permit the use of RIS Program funds or matching share for equity investments. However, the commenter takes issue with EDA's statement that early-stage companies can access other relevant Federal sources of investment capital,

arguing that a Federally-funded seed fund program does not exist but is needed and would increase innovation and entrepreneurial activity.

While EDA appreciates the commenter's advocacy for Federal programs that would directly provide investment capital, the commenter's argument does not implicate the regulatory provision itself. For this reason, as well as the commenter's acknowledgment that the provision is consistent with Stevenson-Wydler, no change is being made in this Rule regarding the prohibition on the use of RIS Program funds for equity investments.

Issue Three: Application Components

The commenter also conveys its views on two aspects of Section 312.10. First, it suggests that the application components outlined in Section 312.10 "will help ensure applicants apply a broad strategic framework to their cluster activities" but nevertheless should not be scoring criteria for the RIS Program. Second, the commenter states that the nature of the workforce information requested in Section 312.10(e) is unclear and recommends replacing EDA's proposed Section 312.10(e) with "the extent to which the regional innovation cluster is likely to improve the training or employment opportunities of the regional workforce".

Regarding the commenter's first suggestion on scoring, section 27(b) of Stevenson-Wydler contains a list of required application components for the RIS Program and Section 312.10 simply mirrors this statutory scheme. See 15 U.S.C. 3722(b)(4)(B). As a result, all RIS Program applications must as a threshold matter address these required components to be complete. As the commenter itself implies, the components are not merely "technical" requirements but are instead clearly substantive,

merits-based elements that are intended to be part of EDA’s evaluation of the applicant’s competitiveness relative to other applicants.

The commenter’s second suggested modification is unduly narrow, focusing this selection factor exclusively on how the regional innovation cluster will improve workforce training or employment opportunities while overlooking the statute’s explicitly broad and potentially multi-dimensional emphasis on the capacity of cluster participants to access or contribute to a well-trained workforce. Put another way, Section 312.10(e) parallels the statutory language, providing unambiguous flexibility to the applicant to demonstrate the extent and nature of the project’s connection to and support of a well-trained workforce, of which training and employment opportunities may be a part. See 15 U.S.C. 3722(b)(4)(B)(iv).

In light of the above, the Rule leaves Section 312.10 unchanged from the NPRM.

Issue Four: Administration and Management of RIS Program Awards

The commenter also suggests that stronger national-level coordination of the RIS Program could provide greater value in terms of increased opportunities “to share best practices in seed fund and cluster development across awardees and the innovation community as a whole.”

EDA has no plans at this time to significantly change how it administers and manages the Regional Innovation Program. Although the Agency comprises a Washington, DC headquarters (“HQ”) office and six regional offices, there is a unified EDA that leverages the strengths and skills of all of its geographically-dispersed staff. As explained above, the Regional Innovation Program is managed and overseen by OIE, based out of HQ. The day-to-day administration of RIS Program grants is handled by the

regional offices, in close coordination with OIE. This integrated approach effectively balances resource allocation with program execution by providing a coordinated and responsive national agenda. At the same time, this puts grant administration in the hands of those who are the Agency's day-to-day grants experts and offers the program's diverse stakeholders valuable points of contact in the field. No change is being made to the regulations, as proposed, in response to the commenter's recommendation.

Issue Five: Prize Competitions

Finally, the commenter seeks additional clarity on the Agency's statement in the NPRM's preamble that EDA may in the future conduct prize competitions that support the goals and objectives of the Regional Innovation Program. The commenter notes that it strongly believes that the current scale and structure of the RIS Program awards is integral to the value of the program and should not change "unless the program scales toward its original conception as a \$100 million program." The commenter can, however, foresee a positive role for prize competitions if the Agency were to use remaining portions of the fiscal year's available funding on smaller projects that support regional innovation clusters.

EDA agrees with the commenter that the RIS Program is primarily a grant-making initiative. To allay any concerns, the Agency reiterates that it does not anticipate making any immediate and significant changes to the program's current funding model. The Agency, however, is exploring the use of prize competitions at some point as a complementary tool to respond to evolving regional innovation cluster needs and support the overall objectives of the Regional Innovation Program, particularly as it works to

develop the RIRI Program. No change to the proposed regulations is necessitated by this issue raised by the commenter.

Additional Change Made to Final Rule

Unrelated to the substantive comment received, EDA is making one technical correction in this Rule. In Section 312.12, EDA is adding 13 CFR § 302.17, dealing with conflicts of interest, to the list of PWEDA general terms and conditions that do not apply to the RIS Program. The conflict of interest provision contained in 13 CFR § 302.17 is specific to the requirements of PWEDA and thus is inapplicable to the RIS Program, which is instead based on the statutory requirements of Stevenson-Wydler.

Classification

Prior notice and opportunity for public comment are not required for rules concerning public property, loans, grants, benefits, and contracts. 5 U.S.C. 553(a)(2). Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Executive Orders No. 12866 and 13563

This Rule was drafted in accordance with Executive Orders 12866 and 13563. It was reviewed by the Office of Management and Budget (“OMB”), which found that the Rule will be a “significant regulatory action” as defined by Executive Orders 12866 and 13563.

Congressional Review Act

This Rule is not major under the Congressional Review Act (5 U.S.C. 801 et seq.).

Executive Order No. 13132

Executive Order 13132 requires agencies to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in Executive Order 13132 to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” It has been determined that this Rule does not contain policies that have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (“PRA”) requires that a Federal agency consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the PRA unless that collection displays a currently valid OMB Control Number. The Rule does not include a new information collection requirement and will, thus, use the previously approved Standard Form 424 family of forms to collect information relevant to the grant applications.

The following table provides a complete list of the collections of information (and corresponding OMB Control Numbers) set forth in this Rule. These collections of information are necessary for the proper performance and functions of EDA.

Part or section of this Rule	Nature of Request	Form/Title/OMB Control Number
312.10	All Eligible Applicants must submit required application materials using the Standard Form 424 family of forms.	SF-424 (4040-0004), SF-424A (4040-0006), SF-424B (4040-0007)

List of Subjects in 13 CFR Part 312

Application requirements, Cluster grants, Financial assistance, Regional innovation, Regional innovation clusters, Regional Innovation Program, Regional Innovation Research and Information Program, Regional Innovation Strategies Program, Research.

Regulatory Text

For the reasons set forth in the preamble, EDA amends title 13, chapter III of the Code of Federal Regulations by adding part 312 to read as follows:

PART 312--REGIONAL INNOVATION PROGRAM

Subpart A – General Provisions

Sec.

312.1 Purpose and scope of the Regional Innovation Program.

312.2 General definitions from Public Works and Economic Development Act regulations inapplicable to this part.

312.3 General definitions.

Subpart B – Regional Innovation Strategies Program

312.4 Purpose and scope of the Regional Innovation Strategies Program.

312.5 Regional Innovation Strategies Program definitions.

- 312.6 Eligible recipients.
- 312.7 Eligible project activities.
- 312.8 Investment rates.
- 312.9 Matching share requirements.
- 312.10 Application components.
- 312.11 Application evaluation and selection criteria.
- 312.12 General terms and conditions for investment assistance.

Subpart C – Regional Innovation Research and Information Program [Reserved]

312.13–312.17 [Reserved]

Authority: 15 U.S.C. 3701 et seq.; Department of Commerce Organization Order 10–4.

Subpart A – General Provisions

§ 312.1 Purpose and scope of the Regional Innovation Program.

The purpose of the Regional Innovation Program is to encourage and support the development of regional innovation strategies. The Regional Innovation Program includes two sub-programs. One is focused on the formation and development of regional innovation clusters and implemented through the Regional Innovation Strategies Program. 15 U.S.C. 3722(b). The second program is focused on best practices, metrics and the collection and dissemination of information related to regional innovation strategies, achieved through the Regional Innovation Research and Information Program. 15 U.S.C. 3722(c). The Secretary has delegated to the Economic Development Administration the authority to implement and administer the Regional Innovation Program.

§ 312.2 General definitions from Public Works and Economic Development Act regulations inapplicable to this part.

The definitions contained in § 300.3 of this chapter do not apply to this part.

§ 312.3 General definitions.

As used in this part, the following terms shall have the following meanings:

Act or Stevenson-Wydler means the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3701 et seq.).

Assistant Secretary means the Assistant Secretary of Commerce for Economic Development within the Department.

Department of Commerce, Department, or DOC means the U.S. Department of Commerce.

Economic Development Organization means an organization whose primary purpose is to support the economic development of a community or region.

EDA means the Economic Development Administration within the Department.

Eligible applicant means an entity qualified to be an eligible recipient or its authorized representative.

Eligible recipient means a recipient that meets the requirements of § 312.6.

Equipment is defined at 2 CFR 200.33.

Federal agency means any executive agency as defined in 5 U.S.C. 105, and the military departments as defined in 5 U.S.C. 102, as well as any agency of the legislative branch of the Federal Government.

Federal funding opportunity or FFO means an announcement that EDA publishes during the fiscal year on a Federal Government grants platform or on EDA's Internet Web site at <http://www.eda.gov>, <https://www.eda.gov/oie/>, or any successor Web site, that provides the funding amounts, application and programmatic requirements, funding

priorities, special circumstances, and other information concerning a specific competitive solicitation under EDA's Regional Innovation Program.

Federal interest is defined at 2 CFR 200.41, in accordance with 2 CFR 200.316.

Federal laboratory means any laboratory, any federally funded research and development center, or any center established under section 7 or section 9 of the Act that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the government or by a contractor.

Grant means the financial assistance award of EDA funds to an eligible recipient, under which the Eligible Recipient bears responsibility for meeting a purpose or carrying out an activity authorized under Stevenson-Wydler. See 31 U.S.C. 6304.

In-kind contribution(s) means non-cash contributions, which may include contributions of space, Equipment, services, and assumptions of debt that are fairly evaluated by EDA and that satisfy applicable Federal Uniform Administrative Requirements and Cost Principles as set out in 2 CFR part 200.

Indian tribe means an entity on the list of recognized tribes published pursuant to the Federally Recognized Indian Tribe List Act of 1994, as amended (Pub. L. 103-454) (25 U.S.C. 479a et seq.), and any Alaska Native Village or Regional Corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). This term includes the governing body of an Indian tribe, nonprofit Indian corporation (restricted to Indians), Indian authority, or other nonprofit Indian tribal organization or entity; provided that the Indian tribal organization or entity is wholly owned by, and established for the benefit of, the Indian tribe or Alaska Native village.

Investment or Investment assistance means a grant entered into by EDA and a recipient.

Investment rate means, as set forth in § 312.8, the amount of the EDA investment in a particular project expressed as a percentage of the total project cost.

Matching share or Local share means the non-EDA funds and any in-kind contribution(s) that are approved by EDA and provided by a recipient or third party as a condition of an investment. The matching share may include funds from another Federal agency only if authorized by a statute that allows such use, which may be determined by EDA's reasonable interpretation of such authority.

Nonprofit organization is defined at 2 CFR 200.70.

Office of Innovation and Entrepreneurship or OIE means the office established by 15 U.S.C. 3720.

Project means the proposed or authorized activity (or activities), the purpose of which fulfills EDA's mission and program requirements as set forth in the Act and this part, and which may be funded in whole or in part by EDA investment assistance.

Public-private partnership means a relationship formalized by contractual agreement between a public agency and a private-sector entity that reasonably defines the terms of collaboration in the delivery and financing of a public project.

Real property means any land, whether raw or improved, and includes structures, fixtures, appurtenances, and other permanent improvements, excluding moveable machinery and equipment.

Recipient means an entity receiving EDA investment assistance, including any successor to the entity approved by EDA in writing. If investment assistance is awarded

to more than one recipient under a single award, the recipients are referred to as “co-recipients” and, unless otherwise provided in the terms and conditions of the investment assistance, each co-recipient is jointly and severally liable for fulfilling the terms of the investment assistance.

Region or Regional means an economic unit of human, natural, technological, capital, or other resources, defined geographically. Geographic areas comprising a region need not be contiguous or defined by political boundaries, but should constitute a cohesive area capable of undertaking self-sustained economic development.

Regional innovation clusters or RICs means a geographically bounded network of similar, synergistic, or complementary entities that are engaged in or with a particular industry sector and its related sectors; have active channels for business transactions and communication; share specialized infrastructure, labor markets, and services; and leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

Regional Innovation Program means the program enacted by Stevenson-Wydler at 15 U.S.C. 3722.

Regional Innovation Research and Information Program or RIRI Program means the program authorized by 15 U.S.C. 3722(c).

Regional Innovation Strategies Program or RIS Program means the cluster grant program authorized by 15 U.S.C. 3722(b).

Science or research park means a property-based venture that has: master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development

support services; a contractual or operational relationship with one or more science- or research-related institutions of higher education or governmental or nonprofit research laboratories; a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development; a role in facilitating the transfer of technology and business skills between researchers and industry teams; and a role in promoting technology-led economic development for the community or region in which the park is located.

Secretary means the Secretary of Commerce.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

United States means all of the States.

Subpart B – Regional Innovation Strategies Program

§ 312.4 Purpose and scope of the Regional Innovation Strategies Program.

Under the RIS Program, EDA makes grants on a competitive basis to eligible applicants to foster connected, innovation-centric economic regions that support commercialization and entrepreneurship. The grants are intended to build public and private capacity to invent and improve products and services and to bring those products and services to market through a process often referred to as technology commercialization, as demonstrated by methodologically sound metrics for output and outcome.

§ 312.5 Regional Innovation Strategies Program definitions.

In addition to the defined terms set forth in subpart A of this part, the following term applies specifically to the RIS Program:

Institution of higher education means:

(1) An educational institution in any State that—

(i) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);

(ii) Is legally authorized within such State to provide a program of education beyond secondary education;

(iii) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary of Education; and

(iv) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of preaccreditation status, and the Secretary of Education has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(2) Additional institutions included. For purposes of this subpart, the term Institution of higher education also includes—

(i) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1)(i), (ii), and (iv) of this definition; and

(ii) An educational institution in any State that, in lieu of the requirement in paragraph (1)(i) of this definition, admits as regular students individuals—

(A) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) Who will be dually or concurrently enrolled in the institution and a secondary school.

§ 312.6 Eligible recipients.

A recipient eligible for investment assistance includes:

(a) A State;

(b) An Indian tribe;

(c) A city or other political subdivision of a State;

(d) An entity that is a nonprofit organization and whose application for funding under the RIS Program is supported by a State or a political subdivision of a State;

(e) An entity that is an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity, and whose application for funding under the RIS Program is supported by a State or a political subdivision of a State; or

(f) A consortium of any of the entities described in paragraphs (a) through (e) of this section.

§ 312.7 Eligible project activities.

(a) Activities eligible for a RIS Program grant include:

- (1) Feasibility studies;
- (2) Planning activities;
- (3) Technical assistance;
- (4) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster;
- (5) Attracting additional participants to a regional innovation cluster;
- (6) Facilitating market development of products and services of a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities;
- (7) Developing relationships between a regional innovation cluster and entities or clusters in other regions;
- (8) Interacting with the public and State and local governments to meet the goals of the regional innovation cluster;
- (9) Purchase of equipment and equipment-related modifications or renovations of a facility, but only to the extent that such equipment and any related modifications or renovations are used to support another eligible activity as described in this section (the recipient may be required to secure and record the Federal interest in the equipment);

and

(10) Any other activity determined appropriate by the Assistant Secretary and consistent with section 27(b) of Stevenson-Wydler.

(b) An ineligible activity includes, but is not limited to:

- (1) Use of Federal funds or matching share for equity investments;
- (2) Acquisition or improvement of real property;
- (3) Construction except to the extent provided in paragraph (a)(9) of this section;

and

- (4) Lending programs, such as a direct loan program or capitalizing a revolving loan fund.

§ 312.8 Investment rates.

(a) Minimum investment rate. There is no minimum investment rate for a project.

(b) Maximum investment rate. The maximum investment rate for a project shall not exceed 50 percent.

§ 312.9 Matching share requirements.

The required matching share of a project's eligible costs may consist of cash or in-kind contribution(s) whose value can be readily determined, verified, and justified. Applicants must show at the time of application that the matching share is committed to the project, will be available as needed, and is not or will not be conditioned or encumbered in any way that would preclude its use consistent with the requirements of

the investment assistance. EDA shall determine at its sole discretion whether the matching share documentation adequately addresses the requirements of this section.

§ 312.10 Application components.

In addition to the criteria set forth in the FFO, to be considered for a RIS Program grant, eligible applicants must provide the following information:

(a) A description of the regional innovation cluster supported by the proposed activity;

(b) The extent to which the regional innovation cluster is supported by the private sector, State and local units of government, and other relevant stakeholders;

(c) The methods that participants in the regional innovation cluster will use to encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and rival existing participants;

(d) The extent to which the regional innovation cluster is likely to stimulate innovation and have a positive effect on regional economic growth and development;

(e) The capacity of participants in the regional innovation cluster to access, or contribute to, a well-trained workforce;

(f) The ability of participants in the regional innovation cluster to attract additional funds to support the cluster with non-Federal funds; and

(g) The likelihood that participants in the regional innovation cluster will be able to sustain activities after the grant expires.

§ 312.11 Application evaluation and selection criteria.

(a) EDA will evaluate and select complete applications in accordance with the evaluation criteria, funding priority considerations, availability of funding, competitiveness of the application, and requirements set forth in section 27(b) of Stevenson-Wydler, the FFO, and other applicable Federal statutes and regulations. All awards are subject to the availability of funds.

(b) EDA will endeavor to notify applicants as soon as practicable regarding whether their applications are selected for funding.

(c) Stevenson-Wydler does not require nor does EDA provide an appeal process for denial of applications for EDA investment assistance.

§ 312.12 General terms and conditions for investment assistance.

RIS Program grants are subject to all requirements contained in part 302 of this chapter, except §§ 302.2, 302.3, 302.9, 302.10, and 302.17.

Subpart C – Regional Innovation Research and Information Program [Reserved]

§§ 312.13–312.17 [Reserved]

Dated: January 3, 2017.

Roy K.J. Williams

Assistant Secretary for Economic Development

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