

## DEPARTMENT OF COMMERCE

Economic Development  
Administration

## 13 CFR Part 301

[Docket No. 990106003-9157-02]

RIN 0610-AA56

**Revision to Implement Economic  
Development Reform Act of 1998—  
Grant Rate Eligibility: Disaster  
Assistance Based on High  
Unemployment****AGENCY:** Economic Development  
Administration (EDA), Department of  
Commerce (DoC).**ACTION:** Interim rule.

**SUMMARY:** The purpose of this interim-final rule is to further amend regulations of the Economic Development Administration (EDA) to implement the amendment to and replacement of the Public Works and Economic Development Act of 1965, as amended, by the Economic Development Reform Act of 1998 (PWEDA). This rule amends disaster grant rate eligibility requirements to correct currently listed grant rates and to add a new category of disaster grant rate eligibility. These changes are intended to more closely track the statutory language in PWEDA concerning supplemental appropriations, and to continue EDA's mission in providing disaster assistance under its regular program authorities. Changes are also being made so that grant rate eligibility for high unemployment is based on a stated percentage of the unemployment rate, similar to the grant rate eligibility based upon per capita income.

**DATES:** Effective date: June 18, 1999.

**Comment date:** Comments are due on or before July 19, 1999. EDA intends to publish a final rule in the summer of 1999 and will consider comments received on this interim-final rule as well as those received in response to the interim-final rule, 64 FR 5347, February 3, 1999.

**ADDRESSES:** Send comments to Edward M. Levin, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, NW, Room 7005, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Edward M. Levin, Chief Counsel, Telephone Number 202-482-4687, fax 202-482-5671, e-mail elevin@doc.gov.

**SUPPLEMENTARY INFORMATION:****Background**

The Economic Development Administration (EDA) was reauthorized for a five year period by legislation enacted on November 13, 1998. Congress had not authorized the agency since 1982. This is a major legislative accomplishment, which will create stability and growth opportunities for EDA to better serve economically distressed communities across the country.

EDA continues to take steps towards improving its program delivery, policies and procedures, and to be more responsive to those whom it serves. In step with the National Performance Review and Paperwork Reduction Act, EDA completely revised its regulations, (see 64 FR 5347, February 3, 1999) thereby creating fewer burdens on and making them more accessible to the public. This interim-final rule continues EDA's efforts in this regard by announcing an immediate response to comments received on EDA's disaster and unemployment grant rate eligibility requirements, prior to publication of EDA's final rule in the summer of 1999.

**Comments on the Interim-Final Rule**

Comments were requested on EDA's interim-final rule published at 64 FR 5347, February 3, 1999. The sixty (60) day comment period ended on April 5, 1999. EDA inadvertently overlooked certain matters concerning grant rate eligibility criteria for disasters. EDA received public comments suggesting that relative distress, like that presented in the table for per capita income, should likewise be the criteria for unemployment distress.

**Description of Major Changes**

EDA is amending its rules by revising 13 CFR 301.4(b) *Grant Rates*, by clarifying and modifying the paragraphs describing the maximum Federal grant rate eligibility of projects located in Federally-declared disaster areas and for areas suffering from high unemployment distress.

The current regulations purport to permit a 100 percent maximum grant rate for all projects located in Federally-declared disaster areas for which EDA receives an application for assistance within one year of the date of declaration, and for which the President established a rate of Federal participation, based on the public assistance grant rate of the Federal Emergency Management Agency (FEMA) for the disaster, of greater than 80 percent. That language is too broad, because the legislative authorization for 100 percent Federal grant rates is

limited to (1) projects under part 308 (i.e., Economic Adjustment projects authorized by section 209 of PWEDA, (2) for which funds have been appropriated as authorized by section 703 of PWEDA, i.e., a supplemental appropriation. Moreover, while the result may be the same because the President establishes the FEMA grant rate, it would be more accurate to refer to "Presidentially-declared" rather than "Federally-declared" as the authority is limited to the Stafford Act, where the President makes the disaster declaration.

The current regulations also provide for an 80 percent maximum grant rate for other projects located in Federally-declared disaster areas for which EDA receives an application for assistance within one year of the date of declaration. That language is also overbroad, because it does not limit grant rates in excess of 50 percent to situations (other than those authorized by section 703 of PWEDA) where the applicant cannot provide the required non-Federal share, as is required by section 205 of PWEDA.

EDA is correcting the respective paragraphs, the second and fifth boxes of the table in § 301.4(b), to reflect the statutory requirements.

EDA has determined to modify the regulations by adding an additional paragraph to permit a maximum Federal grant rate of 80 percent for projects in other Federally-declared disaster areas, when the Assistant Secretary determines that the applicant cannot provide the required non-Federal share because of the disaster's impact on the economic situation.

In addition, EDA has determined that in some situations one year is an insufficient length of time after the declaration of disaster, for the receipt of an application for assistance. For instance, following the Midwest Floods of 1993, in many areas the floodwaters did not recede for many months. Therefore, in all three disaster grant rate paragraphs, an 18 month period is established for the filing of an application after the disaster declaration.

The current regulations provide a two-part test for areas seeking a grant rate greater than 50 percent, based upon high unemployment; the area must meet both a relative standard—a percentage of the national average—and an absolute standard, a set unemployment rate. EDA received public comments suggesting that relative distress, like that presented in the table for per capita income, should likewise be the criteria for unemployment distress for fairness in determining distress factors. Therefore,

we have deleted references to unemployment rates of at least 11, 9 or 7.5 percent so that unemployment distress will be based upon absolute percentages of the 24 month unemployment rate of at least 225, 180 or 150 percent of the national average.

The maximum grant rates themselves remain the same with the addition of new item (6).

#### Executive Order 12866 and 12875

This interim-final rule in itself is not significant for purposes of E.O. 12866, Regulatory Planning and Review, though the underlying full regulation has been determined to be significant. In addition, it has been determined that, consistent with the requirements of E.O. 12875, Enhancing Intergovernmental Partnership, this interim-final rule will not impose any unfunded mandates upon State, local, and tribal governments.

#### Regulatory Flexibility Act

Since notice and an opportunity for comment are not required to be given for the rule under 5 U.S.C. 553 or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 601–612) no initial or final Regulatory Flexibility Analysis is required, and none has been prepared.

#### Paperwork Reduction Act

This interim-final rule modifying the maximum grant rate eligibility in 13 CFR 301.4(b) does not in itself affect information collection or recordkeeping requirements. Nevertheless, the underlying full regulation imposes new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), as amended, and has been cleared under OMB's Emergency Clearances process under OMB approval numbers: 0610–0093; 0610–0094; 0610–0095; 0610–0096 and will expire on July 31, 1999. To remain effective after such expiration date, EDA must receive OMB's final clearance and display a currently valid OMB control number. If such final clearance is not obtained after the expiration date of the Emergency Clearance so that a currently valid OMB control number is not displayed, applicants and recipients will not thereafter be required to submit

information requested pursuant to this rule.

The information is needed to determine eligibility of applicants and projects and to monitor projects for compliance with EDA's construction or Revolving Loan Fund requirements, as applicable. EDA then uses information obtained in these collections to help carry out its mission to aid economically distressed areas of the Nation. Responses to requests for information are necessary under Pub. Law 105–393 for obtaining and for keeping benefits. The reporting burden for this collection is estimated to be approximately 7 burden hours for the Proposal; approximately 50 burden hours for the Application; approximately 18 burden hours for Requirements for Approved Construction Projects; approximately 240 burden hours for the CED Strategy Guidelines; and approximately 76 burden hours for the series of Guidelines for the Revolving Loan program, including the time for gathering and maintaining the data needed for completing and reviewing the collection of information. Comments were invited in 64 FR 5347, but no public comments were received on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Though the comment period has ended, comments regarding these burden estimates or any other aspects of the collection of information, including suggestions for reducing the burdens, should be forwarded to Edward M. Levin, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, NW, Room 7005, Washington, DC 20230. Such comments, if any, will be reviewed and considered to the extent they are received before EDA

begins the clearance and review process on the final rule.

#### Administrative Procedure Act and Regulatory Flexibility Act

##### Executive Order 12612 (Federalism Assessment)

This action has been reviewed in accordance with the principles and criteria contained in E.O. 12612. It has been determined that this interim-final rule does not have significant Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in E.O. 12612.

#### List of Subjects in 13 CFR Part 301

Community development; Grant programs; Indians.

For the reasons set forth in the preamble, part 301 of 13 CFR Chapter III is amended to read as follows:

#### PART 301—GENERAL ELIGIBILITY AND GRANT RATE REQUIREMENTS

1. The authority citation for part 301 continues to read as follows:

**Authority:** 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 301.4(b) is revised to read as follows:

##### § 301.4 Grant rates.

\* \* \* \* \*

(b) EDA may supplement the Federal share of a grant project where the applicant is able to demonstrate that the non-Federal share that would otherwise be required cannot be provided because of the overall economic situation. It is not necessary for an applicant to prove that it would be impossible to provide a full 50 percent non-Federal share, but it must show circumstances warranting any reduction. In determining whether to provide a Federal share greater than 50 percent for a project, EDA will give due consideration to the applicant's economic situation and the relative needs of the area. In the case of Indian tribes, EDA may reduce or waive the non-Federal share, and in other cases EDA may reduce the non-Federal share of the cost of the project below 50 percent, in accordance with the following table, showing the maximum Federal grant rate, including the supplement:

Projects	Maximum grant rates (percentage)
(1) Projects of Indian tribes where EDA has made a determination to waive the non-Federal share of the cost of the project ...	100.

Projects	Maximum grant rates (percentage)
(2) Projects under Part 308 located in Presidentially-declared disaster areas for which EDA receives an application for assistance under a supplemental appropriation, within 18 months of the date of declaration, and for which the President established a rate of Federal participation, based on the public assistance grant rate of the Federal Emergency Management Agency (FEMA) for the disaster, of greater than 80 percent.	100.
(3) Projects of Indian tribes where EDA has made a determination to reduce the non-Federal share of the cost of the project	Less than 100.
(4) Projects of States or political subdivisions of States that have exhausted their effective taxing and/or borrowing capacity, or nonprofit organizations that have exhausted their borrowing capacity.	Less than 100
(5) Projects under Part 308 located in Presidentially-declared disaster areas for which EDA receives an application for assistance under a supplemental appropriation, within 18 months of the date of declaration.	80.
(6) Projects located in Federally-declared disaster areas, for which EDA receives an application for assistance within 18 months of the date of declaration, when the Assistant Secretary determines that the applicant cannot provide the required non-Federal share because of the disaster's impact on the economic situation.	80.
(7) Projects located in eligible areas where:	
(i) The 24-month unemployment rate is at least 225% of the national average or	
(ii) The per capita income (PCI) is not more than 50% of the national average .....	80
(8) Projects located in eligible areas that are not eligible for a higher rate, where:	
(i) The 24-month unemployment rate is at least 180% of the national average or	
(ii) The PCI is not more than 60% of the national average .....	70.
(9) Projects located in eligible areas that are not eligible for a higher rate, where:	
(1) The 24-month unemployment rate is at least 150% of the national average or	
(2) The PCI is not more than 70% of the national average .....	60.
(10) Projects in all other eligible areas .....	50.

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Dated: June 11, 1999.

**Phillip A. Singerman,**

*Assistant Secretary, Economic Development  
Administration.*

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