

**NOTICE OF FUNDING OPPORTUNITY**  
**Public Works and Economic Adjustment Assistance Programs**  
**EXECUTIVE SUMMARY**

**Federal Agency Name:** Economic Development Administration (EDA or the Agency), U.S. Department of Commerce (DOC).

**Federal Funding Opportunity Title:** Fiscal Year (FY) 2023 Public Works and Economic Adjustment Assistance Notice of Funding Opportunity (FY23 PWEAA NOFO).

**Announcement Type and Date:** FY23 PWEAA NOFO publishing EDA's application submission requirements and review procedures for applications received under EDA's (i) Public Works and Economic Development Facilities (Public Works) and (ii) Economic Adjustment Assistance (EAA) programs, authorized under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 et seq.). **Effective date:** 03/15/2023

**Funding Opportunity Number:** PWEAA2023

**Catalog of Federal Domestic Assistance (CFDA) Numbers:** 11.300, Investments for Public Works and Economic Development Facilities and 11.307, Economic Adjustment Assistance.

**Dates:** There are no application submission deadlines. Applications will be accepted on an ongoing basis until the publication of a new PWEAA NOFO, cancellation of this PWEAA NOFO, or all available funds have been expended. EDA intends to review applications expeditiously upon receipt of the complete application.

**Eligible applicants:** Pursuant to Section 3(4) of PWEDA (42 U.S.C. § 3122(4)(a)) and 13 C.F.R. § 300.3 (Eligible Recipient), eligible applicants for EDA financial assistance under the Public Works and EAA programs include a(n): (i) District Organization of an EDA-designated Economic Development District; (ii) Indian Tribe or a consortium of Indian Tribes; (iii) State, county, city, or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (iv) institution of higher education or a consortium of institutions of higher education; or (v) public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State. Individuals and for-profit entities are not eligible for funding under this NOFO.

**Funding Opportunity Description:** Subject to the availability of funds, awards made under this NOFO will assist communities and regions in devising and implementing long-term economic development efforts through a variety of non-construction and construction projects.

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## **A. Program Description**

### **1. Overview**

EDA has authority to provide grants to meet the full range of communities' and regions' economic development needs from planning and technical assistance to construction of infrastructure. These grants are made through a series of Notices of Funding Opportunity (NOFOs) that can be found on EDA's website at <https://www.eda.gov/funding/funding-opportunities> and are designed to support the economic development activities most useful to a community based on its needs and circumstances. EDA funds community or regionally generated ideas and assists communities to advance to the next level of economic development.

This NOFO, which supersedes the FY20 PWEAA NOFO, sets out EDA's application submission and review procedures for two of EDA's core economic development programs authorized under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 et seq.) (PWEDA): (1) Public Works and Economic Development Facilities (Public Works) and (2) Economic Adjustment Assistance (EAA).

EDA supports bottom-up strategies that build on regional assets to spur economic growth and resiliency. EDA encourages its grantees throughout the country to develop initiatives that present new ideas and creative approaches to advance economic prosperity in distressed communities.

Through this NOFO EDA intends to advance general economic development in accordance with EDA's investment priorities, but also to pursue projects that, where practicable, incorporate specific priorities related to equity, workforce development, and climate change resiliency so that investments can benefit everyone for decades to come.

#### **a. EDA Investment Priorities**

Each project funded under this NOFO must be consistent with at least one of EDA's Investment Priorities:

1. Equity
2. Recovery & Resilience
3. Workforce Development
4. Manufacturing
5. Technology-Based Economic Development
6. Environmentally-Sustainable Development
7. Exports & Foreign Direct Investment

More information about these Investment Priorities, including definitions, can be found at <https://www.eda.gov/funding/investment-priorities>. EDA's website may be updated from time to time if there are any revisions to these Investment Priorities. While all are important, equity and recovery and resilience are also evaluation factors, and incorporating such principles or elements into a project application may make it more competitive. See sections A.3.b. (Resiliency), A.3.c. (Equity) and E.1 (Criteria). Further, for workforce development projects, incorporation of the principles found in section A.3.a. of this NOFO will make the project more competitive.

## **b. Comprehensive Economic Development Strategy (CEDS)**

Each project must be consistent with the region's current Comprehensive Economic Development Strategy (CEDS), or if a CEDS does not exist, an equivalent EDA-accepted regional economic development strategy that meets EDA's CEDS or strategy requirements (except for a strategy grant to develop, update, or refine a CEDS). Applicants must identify the CEDS or equivalent EDA-accepted regional economic development strategy and clearly detail in the ED-900 how the project will support the economic development needs and objectives outlined in the strategy. If EDA does not already possess the applicable CEDS, the Applicant may be required to provide it. If an Applicant is relying on an alternate strategy other than a CEDS (i.e., if a CEDS does not exist), the Applicant must provide a copy of the alternate strategy document by attaching it to the application, and EDA will review it.

## **2. Program Information**

As detailed in section B.1. of this NOFO, there are separate program funds for the Public Works and EAA programs. Applicants do not need to specify the program for which they are applying. EDA will consider the application under the most appropriate pool of funding.

### **a. Public Works**

Through the primarily construction-oriented Public Works program, EDA provides catalytic investments to help distressed communities build, design, or engineer critical infrastructure and facilities that will help implement regional development strategies and advance bottom-up economic development goals to promote regional prosperity. The Public Works program provides resources to meet the construction and/or infrastructure design needs of communities to enable them to become more economically competitive. Examples of projects that have been funded previously include, but are not limited to:

- acquisition and development of land and improvements for use in public works or other types of development facilities;
- design and engineering, construction, rehabilitation, alteration, expansion, or improvement of public works, public service, or related development facilities, including related machinery and equipment;
- water and sewer system improvements;
- creation or expansion of industrial parks;
- creation or expansion of business incubator and accelerator facilities;
- expansion of port and harbor facilities;
- construction or expansion of facilities for workforce development;
- redevelopment of brownfield sites;
- expansion, construction, or improvements of technology-based facilities and research and development commercialization centers, including the procurement of necessary equipment;
- construction, expansion, or improvement of wet labs, including the procurement of necessary equipment;
- construction of multi-tenant manufacturing facilities;
- expansion or improvement of research, business and science parks; and
- expansion or enhancement of public facilities with higher quality fiber optic cables and telecommunications infrastructure and broadband infrastructure deployment.

## **b. Economic Adjustment Assistance (EAA)**

Through the EAA program, EDA provides investments that support a wide range of construction and non-construction activities in regions experiencing adverse economic changes that may occur suddenly or over time. Supported activities include construction and non-construction such as sectoral partnerships for workforce training, design and engineering, technical assistance, economic recovery strategies, and capitalization or re-capitalization of Revolving Loan Funds (RLF). EDA utilizes EAA investments to provide resources that help communities experiencing or anticipating economic dislocations to plan and implement specific solutions to leverage their existing regional economic advantages to support economic development and job creation. Like Public Works investments, EAA investments are designed to help communities catalyze public-private partnerships to foster collaboration, attract investment, create jobs, and foster economic resiliency and prosperity. Examples of projects that have been funded previously include, but are not limited to:

- construction or upgrading of public infrastructure;
- design and implementation of sectoral partnerships (see section 3.a.);
- activities necessary to strengthen cluster acceleration and expansion;
- capitalization or recapitalization of revolving loan funds (RLFs);
- development and implementation of long-term disaster recovery and resiliency plans;
- enhancement of infrastructure to make it more resilient to natural disasters;
- implementation of military base realignments and closures (BRAC) responses;
- development or expansion of commercialization and proof of concept centers;
- procurement of equipment for workforce training programs;
- market or industry research and analysis for larger hard or soft economic projects;
- creation or expansion of foreign direct investment, trade, or export initiatives;
- economic development projects that enhance density in the vicinity of other economic development;
- “strategy grants” to develop, update, or refine a Comprehensive Economic Development Strategy (CEDS) as described in EDA’s regulations at 13 C.F.R. § 307.3; and
- development of projects that provide technical assistance to enhance the capacity of key economic development actors in the region to promote the region’s locally owned strategies.

The EAA program is also designed to provide specific investment assistance to the communities experiencing energy transitions away from nuclear, biomass, or coal. EAA assistance to Nuclear Closure Communities (NCCs) and Biomass Closure Communities (BCC) supports communities that have been impacted, or can reasonably demonstrate they will be impacted, by closures of nuclear or biomass power plants. Similarly, EAA Assistance to Coal Communities (ACC) supports communities that have been negatively impacted by changes in the coal economy. For more information on eligibility for NCC, BCC, or ACC, see the Special Need section of this NOFO below at C.3.b.

For more information regarding Public Works, EAA, or one of EDA’s other programs, as well as recent examples of awarded projects, applicants are encouraged to visit [www.eda.gov](http://www.eda.gov). In addition, for information on factors that would make a project ineligible, see A.3.d.

### 3. Project Specific Information

#### a. Workforce Projects

EDA is interested in funding workforce development projects. This includes both non-construction and construction activities.

Non-construction workforce projects eligible under this NOFO will support demand-driven sectoral partnerships that will support Americans in securing and retaining quality jobs, consistent with the Department of Commerce workforce principles.<sup>1</sup> For the purposes of this NOFO, “sectoral partnership” is defined as a partnership of employers from the same industry who join with other strategic partners to train and place workers into high-quality jobs that the employers need filled and intend to fill through the partnership. The strategic partners can include: government, education (including community and technical colleges), training organizations, economic development organizations, workforce development organizations, unions, labor management partnerships, industry associations, employer-serving organizations, and/or community-based organizations. A sectoral partnership is focused on one specific industry and one or more specific roles within that industry. The lead entity of a sectoral partnership (i.e., Backbone Organization) serves as an intermediary across all the partners in the sectoral partnership and must be an EDA eligible applicant to receive funding through this NOFO. Sectoral partnerships are effective because: they are carefully built to include *all* necessary partners before workforce solutions are designed; they cut across traditional economic development, workforce, education, and social services system silos; they are targeted to in-demand sectors with high-quality jobs; and they consider the economic realities of a regional industry in assessing workforce demand and training needs.

A project that is entirely or partially intended to develop, deploy, expand, or initiate workforce training, must:

- connect trained workers with quality job<sup>2</sup> opportunities through a sectoral partnership;
- demonstrate employer leadership. EDA is seeking applications that have employer engagement in the development of the training and firm employer commitments to hire people who complete the training, which can come in different forms including earn-and-learn models like Registered Apprenticeships;
- include comprehensive wrap-around services (e.g., childcare, transportation) to support vulnerable populations;<sup>3</sup>
- increase educational and workplace diversity, equity, accessibility, and inclusion, including through recruitment and retention efforts focused on underserved populations;
- carry out activities in one or both of the following categories:
  - **Program Design** funding for sectoral partnerships to identify the skills needed by industry and workers, develop the skills training curriculum and materials, and secure

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<sup>1</sup> <https://www.commerce.gov/issues/workforce-development>.

<sup>2</sup> For more information on what constitutes a quality job, see <https://www.dol.gov/general/good-jobs/principles>.

<sup>3</sup> Note that not all wrap-around services will be eligible expenses. You will need to work with EDA to identify those that qualify as eligible participant support costs under 2 CFR 200.1 and 200.456.

- technical expertise needed to train workers with the skills needed by businesses, including providing professional development and capacity-building to trainers and educators, and/or
  - **Program Implementation** funding to deliver workforce training and wrap-around services that place workers into quality jobs through a new or expanded sectoral partnerships; and
- measure and evaluate outcomes such as workers' employment and earnings. Ensure that data is transparent, actionable, secure, and linked back to those executing programs.

If the project is a workforce project, its compliance with these workforce principles must be documented in section B.2 of the ED-900 (as discussed below) and will be evaluated as part of the project's competitiveness. See section E.1.

EDA recognizes that in many circumstances having adequate, modernized facilities is a critical component of a successful workforce training program that responds to industry needs today and into the future. As such, equipment costs, expenses related to securing adequate space (*e.g.*, rent, leases), and other non-construction capital expenses are allowable expenses under workforce projects. Building-based construction projects (*i.e.*, any activity that disturbs the ground or modifies a structure) should be submitted as a construction project.

For construction projects, it is critical that any future programming that will occupy the facility also follow the above principles related to employer engagement and job commitments.

## **b. Resiliency**

In terms of economic development, resilience is broadly defined as the ability of a community or region to anticipate, withstand, and bounce back from various disruptions to its economic base. These disruptions can be caused by a variety of things, including extreme weather events. Enhancing resilience, especially in light of the ongoing impacts of a changing climate, is a multi-dimensional effort emphasizing engagement and support from all aspects of the community, including economic development practitioners. Some examples include:

- efforts to broaden the industrial base or local sectoral specialization with diversification initiatives (*e.g.*, moving away from a local or regional economy overly dependent on one industry that might be susceptible to economic downturns);
- enhancing business retention and expansion programs to strengthen existing high-growth sectors and industries, including increasing supplier diversification;
- development and construction of high-performance and resilient infrastructure and buildings to mitigate future risk and vulnerability, including from impacts of climate change;
- enhancing the development and adoption of new technologies that play a vital role in strengthening economic resilience (*e.g.*, through modern infrastructure like broadband and renewable energy), and nurturing technology ecosystems that support dynamic, diverse economies that better withstand acute disruptions; and
- comprehensive planning efforts that involve extensive engagement from the community to define and implement a collective vision for economic recovery and resiliency.

One particular type of resilience is climate resilience. EDA expects every project it funds to be resilient to future disruptions, to the greatest extent possible, including the impacts of climate change. The manner in which this manifests will vary by project and may include considerations such as siting, construction methods, construction materials, etc. Applicants should demonstrate that they have sufficiently accounted for current and future weather and climate-related risks, such as wildfires, droughts, extreme heat and cold, inland and coastal flooding, and the high-impact winds produced by weather events such as tornadoes and hurricanes. The proposed project application should include how new infrastructure assets will be designed, built, and operated to prove resilient to high-impact weather and climate changes that may occur over the asset's lifetime. Applicants should make use of available tools and resources from the National Oceanic and Atmospheric Administration (NOAA) and other federal agencies, as well as applicant-level resources and centers of expertise, in drawing up their applications.

Resilience (within the context of economic development) is strengthened when it includes methods and measures to mitigate the potential for future economic injury, including through disaster mitigation, promoting a faster "up-time" for economic anchors (e.g., key businesses and/or industries), and strengthening local and regional capacity to troubleshoot and address vulnerabilities within the regional economy. As noted above, application submissions that explicitly incorporate resilience principles will be more competitive. Additional information about this subject is available at <https://www.eda.gov/ceds/content/economic-resilience.htm>.

The project's compliance with these resiliency principles should be documented in section B.2 of the ED-900 (as discussed below) and will be evaluated as part of the project's competitiveness.

### **c. Equity**

Consistent with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government and Executive Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, and EDA's Equity Investment Priority, EDA expects projects to advance equity to underserved populations to the extent practicable. In this context, EDA is seeking projects that directly benefit: 1) one or more traditionally [underserved populations](#), including but not limited to women, persons with disabilities, members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons, Black, Latino, Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color or 2) underserved communities within [geographies](#) that have been systemically and/or systematically denied a full opportunity to participate in aspects of economic prosperity such as Tribal Lands, [Persistent Poverty Counties](#), and rural areas with demonstrated, historical underservice.

A successful project will articulate which populations or communities will benefit (as noted above and <https://www.eda.gov/about/investment-priorities/>) and include a plan for inclusive community engagement in the project and ensuring that the economic benefits of the project will be shared by all communities in the project region, including any underserved communities. Your explanation should address the communities affected, barriers those communities may face in accessing benefits of the project, contemplated outreach and engagement efforts, and other planned steps to address identified barriers, as appropriate.

The project's compliance with these equity principles should be documented in section E.1 of the ED-900 (as discussed below) and will be evaluated as part of the project's competitiveness.

#### **d. Ineligible Projects**

Some projects are generally ineligible under this NOFO, including projects that are primarily residential in nature (e.g., housing), projects to create community amenities (e.g., swimming pools, zoos, recreational centers), projects that support casinos or gaming, projects that support general governmental or public safety functions (e.g., buildings to house municipal government, firehouses, public safety equipment), and requests for funding to supplement operating budgets or replace lost revenue (including lost tax revenue). Applicants who are unsure whether their proposed project is eligible under this NOFO should consult the appropriate EDA Regional Office Point of Contact (POC) listed in section G.

Funds may not be used, directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

#### **4. Statutory Authorities**

The statutory authority for EDA's Public Works program is Section 201 of PWEDA (42 U.S.C. § 3141). The statutory authority for EDA's EAA program is section 209 of PWEDA (42 U.S.C. § 3149). Regulations governing the Public Works program are at 13 C.F.R. part 305, and regulations governing the EAA program are at 13 C.F.R. part 307. These regulations are accessible at the U.S. Government Publishing Office website at [www.ecfr.gov](http://www.ecfr.gov). In the event of discrepancies between the instructions and information provided in this NOFO and EDA's regulations, EDA regulations will control.

#### **5. Federal Awarding Agency Contact**

Potential applicants should contact the EDA representative listed for their State (see Section G of this NOFO) to obtain additional information regarding any information in this NOFO.

### **B. Federal Award Information**

#### **1. Funding Available**

For federal fiscal year (FY) 2023, EDA was appropriated \$121.5 million for the Public Works program, \$39.5 million for the EAA program, \$48.0 million for ACC, \$16.5 million for NCC, and \$4.5 million for BCC pursuant to the Consolidated Appropriations Act, 2023 (P.L. 117-328) and its accompanying joint explanatory statement.

In the past, the average size of a Public Works investment has been approximately \$1.4 million. In FY2023, EDA expects investments ranging from \$600,000 to \$5 million. The average size of an EAA investment has been approximately \$650,000, and EDA expects to make investments ranging from \$150,000 to \$2.5 million in FY2023. ACC, NCC, and BCC awards generally have ranged from \$500,000 to \$3 million for implementation projects and from \$100,000 to \$350,000 for planning activities. EDA anticipates making similar sized awards, subject to the availability of funding.

Note: The funding periods and amounts referenced in this PWEAA NOFO are subject to the availability of funds at the time of award as well as DOC and EDA priorities at the time of award. Applications for funding of activities related to existing awards may compete with applications for new awards.

## **2. Type of Funding Instrument**

EDA may award grants or cooperative agreements under this NOFO. EDA will primarily award grants under this NOFO. EDA, however, will award a cooperative agreement on a case-by-case basis if substantial agency involvement is required. For a cooperative agreement, the nature of EDA's "substantial involvement" will generally be collaboration between EDA and the recipient on the scope of work. Other possible examples of EDA's substantial involvement pursuant to a cooperative agreement may include but are not limited to: (i) authority to halt immediately an activity if detailed performance specifications are not met; (ii) stipulation that the recipient must meet or adhere to specific procedural requirements before subsequent stages of a project may continue; and (iii) operational involvement during the project to ensure compliance with statutory requirements.

## **3. Period of Performance**

The period of performance for a given project will depend on the nature of the project for which the grant or cooperative agreement is awarded. Typically, strategy grants and non-construction projects may range in duration from 12 to 24 months. Construction projects are expected to range from 12 to 48 months and are expected to be completed within 5 years from award date. EDA will work closely with recipients to accommodate their projected timelines within reason and allowances of regulations and grant policies. EDA expects that all projects will proceed efficiently and expeditiously, and EDA expects applicants to clearly document how quickly they will be able to start and complete the proposed project scope of work within the above timeframes.

## **C. Eligibility Information**

### **1. Eligible Applicants**

Eligible applicants for investment assistance under this NOFO include a(n):

- District Organization;
- Indian Tribe or a consortium of Indian Tribes;
- State,<sup>4</sup> county, city, or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions;
- Institution of higher education or a consortium of institutions of higher education; or

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<sup>4</sup> Under section 3(10) of PWEDA (42 U.S.C. § 3122), the term "State" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

- Public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State.<sup>5</sup>

Under the Public Works and EAA programs, EDA is not authorized to provide grants or cooperative agreements to individuals or to for-profit entities, and such requests will not be considered for funding.

## 2. Cost Share or Matching

### a. EDA Investment Rate

With limited exceptions, cost share is required for projects funded under this NOFO. Generally, the EDA investment rate (percentage of the total project costs) will be 50 percent, but EDA may fund up to 80 percent of total project costs based on the relative needs of the region. Table 1 below sets forth the maximum allowable investment rate depending on the economic distress of the region:

**TABLE 1**

Projects located in regions in which:	Maximum allowable investment rates (percentage of total project cost)
(A) The 24-month unemployment rate is at least 225% of the national average; or	80
(B) The per capita income is not more than 50% of the national average.	80
(C) The 24-month unemployment rate is at least 200% of the national average; or	70
(D) The per capita income is not more than 60% of the national average.	70
(E) The 24-month unemployment rate is at least 175% of the national average; or	60
(F) The per capita income is not more than 65% of the national average.	60
(G) The 24-month unemployment rate is at least 1 percentage point greater than the national average; or	50
(H) The per capita income is not more than 80% of the national average.	50

For projects subject to a Special Need, as outlined in Section C.3.a below, EDA will determine the maximum allowable investment rate, not to exceed 80 percent of total project costs, based on the

<sup>5</sup> This may include labor unions to the extent they can provide proof that they are organized as and operating as a non-profit organization. See section D.2.c.v, Organizational Documentation, for documentation required to show eligibility.

actual or threatened overall economic situation of the region in which the project is located. In addition, EDA's regulations allow an investment rate of up to 100 percent for Indian tribes, for a State or political subdivision of a State that can document that it has exhausted its effective taxing and borrowing capacity, or for a non-profit organization that can document that it has exhausted its borrowing capacity.

#### **b. Documentation of Cost Share or Matching**

Applications must include commitment letters or equivalent documents that demonstrate, to the satisfaction of EDA, that all matching funds (whether cash, loans, bonds, or in-kind) from all sources (e.g., any applicant, any co-applicants, and any other sources of matching funds) referenced in the application will be unencumbered, unrestricted, and committed at the time of award and that are signed by authorized representatives of the sources of the matching funds. Authorized representatives must have the authority to execute documents and to obligate and expend funds on behalf of their respective organizations.

Each matching share commitment letter must state whether the contribution is cash, loans, bonds, or in-kind; if in-kind, provide a valuation for in-kind contributions. In-kind match must consist of contributions directly related to the proposed project, such as services, equipment, or space. EDA will fairly evaluate all in-kind contributions, which must be eligible project costs and which must meet applicable federal cost principles and uniform administrative requirements. Funds from other federal financial assistance awards may be considered matching share funds only if authorized by statute, which may be determined by EDA's reasonable interpretation of the statute.

Additional documentation may be requested by EDA to substantiate the availability of the matching funds. For example, if bonds are contemplated as match, counsel opinion of the applicant's bonding authority and eligibility of the bonds for use as match, along with full disclosure of the type of bonds and the schedule of the applicant's intended bond issue, are required.

A provider of matching share, including an entity providing cash or in-kind contributions, may not serve as a contractor under the same award and may not be paid with award funds to provide goods or services to the award recipient.

In addition, applicants should indicate if other Federal funds have been secured for, or have been requested to support, any portion of the project for which an EDA investment is proposed. Applicants should describe how the EDA investment will complement, leverage, or otherwise align with other public and private investments to implement the project. Where other Federal funding may be involved in the project, the applicant should provide the Federal program name and contact information with their application to facilitate interagency coordination and avoid duplication of resources. Note that consistent with 2 CFR § 200.306, not all sources of Federal funding may be allowed as match and applicants shall raise any concerns as early as possible with their EDA Regional Office POC listed in section G.

### **3. EDA Distress Criteria**

In order to be eligible for funding under this NOFO, an applicant must propose a project that meets EDA's distress criteria. Applicants must self-define the appropriate region geographically. The

geographic area 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. Applicants must provide third-party data that clearly indicate that the relevant region is subject to one (or more) of the following economic distress criteria: (i) an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percentage point greater than the national average unemployment rate; (ii) per capita income that is, for the most recent period for which data are available, 80 percent or less of the national average per capita income; or (iii) a “Special Need,” as determined by EDA. Applicants may find EDA-funded tools useful in characterizing economic development need in their region. These can be found <https://www.eda.gov/grant-resources/tools/tools-for-economic-development>.

EDA will review and evaluate documentation submitted by the applicant to determine eligibility. EDA will reject any documentation of eligibility that the agency determines is inaccurate or incomplete, which may cause the application to be rejected. EDA reserves the right to request additional documentation or information from the applicant to make an eligibility determination. The proposed project must meet EDA’s distress criteria as of the date EDA receives a complete application. However, if an award has not been made within six months of that date, EDA will then re-evaluate the project to determine continued eligibility for investment assistance. If the project no longer meets EDA’s distress criteria, the project will no longer be considered.

For construction projects (including design and engineering) the project must be located within an eligible region. For non-construction projects, the investment’s scope of work must primarily benefit an eligible region, and stakeholders from that eligible area must be directly engaged. EDA suggests that applicants work closely with the EDA representative listed for their State as they define an eligible region for their project.

A proposed project may meet the regional eligibility criteria in one of the following three ways:

1. The proposed project will be located in a region that meets EDA’s economic distress criteria;
2. The proposed project is located in an Economic Development District (EDD) that is located in a region that does not meet EDA’s economic distress criteria, and EDA determines the proposed project will be of substantial direct benefit to a geographic area within the EDD that meets EDA’s economic distress criteria; or
3. The proposed project will be located in a geographic area of poverty or high unemployment that meets EDA’s economic distress criteria, but which is located in a region that overall does not meet EDA’s distress criteria.

Below are further details on economic distress criteria. See also 13 C.F.R. § 301.3(a).

#### **a. Unemployment Rate & Per Capita Income**

For economic distress levels based upon per capita income requirements, EDA will base its determination upon the most recent American Community Survey (ACS) published by the U.S. Census Bureau. For economic distress levels based upon the unemployment rate, EDA will base its determination upon the most recent data published by the Bureau of Labor Statistics (BLS), within the U.S. Department of Labor. For eligibility based upon either per capita income requirements or the unemployment rate, when the ACS or BLS data, as applicable, are not the most recent Federal data available, EDA will base its decision upon the most recent Federal data from other sources (including

data available from the Census Bureau and the Bureaus of Economic Analysis, Labor Statistics, Indian Affairs, or any other Federal source determined by EDA to be appropriate). If no Federal data are available, an applicant must submit to EDA the most recent data available from the State. The required State data must be for the region where the project will be located, the geographic area where substantial direct project benefits will occur, or the geographic area of poverty or high unemployment, as applicable. Please also include applicable 2-digit state and 3-digit county FIPS codes, where possible.

**b. "Special Need"**

As defined by EDA, "special need" includes meeting one or more of the following criteria:

- i) Closure or restructuring of industries or the loss of a major employer essential to the regional economy as defined by:
  - a) a public announcement of an impending closure or restructuring of a firm expected to occur within four (4) years of review of an application submission; or
  - b) an actual closure or restructuring of a firm within the 24 months prior to submission of an application, resulting in sudden job losses; AND
  - c) such threatened or actual closure results in sudden job losses meeting the following dislocation criteria:
    - 1) For regions with a population of at least 100,000, the threatened or actual dislocation is 500 jobs, or one percent of the civilian labor force (CLF), whichever is less.
    - 2) For regions with a population up to 100,000, the threatened or actual dislocation is 200 jobs, or one percent of the CLF, whichever is less.
- ii) Substantial out-migration or population loss.
- iii) Underemployment, meaning employment of workers at less than full-time or at less skilled tasks than their training or abilities permit.
- iv) Military base closures or realignments, defense contractor reductions-in-force, or Department of Energy defense-related funding reductions.
- v) Natural or other major disasters or emergencies. A region that has received one of the following disaster declarations is eligible:
  - a) A Presidentially declared disaster (declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. § 5121 et seq.)); or
  - b) A Federally declared disaster (pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. § 1861a(a)); the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. § 1961); or the Small Business Act, as amended (Pub. L. No. 85- 536, 15 U.S.C. § 631 et seq., 72 Stat. 384 (1958)).

Applicants must demonstrate a clear nexus between the needs created by the declared disaster and the proposed project.

- vi) Extraordinary depletion of natural resources or other impact attributable to a new or revised Federal regulation or policy that will have a significant impact on a community's ability to prevent an extraordinary depletion of natural resources. For example, in the case of a Federal

- fishing regulation designed to promote and sustain a community and its fishery in the long-term, EDA could quickly help a coastal community respond to any short-term economic dislocations.
- vii) Communities undergoing transition of their economic base as a result of changing trade patterns.
  - viii) A project located in a persistent poverty county or high-poverty area. For purposes of determining Special Need, the term "persistent poverty county" means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses and the most recent Small Area Income and Poverty Estimates. The term "high-poverty area" means any census tract with a poverty rate of at least 20 percent as measured by the 2016–2020 5-year data series available from the American Community Survey of the Census Bureau. One available tool to obtain this information can be found at <https://mtgis-portal.geo.census.gov/arcgis/apps/webappviewer/index.html?id=31e10881bd1040b7b0ae685559917509>.
  - ix) The project is located in an Energy Transition Community for regions experiencing transitions away from nuclear, biomass, or coal. See section 3.c. below for required documentation.
  - x) Other Special Need. The area is experiencing other special or extraordinary economic adjustment needs, as determined EDA.

### **c. Assistance to Energy Transition Communities**

#### **i. Assistance to Coal Communities**

Applications seeking ACC funding based on Special Need distress criteria must provide appropriate third-party economic and demographic statistics, such as those described in section C.3.c.III below, to document the extent to which contractions in the coal economy have negatively impacted, or can reasonably demonstrate that they will negatively impact, the community or region. In general, for past coal economy contraction events, EDA will consider applications for projects in communities and regions where the "event" (e.g., closure of a coal mine or a coal-fired power plant, closure of various coal economy supply chain businesses, etc.) took place within 1-15 years prior to the application submission date.

#### **ii. Assistance to Nuclear or Biomass Closure Communities**

Applicants for NCC or BCC funding based on Special Need criteria must demonstrate the manner and extent to which a region has been impacted or will be impacted by Nuclear Power Plant (NPP) or Biomass Power Plant (BPP) closure(s). Geographic proximity to an NPP or BPP closure is by itself insufficient to demonstrate eligibility. Applicants must provide appropriate third-party economic and/or demographic data to document the extent to which NPP/BPP closure(s) have negatively impacted the region. Applicants are encouraged to cite federal data resources such as those described below in section C.3.c.III below.

#### **iii. Data Sources**

Applicants for ACC, NCC, or BCC funding are encouraged to cite federal data resources. These may include, but are not limited to:

- i) U.S. Department of Commerce, Bureau of Economic Analysis, <http://www.bea.gov>
- ii) U.S. Department of Commerce, U.S. Census Bureau- American Community Survey (ACS): <https://www.census.gov/programs-surveys/acs/>
- iii) U.S. Department of Labor, Bureau of Labor Statistics (BLS): <http://www.bls.gov/>
- iv) U.S. Department of Labor, Mine Safety Health Administration: <https://www.msha.gov/>
- v) U.S. Department of Energy, Energy Information Administration (EIA): <https://www.eia.gov/>
- vi) U.S. Department of Interior, Bureau of Indian Affairs (BIA)- American Indian Population and Labor Force Reports: <http://www.bia.gov/>
- vii) StatsAmerica: <http://www.statsamerica.org>
- viii) U.S. Nuclear Regulatory Commission: <https://www.nrc.gov>
- ix) Argonne National Laboratory- National Economic Resilience Data Explorer (NERDE): <https://www.anl.gov/dis/national-economic-resilience-data-explorer-nerde>

If federal data is not available, applicants may consider demonstrating the negative impacts of coal, nuclear, and biomass power plant closure(s) using data including but not limited to local/regional economic indicators, labor market analyses, official announcements made by local and regional industries and firms, and demographic and industry data.

Applicants seeking ACC, NCC, or BCC funding in regions that will be impacted in the future by coal, nuclear, or biomass power plant closure(s) must provide documentation demonstrating that the region will be negatively impacted in the future by such closure(s). Such documentation may, but is not required to, take the form of an announcement of future closure and should be substantiated to the extent possible by third-party data sources as listed above.

#### **4. Other Criteria**

See section A.1 for information on other criteria: EDA investment priorities and the Comprehensive Economic Development Strategy.

#### **D. Application and Submission Information**

An applicant must submit a complete application, as detailed in Section D.2.b of this NOFO, to be considered for funding. EDA intends to review each application expeditiously upon receipt of the complete application. EDA may request additional documentation or information from the applicant to make an eligibility determination. EDA will reject any documentation of eligibility that the agency determines is inaccurate or incomplete, which may cause the application to be rejected. Please see Section E of this PWEAA NOFO for more information on award criteria and the review and selection process.

##### **1. Obtaining an Application and Electronic Submission through EDGE**

An applicant must obtain, complete, and submit an application electronically through the Economic Development Grants Experience (EDGE) at [sfgrants.eda.gov](http://sfgrants.eda.gov). EDA will not accept paper, facsimile, or

email transmissions of applications except as provided below. In order to obtain and submit an application through EDGE, an applicant must register for an EDGE account at [sfgrants.eda.gov](http://sfgrants.eda.gov). As part of the registration process, you will register one Authorized Representative for your organization. The Authorized Representative will be the only official with the authority to submit applications.

#### **a. Verification of Submission**

Applicants should save and print written proof of an electronic submission made through EDGE. Applicants, specifically the Authorized Representative submitting the application and materials, will receive a time and date stamped email from EDGE confirming the submission and receipt of the application and other required documents.

Applicants should save and print both the confirmation screen provided on EDGE after the applicant has submitted an application and the confirmation email sent when the application has been successfully submitted.

It is the applicant's responsibility to verify that its submission was timely received and submitted successfully through EDGE. To see the date your application was submitted, log on to EDGE and click on the Submitted Application section from the Home Page.

If you experience a systems issue with EDGE, see Section D.8. below for instructions.

#### **b. Alternatives to Submission through EDGE**

To accommodate an applicant's accessibility requirements, a paper version of this application may be obtained by contacting the appropriate POC listed in section G of this NOFO. Or if an applicant is otherwise unable to submit an application through EDGE for reasons beyond the control of the applicant, EDA, in its sole discretion, may pre-approve in writing submission via an alternate method (e.g., email).

## **2. Content and Form of the Application**

#### **a. Application Format and Signatures**

All relevant forms must be signed electronically by the applicant's Authorized Representative, as identified per Section D.1 of this NOFO.

The preferred electronic file format for attachments is Adobe portable document format (PDF); however, EDA will accept electronic files in Microsoft Word, WordPerfect, or Microsoft Excel formats. All documentation and data submitted should be current and applicable as of the date submitted.

#### **b. Required Documents**

The following application forms must be submitted for all project types in addition to any other forms required for your specific project type:

- Form SF-424 (Application for Federal Assistance)
- Form ED-900 (General Application for EDA Programs)

- Budget Narrative
- Match Commitment Letter and supporting documentation (See section C.2.)
- Form CD-511 (Certification Regarding Lobbying)

*ED-900 Information.* Each section of the ED-900 must be filled out. Please also note the following additional instructions for the ED-900:

- In section B.2, for construction projects only, explain whether and/or how the project will incorporate strong labor standards, including project labor agreements and community benefit agreements, that offer wages at or above the prevailing rate and include local hire provisions, and a description of the applicant’s workforce plans and practices, including the use of Registered Apprenticeships.
- If the project is a workforce project, in order to be competitive, the ED-900 must discuss in section B.2 its compliance with the workforce principles detailed in section A.3.a. above, including any plans to establish a Registered Apprenticeship program.
- In order to receive competitive consideration for inclusion of resiliency principles, the ED-900 must describe in section B.2 how it is utilizing resiliency principles as detailed in section A.3.b. above in the project.
- In order to receive competitive consideration for inclusion of equity principles discussed in section A.3.c. above, the project must explain in section E.1 of the ED-900 the steps that you will take to ensure that the economic benefits of the project will be shared by all communities in the project region, including any underserved communities such as women, persons with disabilities, members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons, Black, Latino, Indigenous and Native American persons, Asian Americans Pacific Islanders, and other persons of color, or any underserved communities within geographies that have been systemically and/or systematically denied a full opportunity to participate in economic prosperity. Your explanation should address the communities affected, barriers those communities may face in accessing benefits of the project, contemplated outreach efforts appropriate to community needs and contexts (e.g., linguistic, cultural, and technological contexts), and other planned steps to address identified barriers, as appropriate.

If a project requires or anticipates the payment of federal funds to third parties (such as partners, consultants, vendors, and/or service providers), it is the applicant’s responsibility to determine whether a third party should be characterized as a subrecipient or a contractor. The characterization must be reflected in the terms of each agreement made with each third party. (See 2 C.F.R. § 200.1 for definitions of contract, contractor, subaward, and subrecipient; see also 2 C.F.R. § 200.331, Subrecipient and contractor determinations.)

All subawards must receive EDA prior approval. If selected for award, and before initial disbursement of any funds by EDA for any costs incurred by a subrecipient, EDA may request documentation demonstrating that the subrecipient is an entity eligible to receive EDA assistance.

In addition to the four forms required for all applications, Table 2 below provides a complete list of documents required based on the type of EDA assistance:

**TABLE 2**

	<b>Construction</b>	<b>Design &amp; Engineering</b>	<b>Non-Construction (including sectoral partnerships)</b>	<b>Revolving Loan Fund</b>
SF-424 (Application for Federal Assistance)	X	X	X	X
ED-900 (General Application for EDA Programs)	X	X	X	X
Match Commitment Documentation	X	X	X	X
CD-511 (Certification Regarding Lobbying)	X	X	X	X
SF-LLL (If Applicable)	X	X	X	X
SPOC Documentation (If Applicable)	X	X	X	X
Indirect Cost Rate Documentation (If Applicable)		X	X	X
Organizational Documentation (If Applicable) (See below for examples)	X	X	X	X
SF-424A (Budget Information—Non-Construction Programs)			X	X
SF-424C (Budget Information—Construction Programs)	X	X		
SF-424D (Assurances—Construction Programs)	X	X		
ED-900B (Beneficiary Information Form) from each beneficiary, as applicable	X			
ED-900C (EDA Application Supplement for Construction Programs) and supporting documentation, e.g., Preliminary Engineering Report (PER).	X			
ED-900D (Requirements for Design and Engineering Assistance)		X		

ED-900E (Calculation of Estimated Relocation and Land Acquisition Expenses)	X			
ED-900F (Additional EDA Assurances for Revolving Loan Fund Applications)				X
Environmental Narrative	X	X		
Certification Clause (with environmental narrative)	X	X		
Map	X	X		
Draft RLF Plan				X
Budget Narrative (See below)	X	X	X	X

\*Co-applicants will be required to submit their own SF-424, CD-511, SF-LLL (if applicable), SF-424D (if applicable), Applicant Certification Clause as part of the Environmental Narrative (if applicable), and organizational documentation.

The Draft RLF plan must address all components required by EDA’s regulation at 13 C.F.R. § 307.9.

The Budget Narrative must identify and justify how funds in each line item of the budget will be used to support the proposed project. The Budget Narrative should specifically address each budget line item (including both the Federal Share and matching Non-Federal Share), and the narrative total should match the total project costs listed in both the SF-424 question 18, line g, and SF-424A or SF-424C, as applicable. This includes describing any other Federal funds that have been secured or requested to support the project (see Section A.1). The Budget Narrative should include itemized valuations of any in-kind matching funds. The non-Federal Share, whether in cash or in-kind, is expected to be paid out at the same general rate as the Federal Share; however, if the applicant’s Budget Narrative proposes otherwise, applicants must also include information that clearly indicates what project elements the matching share funds will support and explain why deviation from paying out at the same general rate is required for the project to be implemented. For construction projects, the budget narrative may be included in the Preliminary Engineering Report.

**i. Additional Requirements for Incubators and Accelerators**

In addition to the required forms listed above, applications for a **business technology, or other type of incubator or accelerator**, must also include the following:

1. A feasibility study establishing the market demand for the specific start-up companies proposed for incubation (technology, general business, bio-tech, manufacturing, etc.) and the presence of necessary resources and community support;
2. Documentation with detailed demonstration that the applicant has the financial capacity to operate the facility (if applicable) and reach a positive cash flow within a reasonable period of time, which EDA generally expects to be three years; and
3. A management plan for operation that, at a minimum, includes a/an:
  - o Tenant/client selection policy that includes a description of the types of businesses sought and any established selection criteria;

- Tenant lease or license agreement (if applicable) that enumerates the shared services to be provided; delineates the business assistance policy, including the provision of management, technical, and training assistance, and the graduation policy; and establishes periodic access to the tenant’s business records to permit assessment of the financial and operational viability of the tenant’s business;
- Business assistance policy that outlines the various types of assistance that will be provided to start-up firms, including how support will be provided to tenants/clients with access to capital needed to grow their businesses successfully;
- Staffing plan that details the talent and resources that will be dedicated to supporting the startup companies accepted;
- Tenant graduation policy that is documented as a provision of the tenant lease or license agreement (if applicable) with clear requirements for tenant graduation from the facility or services; and
- Performance plan that includes how the entity will track the success of tenants/clients, specifically identifying what performance measurement data are proposed to be collected from tenants/clients and for what period of time during and after the service period the data will be collected. This should also include members of any oversight or policy board that will be responsible for setting performance goals, selecting or approving selections of staff, establishing and reviewing policy, and monitoring performance.

**c. Conditionally Required Documents**

These documents may be required for a complete application, depending on the circumstances:

**i. Form SF-LLL (Disclosure of Lobbying Activities)**

A form SF LLL is required if an applicant has retained a registered lobbyist in conjunction with the proposed project.

**ii. SPOC Compliance Documentation**

If a project’s primary service area is located within one or more States that participate in the intergovernmental review process established by Executive Order 12372, “Intergovernmental Review of Federal Programs,” an applicant must submit documentation demonstrating compliance with that State’s or those States’ processes. See section D.5 “Intergovernmental Review” of this NOFO. The current list of participating States and their Single Points of Contact (SPOC) can be found at <https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>. Each State may participate for all or a subset of federal grant programs. EDA strongly encourages applicants to contact SPOCs early in the application period to determine the relevant State’s or States’ processes.

Based on the applicant’s State, EDA requires the following documentation:

State does not participate	No documentation required—check SF-424 box 19(c).
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State participates; this grant program not subject to review	Documentation (e.g., a State executive order, a letter from the SPOC) showing that this grant program is not subject to review— provide the documentation as an attachment to the application and check SF-424 box 19(b).
State participates; this grant program subject to review	Documentation (e.g., a letter from the SPOC) with comments or indicating that this project was not selected for review, or, if the comment period has expired or comments were not received, a copy of the applicant’s request for comments (e.g., email)— provide the documentation as an attachment to the application and check SF-424 box 19(a).

### iii. Indirect Cost Rate Documentation

If indirect costs are included in the budget, the applicant must include documentation to support the indirect cost rate they are using (unless claiming the 10 percent de minimis indirect cost rate, discussed below). The applicant must submit a copy of its current, approved, and negotiated indirect cost rate agreement (NICRA). The maximum dollar amount of allocable indirect costs for which EDA will reimburse a recipient will be the lesser of the (i) line-item amount for the federal share of indirect costs contained in the EDA approved budget for the award, or (ii) federal share of the total allocable indirect costs of the award based on either (i) the indirect cost rate approved by EDA (or applicable cognizant federal agency), provided that the cost rate is current at the time the costs were incurred and provided that the rate is approved on or before the award end date, or (ii) other acceptable documentation as indicated below.

If the applicant does not have a current or pending NICRA, it may propose indirect costs in its budget; however, the applicant must prepare and submit an allocation plan and rate proposal for approval within ninety calendar days from the award start date (unless claiming the 10 percent de minimis indirect cost rate, discussed below). See 2 C.F.R. part 200 Apps. III, IV, V, VI, VII for guidance. The allocation plan and the rate proposal shall be submitted to EDA’s Office of Regional Affairs (or the applicable cognizant federal agency). The applicant should include a statement in its Budget Narrative that it does not have a current or pending NICRA and will submit an allocation plan and rate proposal to EDA or the applicant’s cognizant federal agency for approval.

In accordance with 2 CFR § 200.414(f), an applicant that does not have a current negotiated or provisional NICRA, may elect to charge a de minimis rate of 10 percent of modified total direct costs (subject to the exceptions of § 200.414(f)). No documentation is required to justify the 10 percent de minimis indirect cost rate; however, an applicant electing to charge a de minimis rate of 10 percent must include a statement in its Budget Narrative that it does not have a current negotiated (including provisional) rate and is electing to charge the de minimis rate.

If the applicant is a state or local unit of government that receives less than \$35 million in direct federal funding per year it may submit any of the following:

- a NICRA;

- a Certificate of Indirect Costs from the Department of the Interior (DOI) or EDA (See: <https://www.eda.gov/sites/default/files/filebase/archives/2021/files/tools/grantee-forms/Certificate-of-Indirect-Costs-template.pdf>);
- an acknowledgment received from EDA and a Certificate of Indirect Costs in the form prescribed at 2 C.F.R. pt. 200, app. VII; or
- a Cost Allocation Plan approved by a federal agency (note that cost allocation plans or indirect cost rates approved by state agencies are not acceptable).

As noted in EDA’s Standard Terms and Conditions for Construction Projects (Construction ST&Cs), indirect costs are generally not applicable to construction awards.

#### **iv. Environmental and Historic Preservation Documentation**

All applicants for EDA construction assistance (and design and engineering assistance) are required to provide adequate environmental information. This includes filling out an environmental narrative attached to section Hof the ED-900C and a certification clause found on Appendix A to the environmental narrative. Each application will be reviewed by EDA for compliance with the National Environmental Policy Act (NEPA) of 1969, as amended. During the NEPA review process, applicants may be instructed to contact the designated State and/or Tribal Historic Preservation Officer (SHPO/THPO), provide approvals from other governmental agencies, or provide more detailed environmental information. EDA, after compliance with requirements for consultation with Federally recognized Indian Tribes, may require applicants to participate in Tribal consultation, as necessary. The implementing regulations of NEPA require EDA to provide public notice of the availability of project-specific environmental documents, such as environmental impact statements, environmental assessments, findings of no significant impact, and records of decision, to the affected public.

#### **v. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

All applicants for EDA infrastructure construction under this NOFO are required to comply with the Build America, Buy America (BABA) Act as set forth in the Infrastructure Investment and Jobs Act. As required under BABA, none of the funds provided under any award in this program may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. BABA only

applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, these BABA requirements do not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does BABA apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

When necessary, recipients may apply for, and EDA may grant, a waiver from these requirements. EDA will notify the recipient of the process for requesting a waiver from these requirements upon request. A request to waive the application of BABA must be in writing. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the U.S. Made in America Office. Further detail on BABA and the waiver process is described at <https://www.madeinamerica.gov>.

#### **vi. Organizational Documentation**

Depending on the type of organization, an applicant may need to provide documentation that supports its organizational status as an eligible entity:

- States, federally-recognized Indian tribes, cities or other political subdivisions of States, and institutions of higher education that are 100% publicly controlled are not required to submit organizational documentation.
- Nonprofit organizations, including unions, must submit documentation that demonstrates their status as nonprofit organizations. This must include articles of incorporation, bylaws, and certificate of good standing, or equivalent. It may also include proof of tax-exempt status.
  - Nonprofit or for-profit tribal entities, may need to submit similar documentation that demonstrate the entity is wholly owned by and operated for the benefit of the tribe.
- Other entities, including institutions of higher education that are not 100% publicly controlled, must provide documentation that demonstrates their organization type.

Regardless of entity type, EDA reserves the right to request documentation or additional proof of organizational status.

### **3. Unique Entity Identifier (UEI) and System for Award Management (SAM)**

Applicants are required to: (i) be registered in SAM before submitting an application; (ii) provide a valid unique entity identifier (UEI) in the application; (iii) make certain certifications (see also section H.5 of this NOFO); and (iv) continue to maintain an active SAM registration with current information at all times during which they have an active federal award, or an application or plan under consideration by a federal awarding agency. EDA may not make a federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements and, if an applicant has not fully complied with the requirements by the time the EDA is ready to make an award, EDA may determine that the applicant is not qualified. Recipients will be subject to reporting requirements, as identified in OMB guidance published at 2 C.F.R. parts 25 and 170. All subawardees must have a UEI before any subawards are made.

#### **4. Submission Dates and Times**

There are no application deadlines under this NOFO. Applications are accepted on a rolling basis subject to the availability of funds or until this NOFO is amended or a new PWEAA NOFO is published. EDA may cancel, modify, or withdraw this NOFO at any time.

#### **5. Intergovernmental Review**

Applications submitted under this PWEAA NOFO are subject to the requirements of Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs," if a State has adopted a process under EO 12372 to review and coordinate proposed Federal financial assistance and direct Federal development (commonly referred to as the "single point of contact review process"). All applicants must give States and local governments a reasonable opportunity to review and comment on the proposed Project, including review and comment from area-wide planning organizations in metropolitan areas. To find out more about a State's process under EO 12372, applicants may contact their State's Single Point of Contact (SPOC). Names and addresses of some States' SPOCs are listed on OMB's website at <https://www.whitehouse.gov/wp-content/uploads/2019/02/SPOC-February-2019.pdf>. Question 19 of Form SF-424 allows applicants to demonstrate compliance with EO 12372.

An applicant seeking funding under the Public Works program, or for a construction or RLF grant under the EAA program, that is not a State, Indian Tribe, or general purpose local governmental authority must afford the appropriate general purpose local governmental authority in the project region a minimum of 15 days to review and comment on the proposed project and provide with its application a statement of its efforts to seek comments and either (i) a copy of the comments received and a statement of any actions to address those comments or (ii) a statement that no comments were received.

See section D.2.c.ii. of this NOFO for instructions on how to comply with this requirement.

#### **6. Funding Restrictions**

In general, EDA does not reimburse pre-award project costs. Applicants that are in need of such reimbursement should work closely with the EDA representative for their State to determine if their pre-award costs may be considered for reimbursement. For contracted pre-award costs to be eligible for reimbursement, the applicant must competitively procure services pursuant to the Federal government's procurement procedures. All pre-award costs are incurred at an applicant's own risk and will be considered for reimbursement, in EDA's sole discretion, only if an applicant receives an award and such costs are approved by EDA in writing. Under no circumstances will EDA or DOC be held responsible for application preparation expenditures, which are distinguished from pre-award project costs.

It is DOC policy that funds may not be used to pay for management fees in excess of costs or profits, unless statutorily authorized. Funds may not be used, directly or indirectly as an offset for other funds, to support or oppose collective bargaining. Additionally, the use of project funds to make equity or hybrid investments in businesses is not an allowable cost.

See section A.3.d. for project types that are generally ineligible.

As described in sec. E.2.e. of this NOFO, EDA aims to maintain a balanced portfolio by geography, applicant type, and project type to support inclusive, regional economic development initiatives. To support this goal, and pursuant to PWEDA, not more than 15% of EDA's Section 201 appropriation (investments made through the Public Works program) may be spent in a single state.

## **7. Other Submission Requirements**

After EDA reviews an application, EDA may contact the applicant to request additional documentation to clarify or substantiate submitted application materials, depending on the type of project proposed. Examples of additional documentation may include, but are not limited to, title verification, documentation of the value of in-kind contributions, evidence all funding is available and committed to the project, or documentation required for environmental or legal compliance. This additional documentation will be required to ensure that the proposed project complies with all applicable rules and regulations prior to EDA's issuance of an award. EDA will provide applicants a reasonable amount of time to provide any additional documentation. Failure to provide complete and accurate supporting documentation in a timely manner when requested by EDA may result in the denial of an application.

## **8. EDGE Systems Issues**

If you experience a systems issue with EDGE (i.e., a technical problem or glitch with the webpage) that you believe threatens your ability to complete a submission before a deadline, please (i) print any error message received; (ii) email the help desk at [GrantHDSupport@eda.gov](mailto:GrantHDSupport@eda.gov); and (iii) contact EDA using the contact information in Section G. of this NOFO. Please be sure to track your issue using a case number given to you by the help desk. Please note that problems with an applicant's computer system or equipment are **not** considered systems issues. Similarly, an applicant's failure to, *e.g.*, (i) complete the required registration, (ii) ensure that a registered Authorized Representative submits the application, or (iii) notice receipt of an email message from EDGE are **not** considered systems issues. An EDGE issue is an issue occurring in connection with the operations of the website itself, such as the temporary loss of service due to unexpected volume of traffic or failure of information technology systems, both of which are highly unlikely. In the event of a confirmed systems issue, EDA reserves the right to accept an application in an alternate format.

Applicants should go to [sfgrants.eda.gov](http://sfgrants.eda.gov) and click on the Resources page for assistance in navigating EDGE and for a list of useful resources.

## **E. Application Review Information**

Throughout the review and selection process, EDA reserves the right to seek clarification in writing from applicants whose application packages are being reviewed. This may include reaching out to applicants and proposing they seek funding under a different EDA program or other federal financial assistance program under which they may be more competitively assessed. EDA may additionally ask applicants to clarify application materials, objectives, and work plans, or modify budgets or other specifics necessary to comply with Federal requirements. After applications are reviewed during the Competitiveness Review but before the Investment Review Committee as those processes are described below, EDA will screen applications to verify that all required forms are complete and all required documentation is included. Applications that do not contain all elements listed in section D.2.a will not be reviewed.

As discussed further in the sections below, the review and selection process will consist of a Competitiveness Review and an Investment Review Committee.

## **1. Criteria**

### **a. Competitiveness Review Criteria**

Each project will be reviewed on a pass/fail basis according to the following criteria in the Competitiveness Review process (detailed below):

- i. Whether the project is responsive to this NOFO, including whether the proposed project budget is consistent with EDA's funding guidelines;
- ii. The project's demonstrated alignment with EDA's current Investment Priorities as outlined at <https://www.eda.gov/about/investment-priorities/>;
- iii. The availability and committed nature of proposed matching funds; and
- iv. The project's alignment with the regional CEDS or other CEDS equivalent EDA-accepted economic development strategy if a CEDS does not exist.

**Only applications that pass competitiveness review will be reviewed further, according to the following additional criteria in an Investment Review Committee (detailed below).**

### **b. Investment Review Committee (IRC) Criteria**

**For construction and non-construction projects** (except proposals for preparation or revision of a CEDS), the following criteria will receive equal weight:

- i. The project's feasibility or likelihood that it will achieve its projected outcomes on the proposed schedule;
- ii. The extent to which the project demonstrates support from and involvement with regional stakeholders, e.g. private, public, and non-profit entities, civil rights- and equity-focused organizations, community-based organizations, civil society and consumer-focused groups, unions and worker organizations, workforce boards, economic development organizations, schools, community colleges, neighborhood and housing associations, and the communities that stand to benefit;
- iii. The extent to which the project incorporates resiliency principles articulated in section A.3.b. of this NOFO and demonstrates resiliency to future sudden and severe economic dislocations, e.g., closures of major local employers, climate change, etc.;
- iv. The extent to which the project is aligned with and integrated into other public or private investments currently ongoing or planned for the community and region;
- v. The degree of economic distress experienced in the project region;
- vi. The project's demonstrated ability to foster job creation and retention, including whether the project will create union and well-paying, quality jobs with good benefits, and Registered Apprenticeships when possible;
- vii. The project's demonstrated ability to promote private investment in the regional economy;

- viii. The extent to which the application articulates a plan for ensuring that the project’s benefits are shared across all affected communities, with a priority given to historically underserved areas, rural areas, minority populations, and women as discussed in section A.3.c. of this NOFO; and
- ix. The project’s demonstrated alignment with EDA’s current Investment Priorities as outlined at <https://www.eda.gov/about/investment-priorities/>.

In addition to the above criteria, for workforce projects only, EDA will consider the following criterion equal to the combined weight of the above nine criteria:

- i. The extent to which the project incorporates the workforce principles articulated in section A.3.a. of this NOFO, including the number of job placements expected and the number and type of employer commitments, relative to the capacity of the region.

**For proposals to prepare or revise a CEDS, the following criteria will receive equal weight:**

- i. The quality of the proposed scope of work for the development, implementation, revision, or replacement of a strategic or economic development recovery, mitigation, or resilience plan;
- ii. The project’s potential to increase the capacity of the community or region to promote job creation, private investment in the regional economy, and resilience to sudden and severe economic dislocations;
- iii. The project’s feasibility and the likelihood that the project will achieve its projected outcomes;
- iv. The project’s demonstrated alignment with EDA’s current Investment Priorities as outlined at <https://www.eda.gov/about/investment-priorities/>;
- v. The ability of the applicant to successfully implement the proposed project;
- vi. The extent to which the project demonstrates support from regional stakeholders (private, public, and non-profit entities, etc.); and
- vii. The extent to which the project articulates a plan for ensuring that the needs of all affected communities are considered in strategy development, including by providing opportunities for meaningful participation by those communities in strategy development, and the extent to which the project demonstrates the capacity to account for the unique needs of historically underserved areas and populations.

## **2. Review and Selection Process**

### **a. Competitiveness Review (CR) Process**

**For construction and non-construction projects, except proposals for preparation or revision of a CEDS, EDA will conduct a Competitiveness Review (CR).**

In CR, each Regional Office will review applications for their region. This review will be conducted by at least two EDA staff members. This CR team will review each application against the pass/fail evaluation criteria described above. Applications that the two reviewers agree fail any of the listed criteria will be deemed “Not Competitive” and will not receive further consideration. Projects that pass all criteria will

be deemed “Competitive” and will advance to a full merit review by an Investment Review Committee (described below). Grants for the preparation or revision of a CEDS are not subject to CR.

#### **b. Investment Review Committee (IRC) Process**

**For projects deemed Competitive after the CR, and all proposals for preparation or revision of a CEDS,** each EDA Regional Office will convene periodic IRCs consisting of at least three EDA staff members. The IRC will make a group evaluation of the merits of each application based on the extent to which the application meets the program specific award and application requirements. The IRC will evaluate and rate projects according to the criteria listed in E.1.b. above.

Note: Throughout the application review and selection process, strategy grants will be evaluated independently from all other applications and will be reviewed based on specified strategy grants evaluation criteria.

#### **c. Additional Review Information**

Among construction projects, Applicants are encouraged to utilize Registered Apprentices on the jobsite.

Based on consideration of the above factors, the IRC will prepare a ranking or other categorization of applications (e.g., fund, don't fund, or carry forward) to assist the Regional Director in making funding decisions. EDA's final decision on whether to fund a project is dependent upon the ability of the applicant to provide sufficient documentation.

EDA intends to provide applicants written notification of the collective outcome of the CR and IRC expeditiously after receipt of a complete application. Applications for complex or large dollar value projects may require a longer review time.

#### **d. Due Diligence**

EDA may request that an applicant submit additional documents and information to allow EDA to fully evaluate compliance with applicable rules and regulations. If the applicant provides the requested information and supporting documentation in a timely fashion and EDA determines that the project is fully compliant with applicable rules and regulations, the application will be forwarded to the Grants Officer for a final decision and award approval. Applicants that do not provide the additional information and supporting documentation in a timely fashion or who are deemed not to be in compliance with applicable rules and regulations will receive notification that their application was not successful.

#### **e. Grant Officer's Decision**

Applications recommended by the IRC and deemed fully compliant with applicable rules and regulations will be forwarded to the Regional Director, who is the designated Grants Officer under this PWEAA NOFO. Each Regional Director has been delegated the final authority regarding funding of applications and may select a project for funding that differs from the IRC's recommendations based on any of the following selection factors:

- i. Responsiveness to the NOFO;

- ii. The extent to which the application meets the overall objectives of section 2 of PWEDA (42 U.S.C. § 3121);
- iii. The extent to which resilience, as defined in section A.3.b., is integrated into the project scope of work;
- iv. To promote broad and equitable access to EDA assistance, the amount of EDA funding the applicant has received in the current or prior three federal fiscal years under any EDA Notice of Funding Opportunity;
- v. The applicant's performance under previous Federal financial assistance awards, including whether the grantee submitted required performance reports and data;
- vi. The availability of program funding;
- vii. Whether the project supports communities negatively impacted by the downturn in the coal economy;
- viii. The extent to which the project supports EDA's goals of geographic balance in distribution of program funds, project types, organizational type (to include smaller and rural communities and organizations) and the overall portfolio;
- ix. The extent to which the application articulates a plan for ensuring that the project's benefits are shared across all affected communities and the extent to which the application demonstrates the capacity to account for the unique needs of historically underserved areas and populations as discussed in section A.3.c.; and
- x. The relative economic distress of the area.

The Regional Director's final decision must be consistent with EDA's and DOC's published policies. Any time a Regional Director makes a selection that differs from the IRC's recommendation, the Regional Director will document the rationale for the decision in writing.

### **3. Federal Awardee Performance and Integrity System (FAPIS) Review**

Before making an award with a total amount of Federal Share greater than the simplified acquisition threshold (currently \$250,000 but periodically adjusted), EDA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIS). See 41 U.S.C. § 2313.

Each applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. EDA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 C.F.R. § 200.206.

## **F. Federal Award Administration Information**

### **1. Federal Award Notice**

If an applicant successfully and timely completes all due diligence requirements and the application is selected for funding, EDA will notify the successful applicant in writing. This notice is not an authorization to begin work, however; work should not be undertaken until the award is signed by EDA and the applicant's authorized representative, as discussed below.

After initial notification, the EDA Grants Officer will issue the award (Notice of Award), which is the authorizing financial assistance award document and includes Specific Award Conditions and, as applicable, the DOC Financial Assistance Standard Terms and Conditions (DOC ST&Cs), the EDA Revolving Loan Fund Financial Assistance Award Standard Terms and Conditions (RLF ST&Cs), and/or the EDA Construction ST&Cs, as described in Section F.2.b, below.

By accepting the Notice of Award, the applicant agrees to comply with all award provisions. EDA will provide the Notice of Award to the applicant's authorized representative through EDGE. The applicant's authorized representative must review and accept the Notice of Award without modification within 30 calendar days of the date of receipt.

If an applicant is awarded funding, neither DOC nor EDA is under any obligation to provide any additional future funding in connection with that award or to make any future award(s). Amendment or renewal of an award to increase funding or to extend the period of performance is at the discretion of DOC and EDA.

EDA will notify unsuccessful applicants in writing to the applicant's authorized representative. EDA will retain unsuccessful applications in accordance with EDA's record retention schedule.

### **2. Administrative and National Policy Requirements**

#### **a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements**

Recipients of an EDA award will be bound by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) as set forth in 2 C.F.R. part 200.

#### **b. DOC Financial Assistance Standard Terms and Conditions**

Recipients of all non-construction EDA awards will be bound by the DOC ST&Cs applicable on the date of the award. The DOC ST&Cs may be accessed at the following website:  
[http://www.osec.doc.gov/oam/grants\\_management/policy/default.htm](http://www.osec.doc.gov/oam/grants_management/policy/default.htm).

Recipients of an RLF award will be bound by the DOC ST&Cs and the EDA RLF ST&Cs. The RLF ST&Cs may be accessed at <https://www.eda.gov/tools/grantee-forms/> under the header "Standard Terms and Conditions for RLF and Construction Projects."

Recipients of an EDA construction award will be bound by EDA's Construction ST&Cs. The Construction ST&Cs may be accessed at <https://www.eda.gov/tools/grantee-forms/> under the header "Standard Terms and Conditions for RLF and Construction Projects."

Recipients of DOC financial assistance are obligated to comply with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against people with disabilities, in Federally assisted programs or activities.

### **c. DOC Pre- Award Notification Requirements**

DOC will apply the Pre-Award Notification Requirements for Grants and Cooperative Agreements effective December 26, 2014, 79 Fed. Reg. 78,390. The Pre-Award Notice may be accessed at the Government Printing Office (GPO) website at <https://www.govinfo.gov/content/pkg/FR-2014-12-30/pdf/2014-30297.pdf>.

## **3. Reporting**

### **a. Financial, Performance, and Impact Reports**

All recipients are required to submit financial, performance, and impact reports in accordance with the terms and conditions of the grant award, generally no less than semi-annually. All project progress and financial reports must be submitted to the applicable EDA program officer in an electronic format to be determined at the time of award.

### **b. Federal Funding Accountability and Transparency Act of 2006**

The Federal Funding Accountability and Transparency Act of 2006 includes a requirement for awardees of applicable Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards issued in FY 2011 or later. All awardees of applicable grants and cooperative agreements are required to report to the Federal Subaward Reporting System (FSRS) available at [www.FSRS.gov](http://www.FSRS.gov) on all subawards over \$30,000. See 2 C.F.R. part 170.

### **c. Government Performance and Results Act**

EDA will require additional data on activities, outputs, and actual impact of the funded investment, in part to fulfill the requirements of the Government Performance and Results Act (GPRA). EDA anticipates that recipients will be expected to track their engagement activities within the scope of work, with project beneficiaries, and other project stakeholders. EDA further anticipates recipients will be expected to collect data, using surveys of beneficiaries or clients if necessary, on the outputs, outcomes, and impacts of project activities, such as jobs created/retained, private investment attracted, the number of strategic plans or economic development tools developed, the number of new business partnerships formed, or the range of new capabilities acquired. EDA plans to collect this information using Forms ED-915 (Public Works, Economic Adjustment Infrastructure and Revolving Loan Fund Investments), ED-916 (Semi-annual Program Outputs Questionnaire for EDA grantees), ED-917 (Annual Capacity Outcomes Questionnaire for EDA Grantees serving clients), and ED-918 (Annual Capacity Outcomes Questionnaire for EDA Grantees). For more information, please refer to <https://www.eda.gov/performance/gpra>. EDA may also engage with leading research institutions to perform third-party program evaluations, which will require cooperation between the grantee, organizations within their service area, and the evaluating institution.

#### **d. Requirements for Recipients with More than \$10 Million in Federal-wide Funding**

As required by appendix XII to 2 C.F.R. part 200, a recipient with more than \$10 million in federal-wide funding must maintain the currency of information reported to SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings.

#### **G. Federal Awarding Agency Contacts**

For questions concerning this NOFO, including technical assistance with application requirements, you may contact the appropriate EDA representative for your State listed on EDA's website at <https://www.eda.gov/contact/>.

#### **H. Other Information**

##### **1. Right to Use Information**

The applicant acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance and other reports submitted by applicants, may be used by the Department of Commerce in conducting reviews and evaluations of its financial assistance programs. For this purpose, applicant information and data may be accessed, reviewed, and evaluated by Department of Commerce employees, other Federal employees, and also by Federal agents and contractors, and/or by non-Federal personnel, all of whom enter into appropriate conflict of interest and confidentiality agreements covering the use of such information. As may be provided in the terms and conditions of a specific financial assistance award, applicants are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with Department of Commerce and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), applicants are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with a Department of Commerce financial assistance award.

##### **2. Freedom of Information Act Disclosure**

EDA may publish any applications it receives, including any supporting documentation, on its website or through other means.

In addition, Department of Commerce regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are found at 15 C.F.R. part 4, Public Information. These regulations set forth rules for the Department regarding making requested materials, information, and records publicly available under the FOIA. Applications submitted in response to this Notice of Funding Opportunity may be subject to requests for release under the Act. In the event that an application contains information or data that the applicant deems to be confidential commercial information that should be exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Commercial or Financial Information. In accordance with 15 C.F.R. § 4.9, the Department of Commerce will protect from disclosure confidential business information contained in financial assistance applications and other documentation provided by applicants to the extent permitted by law.

### **3. Notice of Government-Wide Procurement Restriction**

The general rule for Federal financial assistance is that contractors that develop draft specifications, requirements, statements of work, invitations for bids or requests for proposals are prohibited from competing for the final procurement. For instance, a professional engineer or architect who prepared the Preliminary Engineering Report for an EDA application would be excluded from bidding on the same work under the award under 2 C.F.R § 200.319. Under 2 C.F.R. § 200.317, only State recipients are expressly exempt from this prohibition. Local governments and Indian Tribes may also take advantage of the exemption in two narrow circumstances: (i) if they are required (by statute, for example) to follow the State's procurement rules in full and without exception; or (ii) if they are required to follow a specific State procurement rule that creates an explicit conflict with the prohibition in 2 C.F.R. § 200.319(a) (i.e., there is a statute that requires or permits the local government or Indian Tribe to award the final procurement to the same contractor that developed the draft specifications). Absent one of these two scenarios, the local government or Indian Tribe must comply with the prohibition. Applicants are encouraged to contact the EDA representative listed for their applicable State in Section G of this PWEAA NOFO with any questions regarding application of this regulation.

### **4. Past Performance and Non-Compliance with Award Provisions**

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. Failure to comply with any or all of the provisions of an award may have a negative impact on future funding by the DOC (or any of its operating units) may be considered grounds for any or all of the following actions: (1) establishing an account receivable; (2) withholding payments to the recipient under any DOC award(s); (3) changing the method of payment from advance to reimbursement only; (4) imposing other specific award conditions; (5) suspending any active DOC award(s); and (6) terminating any active DOC award(s).

### **5. Certifications Required by Annual Appropriations Acts for Corporations and for Awards over \$5 Million**

As discussed in section D.2.d, all applicants are required to be registered in SAM before applying under this NOFO. SAM requires registering entities to certify compliance with all limitations imposed by annual appropriation acts. For corporations, this certification includes that the corporation:

- (a) Was not convicted of a felony criminal violation under a Federal law within the preceding 24 months, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; and/or
- (b) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

For financial assistance awards in excess of \$5 million, this certification includes that the entity:

(a) To the best of its knowledge and belief, has filed all Federal tax returns required during the three years preceding the certification;

(b) Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and/or

(c) Has not been notified, more than 90 days prior to certification, of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial process.

## **6. EDA's Non-Relocation Policy**

If an application is selected for award, the recipient will be required to adhere to a specific award condition relating to EDA's non-relocation policy as follows:

In signing this award of financial assistance, Recipient(s) attests that EDA funding is not intended by the Recipient to assist its efforts to induce the relocation of existing jobs within the U.S. that are located outside of its jurisdiction to within its jurisdiction in competition with other U.S. jurisdictions for those same jobs. In the event that EDA determines that its assistance was used for those purposes, EDA retains the right to pursue appropriate enforcement action in accord with the Standard Terms and Conditions of the Award, including suspension of disbursements and termination of the award for convenience or material noncompliance, which may include the establishment of a debt requiring the Recipient to reimburse EDA.

For purposes of ensuring that EDA assistance will not be used to merely transfer jobs from one location in the United States to another, each applicant must inform EDA of all employers that constitute primary beneficiaries of the project assisted by EDA. EDA will consider an employer to be a "primary beneficiary" if: (i) the employer is specifically named in the application as benefitting from the project, and the applicant estimates that the employer will create or save 100 or more permanent jobs as a result of the investment assistance (if the jobs in question were originally located in a smaller community, EDA may extend this policy to the relocation of 50 or more jobs); or (ii) the employer is or will be located in an EDA-assisted building, port, facility, or industrial, commercial, or business park constructed or improved in whole or in part with investment assistance prior to EDA's final disbursement of funds.

## **7. NOFO Changes Communicated on Grants.gov**

EDA may make changes or additions to this NOFO. All changes will be communicated on Grants.gov. It is recommended that applicants set up a Grants.gov account and subscribe to this funding opportunity ("PWEAA2023") in order to be notified of any updates or changes. DOC or EDA may cancel, modify, or withdraw this NOFO at any time. EDA is not obligated to make any federal award or commitment as a result of this announcement.

## **8. Disclosure of Information**

For the purpose of achieving rigorous program evaluations, all applications (including those not selected for funding) may be shared with EDA staff, outside parties contracted by EDA for the purposes of evaluation, and other federal agencies.

## **9. Audit Requirements**

Single or program-specific audits shall be performed in accordance with the requirements contained in the Uniform Guidance (see 2 C.F.R. part 200, Subpart F, "Audit Requirements").

The Uniform Guidance requires any non-Federal entity (i.e., non-profit organizations, including non-profit institutions of higher education and hospitals, States, local governments, and Indian Tribes) that expends Federal awards of \$750,000 or more in the recipient's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the OMB Uniform Guidance. Applicants are reminded that EDA or the DOC's Office of Inspector General also may conduct an audit of an award at any time.

## **10. Fraud Awareness Training**

Consistent with 2 CFR part 200, in signing a financial assistance award, Recipient personnel responsible for managing the Recipient's finances and overseeing any contractors, sub-contractors or sub-grantees, will be required to complete the training PowerPoint entitled "Compliance with EDA Program Requirements" and return the signed Certificate of Training Completion to EDA as instructed by the Agency. Further, Recipient will be required to monitor award activities for common fraud schemes and report suspicious activity to EDA and the Office of Inspector General.

## **11. Office of Inspector General Rights and Responsibilities**

The DOC Office of Inspector General (OIG) seeks to improve the efficiency and effectiveness of the Department's programs, including deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through investigations, audits, and inspections of Department activities, including grants, cooperative agreements, loans, and contracts.

### **a. Disclosures**

Recipients of financial assistance originating from the U.S. Department of Commerce, including EDA, shall timely disclose, in writing, to the OIG and awarding agency, whenever, in connection with the award, performance, or closeout of this grant or sub-award thereunder, the recipient has credible evidence that a principal, employee, agent, or sub-recipient has committed:

- (i) A violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
- (ii) A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).

## **b. Reporting**

The OIG maintains a hotline to receive allegations of fraud, waste, or abuse. To report such allegations, please visit <https://www.oig.doc.gov/Pages/Hotline.aspx>. Upon request, the OIG will take appropriate measures to protect the identity of any individual who reports misconduct, as authorized by the Inspector General Act of 1978, as amended. Reports to the OIG may also be made anonymously.

## **c. Whistleblower Protection**

Recipients, sub-recipients, and employees working on this grant award will be subject to the whistleblower rights and remedies established under 41 U.S.C. § 4712.

An employee of a recipient or sub-recipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of: gross mismanagement of a federal contract or award; a gross waste of federal funds; an abuse of authority (i.e., an arbitrary and capricious exercise of authority that is inconsistent with the mission of NTIA or the U.S. Department of Commerce or the successful performance of a contract or grant awarded by NTIA or the Department) relating to a federal contract or award; a substantial and specific danger to public health or safety; or a violation of a law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The recipient or sub-recipient shall inform its employees and contractors, in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described above and at <https://www.oig.doc.gov/Pages/Whistleblower-Protection-Program.aspx>.