



Billing Code: 3510-24

DEPARTMENT OF COMMERCE

Economic Development Administration

Review of DOC Policy in Opportunity Zones

AGENCY: U.S. Department of Commerce.

ACTION: Request for information.

SUMMARY: Consistent with Executive Order 13853, “Establishing the White House Opportunity and Revitalization Council,” (“The Council”) (“Executive Order 13853” or “the Order”) this document informs the public that the U.S. Department of Commerce (“DOC” or “the Department”) intends to maximize the beneficial impact of investment in Opportunity Zones. In accordance with the implementation guidance issued by the Council, the Department has been charged with leading the Economic Development subcommittee (“work stream”) on Opportunity Zones. To inform that work, DOC is reviewing economic development programs policies, practices, planned actions, regulations, and guidance across the entire Federal Government and within its own programs. Through this notice, DOC seeks input and recommendations from the public to help spur economic development in qualified Opportunity Zones and other distressed areas across the country.

DATES: Written comments on this request for information (“RFI”) must be submitted by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: All submissions must refer to the title above.

Comments may be submitted through any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. DOC will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).
- Email: regulations@eda.gov. Include “Comments on RFI” in the subject line of the message.
- Mail: Office of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230. Please indicate “Comments on DOC’s Request for Information on Opportunity Zones” on the envelope.

FOR FURTHER INFORMATION CONTACT: Mara Quintero Campbell, Senior Advisor, Office of Regional Affairs, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230; telephone: (202) 482-5479.

SUPPLEMENTARY INFORMATION:

I. Background on Opportunity Zones and the White House Opportunity and Revitalization Council

The 2017 Tax Cuts and Jobs Act (Pub. L. 115–97) created new tax incentives to encourage the investment of private capital in projects and activities intended to catalyze economic development and job creation in low-income communities nationwide

designated by governors as “Opportunity Zones.” Opportunity Zones are low income census tracts nominated by governors and certified by the U.S. Department of the Treasury. The Opportunity Zone designation encourages investment in these certified census tracts by granting investors extensive Federal tax advantages for using their capital gains to finance new projects and enterprises (or substantially improve existing projects and enterprises) located within qualified Opportunity Zones. For more information on the Opportunity Zones tax incentives, please see IRS guidance found at: <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions>.

There are more than 8,700 Census tracts designated by a Governor or other chief administrative official as Opportunity Zones across all 50 States, the District of Columbia, and five U.S. territories. The following are relevant data and characteristics of the Opportunity Zones and those who reside within Opportunity Zones:

- Nearly 35 million Americans live in communities designated as Opportunity Zones.
- More than one-in-five of all Opportunity Zones have a poverty rate over 40 percent, compared to just over one-in-eight “low-income communities” (LICs) and one-in-20 Census tracts nationwide.
- 71 percent of Opportunity Zones meet the U.S. Treasury Department’s definition of “severely distressed.”¹
- Life expectancy is on average three years shorter for Opportunity Zone residents than it is nationally.

¹ “Severely distressed” generally means a poverty rate of 30 percent or a median family income no greater than 60 percent of the area benchmark. See The State of Socioeconomic Need and Community Change in Opportunity Zones, Economic Innovation Group (Dec. 2018). <https://eig.org/opportunityzones/communitychange>.

- Approximately 22 percent of Opportunity Zone adult residents have not attained a high school diploma, compared to 13 percent nationally.

The Opportunity and Revitalization Council

Executive Order 13853 created the Council with the U.S. Housing and Urban Development (“HUD”) Secretary (or the Secretary’s designee) as the Chair. Other members of the Council include: Assistant to the President for Domestic Policy (Vice-Chair); Secretary of the Treasury; Attorney General; Secretary of the Interior; Secretary of Agriculture; Secretary of Commerce; Secretary of Labor; Secretary of Health and Human Services; Secretary of Transportation; Secretary of Energy; Secretary of Education; Administrator of the Environmental Protection Agency; Director of the Office of Management and Budget; Administrator of the Small Business Administration; Assistant to the President for Economic Policy; Chairman of the Council of Economic Advisers; Chairman of the Council on Environmental Quality; and the heads of such other agencies, offices, or independent regulatory agencies as the Chair may designate or invite.

Executive Order 13853 directs the Council to:

(a) Assess the actions each Federal agency can take under existing authorities to prioritize or focus Federal investments and programs on urban and economically distressed communities, including qualified Opportunity Zones;

(b) Assess the actions each agency can take under existing authorities to minimize all regulatory and administrative costs and burdens that discourage public and private investment in urban and economically distressed communities, including qualified Opportunity Zones;

(c) Regularly consult with officials from State, local, and tribal governments and individuals from the private sector to solicit feedback on how best to stimulate the economic development of urban and economically distressed areas, including qualified Opportunity Zones;

(d) Coordinate Federal interagency efforts to help ensure that private and public stakeholders—such as investors; business owners; institutions of higher education (including Historically Black Colleges and Universities, as defined by 50 U.S.C. 3224(g)(2), and tribally controlled colleges and universities, as defined by 25 U.S.C. 1801(a)(4)); K–12 education providers; early care and education providers; human services agencies; State, local, and tribal leaders; public housing agencies; non-profit organizations; and economic development organizations—can successfully develop strategies for economic growth and revitalization;

(e) Recommend policies that would: (i) Reduce and streamline regulatory and administrative burdens, including burdens on applicants applying for multiple Federal assistance awards; (ii) Help community-based applicants, including recipients of investments from qualified opportunity funds, identify and apply for relevant Federal resources; and (iii) Make it easier for recipients to receive and manage multiple types of public and private investments, including by aligning certain program requirements;

(f) Evaluate the following: (i) Whether and how agencies can prioritize support for urban and economically distressed areas, including qualified Opportunity Zones, in their grants, financing, and other assistance; (ii) Appropriate methods for Federal cooperation with and support for States, localities, and tribes that are innovatively and strategically facilitating economic growth and inclusion in urban and economically

distressed communities, including qualified Opportunity Zones, consistent with preserving State, local, and tribal control; (iii) Whether and how to develop an integrated web-based tool through which entrepreneurs, investors, and other stakeholders can see the full range of applicable Federal financing programs and incentives available to projects located in urban and economically distressed areas, including qualified Opportunity Zones; (iv) Whether and how to consider urban and economically distressed areas, including qualified Opportunity Zones, as possible locations for Federal buildings, through consultation with the General Services Administration; (v) Whether and how Federal technical assistance, planning, financing tools, and implementation strategies can be coordinated across agencies to assist communities in addressing economic problems, engaging in comprehensive planning, and advancing regional collaboration; and (vi) What data, metrics, and methodologies can be used to measure the effectiveness of public and private investments in urban and economically distressed communities, including qualified Opportunity Zones.

Economic Development Subcommittee

On April 17, 2019, the Council published an Implementation Plan, outlining a detailed work plan describing how the Council will accomplish the goals specified in the Order. The Implementation Plan established five work streams: Economic Development, Entrepreneurship, Safe Neighborhoods, Workforce Development, and Measurement.

DOC was selected by the Council to lead the Economic Development work stream and is supported by: HUD, Department of Agriculture, Treasury Department, Department of Transportation, Department of Health and Human Services, Council on Environmental Quality, and the Small Business Administration. The primary objective of

the Economic Development work stream is to leverage Federal grants and loans in a more integrated way to develop dilapidated properties and provide basic infrastructure and financial tools to attract private investment.

II. Department of Commerce Economic Development Programs

DOC promotes job creation and economic growth by ensuring fair and reciprocal trade, providing the data necessary to support commerce and constitutional democracy, and fostering innovation by setting standards and conducting foundational research and development. The Department, through the Economic Development Administration (“EDA”), provides grant investments in infrastructure construction, planning, technical assistance, entrepreneurship and innovation programs, revolving loan funds, and other capacity building investments that are designed to leverage existing regional assets to support the implementation of economic development strategies. These strategies facilitate the creation of new businesses and industries, and the growth of existing businesses and industries. EDA programs that are used to help regions and communities catalyze investment, innovation and job creation in distressed areas include:

- (1) **Public Works:** Empowers distressed communities to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term, private sector jobs and investment.
- (2) **Economic Adjustment Assistance:** Assists state and local interests in designing and implementing strategies to adjust or bring about change to an economy. (The program focuses on areas that have experienced or are under threat of serious structural damage to the underlying economic base. Under Economic Adjustment,

EDA also administers its Revolving Loan Fund Program, which supplies small businesses and entrepreneurs with the gap financing needed to start or expand their business.)

- (3) Regional Innovation Strategies: Supports innovation and entrepreneurship capacity-building activities by creating and expanding cluster-focused proof-of-concept and commercialization programs and early-stage seed capital funds through the i6 Challenge and the Seed Fund Support Grant competition, respectively.

A full description of EDA's grant programs, including programs that support planning and technical assistance, can be found at <https://www.eda.gov/programs/eda-programs/>.

The Department, through EDA, also serves as the lead integrator of the Federal Government's economic development resources. The Economic Development Integration ("EDI") business practice is designed to facilitate improved coordination and streamlining of Federal technical assistance, strategic planning, financing tools and other project design and implementation resources. The practice enhances local and regional capacity for the comprehensive collaboration and strategic planning that are necessary to successfully address economic issues, including the effective integration of resources from multiple Federal agencies, which will be important to the Opportunity Zone work stream on Economic Development. More information on the EDI business practice can be found at <https://eda.gov/edi>.

The Department's Minority Business Development Administration ("MBDA") promotes the growth of minority-owned businesses through the mobilization and advancement of public and private sector programs, policy, and research. A full

description of MBDA's programs, including information on its grants and loan programs, can be found at <https://www.mbda.gov/page/grants-and-loans>.

In addition to EDA and MBDA, the Department supports economic development through many of its other Bureaus and Agencies. For example, the U.S. Census Bureau and the Bureau of Economic Analysis provide statistical data and tools to help encourage private and public investment throughout the country. The International Trade Administration, through SelectUSA, provides tailored reports to foreign investors interested in specific geographic areas including Opportunity Zones. Finally, the National Institute of Standards and Technology through its Hollings Manufacturing Extension Partnership ("MEP") supports public-private partnerships that work with manufacturers to develop new products and customers, expand and diversify markets, adopt new technology, and enhance value within supply chains. Additional information about these various DOC bureaus and offices is available online at <https://www.commerce.gov/>.

III. Purpose of This Request for Information

The Opportunity Zone tax incentive is a historic and powerful new tool meant to help bring private capital into underserved communities. However, as stated in the Implementation Plan, to create the conditions for long-term sustainable economic growth, economically distressed communities cannot rely on private capital and tax incentives alone. Many of these communities are also in need of public sector investment and technical assistance to ensure they develop the foundations and investment conditions necessary to support a thriving private sector. However, too often communities that attempt to access these catalytic Federal resources encounter a labyrinth of distinct rules

and regulations, multiple application and review processes, and a myriad of burdensome and duplicative administrative requirements.

Therefore, the Department seeks public input on how the Federal Government can better align its various economic development programs and resources so as to encourage and facilitate beneficial investments in urban and economically distressed communities, including in qualified Opportunity Zones. The Department requests information from and the perspectives of multiple stakeholders who support economic development in Opportunity Zones, including State, local and tribal officials, institutions of higher education, nonprofits, philanthropic organizations and other impact investors, economic development and other experts in relevant disciplines, and affected stakeholders in the private sector.

IV. Specific Information Requested

To assist in Department's approach to Opportunity Zones, DOC invites ideas and information on the following questions:

1. How can the Federal Government target and streamline infrastructure programs in qualified Opportunity Zones and other economically distressed communities to create long-term sustainable economic growth?
 - a. For example, what actions could DOC agencies and bureaus (EDA, MBDA, etc.) take under existing authorities to focus Federal investments and programs on distressed communities and regions that include qualified Opportunity Zones?
2. How can public and/or private sector recipients leverage Federal grants and loans in a more integrated way?

- a. For example, what policies could the Federal Government implement that would make it easier for recipients to receive and manage multiple types of public and private investments, such as through streamlining application procedures and/or aligning program requirements?
 - b. What types of information or tools (including web-based) would be helpful for entrepreneurs, investors, and other stakeholders to facilitate understanding of applicable Federal programs and resources to support investments in Opportunity Zones?
3. How can coordination between Federal, state, and local capital investment be improved to maximize economic development to the benefit of qualified Opportunity Zones?
 - a. For example, what policies, technical assistance, or tools could the Federal Government provide communities to attract private investment and spur economic development?
 - b. What additional resources or policy changes might communities need to successfully compete for private investment in rural Opportunity Zones?
4. How can the Federal Government provide increased statutory and/or administrative flexibility in existing Federal programs in qualified Opportunity Zones to increase economic development outcomes?
 - a. For example, how can Federal requirements or guidance for regional economic development planning foster improved coordination of

resources for infrastructure, workforce development, housing, and safety in qualified Opportunity Zones and surrounding areas?

5. What data would be useful for the Federal Government to collect to evaluate the economic development impact of program investments that are designed to assist distressed communities in qualified Opportunity Zones?
 - a. What data would be useful for the government to collect to determine that increased investment has provided inclusive opportunities for businesses and residents of distressed areas, including in qualified Opportunity Zones?
 - b. What data would be useful in determining that increased private investment in qualified Opportunities Zones increased regional competitiveness, innovation and resilience?

V. How will this information be used?

The Department aims to use the information received to help inform policies and procedures related to Federal economic development programs. In particular, the Department seeks to use information received to identify administrative flexibilities and propose legislative changes to improve coordination and streamlining of Federal economic programs to spur private investment in qualified Opportunity Zones and other economically distressed areas.

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Dated: August 26, 2019.

John Fleming,

Assistant Secretary of Commerce for Economic Development.