



**U.S. Department of Commerce
Economic Development Administration**



Civil Rights Guidelines





**Economic Development Administration
U.S. Department of Commerce
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Civil Rights Guidelines

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FOREWORD

The Economic Development Administration (EDA) is firmly committed to nondiscrimination in the administration of all its programs. These guidelines are to aid applicants, recipients, “other parties” and the general public in better understanding EDA’s required Civil Rights policies and procedures.

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EDA CIVIL RIGHTS GUIDELINES

Part I. **GENERAL**

1. Purpose

EDA applicants and “other parties” (defined in Appendix “B”) shall not deny any person the benefit of such assistance on the basis of race, color, national origin, sex, disability, or age. It is the purpose of these Guidelines to explain and clarify the civil rights requirements for applicants and recipients of, and “other parties” under EDA’s financial assistance programs and are based on Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and other applicable statutes (see EDA’s Civil Rights Regulations, 13 CFR Part 317 [attached as Appendix “A”]) and on Department of Commerce Regulations, 15 CFR Parts 8, 8b and 20 (available in EDA’s Regional Offices [see Appendix “D”]). Any inconsistencies or variances between these Guidelines and applicable statutes, regulations, or Executive Orders, as amended, shall be resolved in favor of such applicable statutes, regulations, or Executive Orders, as amended. This includes such statutes, regulations or Executive Orders which become effective after these Guidelines have been issued.

2. Scope

These Guidelines apply to all applicants and recipients of EDA financial assistance including all "other parties" [except construction contractors and subcontractors subject to Executive Order 11246, as amended by 11375, which are the responsibility of the Department of Labor for the purposes of monitoring and enforcement.]. 15 CFR Part 8, Appendix A--PROGRAMS COVERED BY TITLE VI lists the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.) (PWEDA), the Trade Act of 1974, as amended (19 U.S.C. 2341, et. seq.), and the Local Public Works Capital Development and Assistance Act of 1976 (42 U.S.C. 6701-6710) (LPW).¹

¹Although it is the policy of the Department of Commerce to prohibit discrimination on the basis of sex in its programs, Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex by educational institutions and in educational activities, 42 U.S.C. 3123 prohibits sex discrimination under PWEDA and 42 U.S.C. 6709 prohibits sex discrimination under LPW.

3. Kinds of Discrimination Prohibited in EDA Projects

- A. EDA's economic development programs provide funding for programs such as for the construction or renovation of public facilities to provide for the expansion or saving of private sector employment, technical assistance, research, and support for planning organizations to alleviate conditions of substantial and persistent unemployment in economically distressed areas and regions. EDA-funded projects assist in the creation or saving of jobs. It is the responsibility of EDA's recipients and "other parties" to ensure that no person is denied employment opportunities, or the use or benefit of any EDA-funded project, including facilities constructed, businesses supported, and new knowledge developed through research, on the basis of race, color, national origin, sex, disability, or age.
- B. An extensive list of prohibited discrimination is provided in 15 CFR 8.4; additional examples are listed below:

Services and facilities:

- (1) If EDA funds assist construction of a water line, it is discriminatory for a water line to bypass a minority area of the community without a substantial, legitimate justification.
- (2) If EDA funds assist in the construction of a public recreation/tourism facility, it is discriminatory if access to and use of that facility is not provided on the basis of a prohibited classification without a substantial, legitimate justification.
- (3) If EDA funds enable a grantee to provide technical assistance to businesses, it is discriminatory if that assistance is not provided to such businesses on the basis of a prohibited classification without a substantial, legitimate justification.
- (4) If an EDA recipient has a training program, it is discriminatory if participation and involvement are denied on the basis of a prohibited classification without a substantial, legitimate justification.

Employment practices:

A company which locates or expands employment in an EDA assisted industrial park, industrial area or port project, or is

otherwise benefitted by EDA financial assistance (while an "other party" as defined in Appendix "B"), may not discriminate against employees in the terms and conditions of employment. Employment selection procedures which are not job-related and tend to screen out a disproportionate number of persons because of race, color, national origin, sex, disability, or age, is prohibited.

- C. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), prohibits discrimination on the basis of sex in any educational program or activity receiving or benefitting from Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution.
- D. PWEDA at 42 U.S.C. 3123 and LPW at 42 U.S.C. 6709 prohibit discrimination based on sex in assistance provided under those programs.
- E. Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), prohibits discrimination on the basis of disability in any program or activity receiving or benefitting from Federal financial assistance. Discrimination includes a failure to design and construct facilities that are readily accessible to and usable by individuals with disabilities. Discrimination also includes a failure to alter facilities in such a manner that altered portions of the facility are readily accessible to and usable by individuals with disabilities. The implementing regulations of the Department of Commerce are contained in 15 CFR 8b. See Sections 8b.4, 8b.11 and 8b.16, for a list of examples of prohibited discrimination based on disabilities.
- F. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The implementing regulations of the Department of Commerce are contained in 15 CFR Part 20. See Section 20.4 for rules against age discrimination.
- G. Any person who believes that he/she has been discriminated against by a recipient or "other party" because of race, color, national origin, age, sex or disability, may file a written discrimination complaint with EDA. (See Post-Approval Compliance, Part III.3. below.)

4. Prevention of Discrimination in EDA Projects

All applicants for EDA financial assistance must meet Civil Rights requirements before and after acceptance of assistance. EDA expects compliance with the civil rights regulations and laws from the very earliest planning and proposal stage, through formal application and project approval, and into the operational life of the project. Equal Opportunity Specialists are available for consultation and advice. (See Appendix “D” for the Specialist serving the applicable area.)

Part II.
CIVIL RIGHTS REQUIREMENTS
FOR PROJECT APPROVAL

1. General

This part describes the procedures, forms, conditions, and assurances that make up the civil rights application requirements for EDA financial assistance.

A. The General Assurance Requirement

All applicants for EDA assistance assure, by signing assurances in the application form, that they will comply with the nondiscrimination requirements and agree to secure the civil rights compliance of any “other parties” involved in the project, and to cooperate actively with EDA in this process. At the time of application, this includes making sure EDA receives any assurances, employment data, or any other information that may be required from “other parties”. Failure to comply with terms of the assurances may result in judicial action to enforce the provisions of the general assurance requirements.

B. Information Required About Applicants' and Other Parties' Civil Rights Status (See Section 4.C. for Special Requirements for Districts and Other Planning Organizations)

1. All applicants and "other parties" will submit information concerning their civil rights status and involvement, if any, in any complaints, lawsuits, and/or the results of compliance reviews by a Federal or State Agency or administrative findings and other charges of discrimination during the previous two years. Non-governmental applicants and "other parties" need only submit data for the site, facility, or plant actually being assisted under the EDA project, unless such assistance is extended to the applicant or “other party” as a whole entity (i.e., including all of its plants and facilities).
2. The information required is the following:
 - (a) A narrative description of the status of any lawsuits or complaints including the basis and issues of the complaint or the results of any compliance reviews alleging discrimination in employment, or in the provision of services, based on race, color, national origin, sex, disability or age, involving the

applicant during the previous two years. If none, include a negative statement and enter the appropriate response on EDA's application, Form ED-900A as Exhibit 6 c.

- (b) A statement indicating any administrative findings of discrimination or of noncompliance by a Federal or State agency in employment, or the provision of services, based on race, color, national origin, sex, disability, or age, during the previous two years. If none, include a negative statement and enter the appropriate response on EDA's application Form ED-900A as Exhibit 6.c.

C. Information Required About Non-employment Project Service Benefits

Applicants for projects that provide non-employment project service benefits (benefits other than or in addition to employment) need to include information so that EDA can determine if the delivery of these benefits meets civil rights requirements. Examples of the type of information which may be requested are: 1) a project service area map; and 2) information concerning whether services are provided to all segments of the area being assisted and if not, why.

D. Employment Information to be Submitted

- 1. All applicants must submit data on current employment by completing the appropriate parts of the Form ED-612, "Current and Estimated Permanent Employee and Payroll Data", which is included in EDA's Application. This includes sections 1 through 4, 8, and 9. The Labor Market and Labor Force data (Section 8) should be completed using the latest data available to you.
- 2. All applicants that will create or save 15 or more permanent jobs as a result of EDA assistance must submit data on current and estimated employment by completing the entire Form ED-612.
- 3. "Other parties" must submit data on current and estimated employment as well as any jobs saved by completing the entire Form ED-612. Section 9 must include a signature of an authorized official of the "other party".

2. Overview of Civil Rights Requirements and Approval Process

- A. A project gains and retains civil rights approval (that is, "compliance" status) on the basis of EDA's careful evaluation of information provided on

employment, service benefits; and, if any: status of lawsuits, complaints and findings of discrimination. Using information supplied by the applicant and from independent inquiries as necessary, the Civil Rights staff makes a detailed study of how the project's employment benefits and project service benefits will be distributed to the community or area of impact.

- (1) Employment benefits. EDA will examine information in the ED-612 on the kinds of jobs to be created or saved in relation to the minority and female population, work force, skills, availability, and unemployment situations. EDA requires, and will review, information about the ages of those persons in the workforce. Additional information, as determined by EDA, may be required. In accordance with 15 CFR 8.4(c) this may include, but is not limited to, an Affirmative Action Plan, remedial agreement, or other information which is acceptable to EDA.
- (2) Project service benefits. EDA will study the project's location, function, design, accessibility, and service area to determine if project use and benefits are being provided to all covered persons. Further information, as determined by EDA, may be required.

- B. EDA's Civil Rights Review of a project involves an overall evaluation of all of the above, and of any other relevant factors, and a final determination of compliance with civil rights requirements.
- C. If the evaluation of an application indicates noncompliance, an Equal Opportunity Specialist is available to assist the applicant in resolving civil rights deficiencies. (See Appendix "D" for the Specialist serving the applicable area.)
- D. EDA reserves the right to request additional information and to conduct investigations when deemed necessary. This may be prior to or following approval of the project.

3. Requirement for Dissemination of Project Civil Rights Information to the Public

- A. In accordance with Department of Justice regulations at 28 CFR 42.405, recipients who must submit a general assurance must have an acceptable program of disseminating project information to the public. Department of Commerce regulations at 15 CFR 8.7(d) require that each "recipient or 'other party'...shall make available to participants, beneficiaries, and other interested persons such information...in such manner as this part and the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part."

- B. Appendix "C" provides detailed guidance on the types of information and methods of dissemination, including the use of languages other than English, that recipients and "other parties" should use to make the public, including present employees, aware of prohibitions against discrimination. The public information program must be appropriate to the circumstances of the community, and take advantage of the particular media opportunities of the community.

4. Special Civil Rights Requirements for Districts and Other Planning Organizations Supported by EDA

- A. Districts and other planning organizations supported by EDA must comply with civil rights requirements. The Department of Commerce's Title VI regulations at 15 CFR 8.4(b)(viii) cite, as a specific discriminatory act prohibited, the denial of an opportunity to participate as a member of a planning or advisory body which is an integral part of the program. It is the policy of EDA to promote diversity on governing bodies and Executive Committees and to ensure nondiscrimination based on race, color, national origin, sex, disability and age. EDA requires that the minority representation is inclusive and reflective of the population of the area served. While organizations are permitted flexibility in their selection methods, EDA will review the selection process to determine its compliance with civil rights requirements. (See 13 CFR, Part 303)
- B. Districts and other planning organizations supported by EDA may meet civil rights requirements, for example, by: (1) notifying and providing organizations (including neighborhood associations representing the interests of minorities, women and people with disabilities), the opportunity to select members; and (2) notifying and providing communities in the area to be served the opportunity to select their own representative(s), working closely with local educational institutions which have significant enrollment and faculty of minorities, women and people with disabilities.

C. Reporting Requirements

Prior to approval of EDA initial funding, continuation funding, or EDD designation, each district and other planning organization supported by EDA is required to report to EDA the membership of all governing bodies, Executives Committees, other functional committees and staff. This report shall include:

- (1) The total population and the total minority population of the area served by the organization;

- (2) A list of organizations in the area representing the interests of minorities, women, and people with disabilities;
- (3) A list of the membership of the governing board and Executive Committee indicating race, sex, national origin, and age. The list shall include those who voluntarily, self-identify as having disabilities;
- (4) A description of actions taken and methods used by the organization in its diversity efforts to reflect, as much as possible, the participation of all segments of the areas served;
- (5) Information regarding how organizations, including neighborhood associations representing the interests of minorities, women, people with disabilities and age were notified and provided opportunities to select their own representatives;
- (6) A list indicating race, sex, national origin, and age of employees on the staff by name, position title, salary, funding source and hiring date;
- (7) A summary indicating the progress made in the organization's diversity efforts. The summary should include a list by name, race, national origin, sex, and age, of all hires, promotions, terminations and composition of applicant pools since the last reporting period. The summary should also include the steps taken to ensure nondiscrimination and to provide equal employment opportunity; and
- (8) A brief summary of any economic development activities undertaken during the previous 12 months that have impacted the covered persons in the area.

The information above is required with the initial application and annually thereafter for continuation funding.

D. Compliance Review Procedures

In order to determine whether districts and other planning organizations supported by EDA are complying with these requirements, EDA shall conduct annual compliance reviews of these organizations through either an in-depth desk audit or onsite review.

E. Noncompliance Procedures

When compliance reviews indicate a failure to comply, EDA will notify the organization and the matter will be resolved by informal means whenever possible.

5. Requirements for Revolving Loan Fund Applicants and Recipients under the Economic Adjustment Program (RLF)

- A. Applicants and Recipients are urged to familiarize themselves with civil rights provisions in EDA's Administrative Manual, the Standard Terms and Conditions and the Plan Guidelines of the Revolving Loan Program. Grant recipients are responsible for complying with Federal laws and regulations pertaining to civil rights. Recipients are responsible for notifying prospective borrowers of these requirements.
- B. Applicants for Revolving Loan Funds will provide information describing the diverse make-up of RLF Loan Board members. EDA will determine if such RLF loan boards adequately represent the interests of the community and if loan funds will be administered in a nondiscriminatory manner. The reports submitted to EDA by RLF grantees will be used to monitor civil rights compliance. Additional information may be requested as needed to determine compliance.
- C. Compliance issues that EDA Civil Rights personnel will review and monitor in the RLF Program, include, but are not limited to the following:
- ! The representation of minorities, women and those members who voluntarily, self-identify as having disabilities, as well as age of members on the RLF Loan Board;
 - ! Recipient's plans to openly market the RLF to prospective business borrowers by race, sex, age, and disability status; and
 - ! Recipient's monitoring plans for borrowers' compliance with civil rights requirements concerning employees or applicants for employment, and/or providers of goods and services.

Part III.

POST-APPROVAL COMPLIANCE

1. Retention of Records and Access to Information

Recipients and "other parties" must retain and provide access to appropriate information to responsible EDA officials about their employees, applicants for employment, and project service benefits. Records must be kept on all employees and applicants for employment for a period of two years to enable EDA to determine compliance regarding employment practices (see 15 CFR 8.4(c) (1) and (2)). Recipients and "other parties" will provide adequate work space and assistance as needed for onsite reviews.

2. Compliance Reviews

A. Compliance reviews may be conducted by EDA officials for example, when:

- (1) Complaints from individuals suggest a discriminatory condition exists;
- (2) A class action complaint has been filed;
- (3) Other governmental agencies inform EDA of possible discrimination by the recipient or "other party";
- (4) EDA becomes aware of information indicating possible noncompliance and the problem cannot be satisfactorily resolved by the applicant or "other party" through other means; and
- (5) Other occasions as deemed necessary and appropriate by EDA.

Notification will be made to applicants, recipients, and "other parties" if an onsite review is to be conducted.

B. Desk Audit Review

Prior to determining that an on-site compliance review is necessary, EDA may conduct a review of records requested from the recipient or "other party".

C. On-Site Review Components

The on-site review may consist of the following:

- (1) Interviews with employees and management;
- (2) Inspection of files, records and the premises;

- (3) Meetings with other government agencies, community civic leaders, local civil rights organizations, and/or others representing the interests of minorities, women, and persons with disabilities;
- (4) A close-out interview with officials or "other parties" to discuss significant findings and recommendations; and
- (5) Other items as deemed necessary by EDA.

D. Compliance Determination that Deficiencies Exist

If the investigation reveals conditions in employment practices and/or the delivery of project service benefits that may result in a determination of noncompliance, EDA shall give the recipient the opportunity to voluntarily resolve the possibly discriminatory conditions after an informal compliance determination that such deficiencies exist. The resolution of such conditions will be handled informally by the Civil Rights staff, and a recommendation of a finding of compliance will be made if the conditions are corrected.

E. Compliance Determination of Noncompliance

When the conditions referred to in Part III 2D cannot be corrected quickly by the recipient or "other party," it will be necessary for the Civil Rights Staff to make a formal recommendation of noncompliance to the appropriate EDA official. Formal findings of noncompliance will be handled in accordance with appropriate regulations. (Refer to 15 CFR, Part 8, 8b, and 20.) These procedures provide for final attempts at informal negotiation at the Agency level, and, if necessary, formal enforcement proceedings. See Section 4 below.

F. Corrective Action Agreements

Whenever EDA and the recipient or "other party" can reach an agreement concerning the resolution of conditions that may result in a determination of noncompliance, the details and terms will be put in writing and signed by all parties. Such a "corrective action agreement" should be completed at, or as soon as possible, after the close-out interview. EDA's request that a recipient or "other party" sign a corrective action agreement is not a formal determination of noncompliance; nor is signing an agreement an admission of noncompliance.

G. Report of Compliance Review

A written report of all on-site compliance reviews will be prepared by EDA after completion of the review. The report will indicate whether or not there were civil rights violations.

3. Complaints

A. Filing Discrimination Complaints

- (1) Whenever an individual believes that he or she or a group of individuals of which he or she is a member has been discriminated against by a recipient or "other party," he or she may file, directly or through a legal representative, a written complaint with the responsible EDA official. (See Appendix "D" for list of officials.) The complaint must describe the alleged discrimination in detail setting out the exact circumstances, dates, and the names of those involved.
- (2) Complaints must be filed within 180 days of the date of the alleged discrimination. Upon request for an extension, EDA may, if there is good cause to do so, extend the deadline.
- (3) Complaints may be filed with the appropriate EDA Regional Office, the EDA National Office in Washington, D.C., or the Department of Commerce. (A list of addresses is attached as Appendix "D".) Complaints not received directly in the EDA National Office will be forwarded there within five (5) working days.
- (4) The identity of complainants will be kept confidential to the extent permitted by law. For example, disclosure of such information may be necessary to properly carry out any investigation, hearing, judicial or other proceedings that may arise in connection with the complaint.

B. Intimidation and Retaliation Prohibited

A recipient or "other party" may not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Title VI of the Civil Act of 1964, as amended, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any other applicable Federal statutes or Executive Orders, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation (see 15 CFR 8.9, 8b.26, and 20.14).

C. Investigations of Complaints

- (1) EDA Civil Rights Staff will investigate all complaints within its jurisdiction which are judged to merit an investigation as determined by a preliminary review. When appropriate, complaints will be referred to the Department of Commerce's Office of Civil Rights, the

Equal Employment Opportunity Commission (in accordance with 29 CFR Part 1691), the Department of Justice, or other agencies that may have jurisdiction for investigation. EDA will also comply with Department of Justice regulations at 28 CFR Part 37 regarding procedures for coordinating the investigation of complaints or charges of employment discrimination based on disability subject to the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973.

- (2) When an investigation reveals discrimination the investigator attempts to negotiate an informal resolution and a written agreement is signed by all parties.
- (3) When no discrimination is revealed the investigative report is sent to EDA's Compliance Review staff in Washington, D. C., and the formal notification of final disposition is provided to all parties.
- (4) For a finding of discrimination without a resolution, the complaint and report are to be submitted to the Assistant Secretary for Economic Development for a review of the finding. The initiation of formal conciliation efforts may be recommended.

4. Formal Enforcement Proceedings

A. General

If there appears to be noncompliance, or threatened noncompliance with civil rights requirements, and it cannot be corrected by informal means, compliance will be effected in accordance with the procedures outlined in the Regulations of the Department of Commerce, 15 CFR 8.11-8.14, 8b, 20, and the Regulations of the Department of Justice, 28 CFR 50.3. These procedures may lead to suspension or termination of assistance, or to any other means of enforcement authorized by law, for example, to take actions to enforce provisions of the general assurance.

B. Hearings

Whenever a hearing is required, reasonable notice shall be given to recipients or others as appropriate, of any action proposed to be taken in accordance with 15 CFR 8.12, 8b, and 20.

APPENDIX "A"

EDA's Civil Rights Regulations at 13 CFR, Part 317

PART 317 CIVIL RIGHTS.

Sec.317.1 Civil rights.

AUTHORITY: 42 U.S.C. 3211; 42 U.S.C. 2000d-1; 29 U.S.C. 794; 42 U.S.C. 3123; 42 U.S.C. 6709; 20 U.S.C. 1681; 42 U.S.C. 6101; Department of Commerce Organization Order 10-4.

§317.1 Civil rights.

(a) Discrimination is prohibited in programs receiving federal financial assistance from EDA in accordance with the following authorities:

(1) Section 601 of Title VI of the Civil Rights Act of 1964, codified at 42 U.S.C. 2000d et seq. (proscribing discrimination on the basis of race, color, or national origin), and the Department of Commerce's implementing regulations found at 15 CFR part 8;

(2) 42 U.S.C. 3123 (proscribing discrimination on the basis of sex);

(3) 29 U.S.C. 794, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 8b (proscribing discrimination on the basis of disabilities);

(4) 42 U.S.C. 6101, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 20;

(5) 42 U.S.C. 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program; and

(6) Other Federal statutes, regulations and Executive Orders as applicable.

(b) No recipient or other party shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, 42 U.S.C. 3123, 42 U.S.C. 6709, and the Age Discrimination Act of 1975, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

(c) Definitions:

(1) Other Parties means, as an elaboration of the definition in 15 CFR part 8, entities which, or which are intended to, create and/or save 15 or more permanent jobs as a result of EDA assistance provided that they are also either specifically named in the application as benefitting from the project, or are or will be located in an EDA building, port, facility, or industrial, commercial or business park prior to EDA's final disbursement of funds awarded for the project.

(2) Additional definitions are provided in EDA's Civil Rights Guidelines and 15 CFR part 8.

(d) All recipients of EDA financial assistance under PWEDA and the Trade Act, and Other Parties are required to submit the following to EDA:

(1) Written assurances that they will comply with Department of Commerce and EDA regulations, and such other requirements as may be applicable, prohibiting discrimination;

(2) Employment data in such form and manner as determined by EDA;

(3) Information on civil rights status and involvement in charges of discrimination in employment or the provision of services during the 2 years previous to the date of submission of such data as follows:

(i) Description of the status of any lawsuits, complaints or the results of compliance reviews; and

(ii) Statement indicating any administrative findings by a Federal or State agency.

(4) Whenever deemed necessary by EDA to determine that applicants and other parties are in compliance with civil rights regulations, such applicants and other parties shall submit additional information in the form and manner requested by EDA; and

(5) In addition to employment record requirements found in 15 CFR 8.7, complete records on all employees and applicants for employment, including information on race, sex, national origin, age, education and job-related criteria must be retained by employers and made accessible to the responsible Department official.

(e) To enable EDA to determine that there is no discrimination in the distribution of benefits in projects which provide service benefits, EDA may require that applicants submit a project service map and information on which to determine that services are provided to all segments of the area being assisted. Applicants may be required to submit any other information EDA may deem necessary for such determination.

(f) EDA assisted planning organizations must meet the following requirements:

(1) For the selection of representatives, EDA expects planning organizations and CEDS committees to take appropriate steps to ensure, where appropriate to the area, that there is adequate representation of minority and low-income populations, women, people with disabilities and Federal and State recognized American Indian tribes and that such representation is accomplished in a nondiscriminatory manner; and

(2) EDA assisted planning organizations and CEDS committees shall take appropriate steps to ensure that no individual will be subject to discrimination in employment because of their race, color, national origin, sex, age or disability.

(3) Prior to approval of EDA initial funding, and for district designations, each district and other planning organizations so supported by EDA is required to report to EDA the membership of its governing bodies, executive committees, and staff. This report shall include the items listed below:

(i) the total population and minority population of the area served by the organization;

- (ii) a list of organizations in the area representing the interests of minorities, women, and people with disabilities;
- (iii) a list of the membership of the governing board, executive committee indicating race, sex, national origin, age, and those who voluntarily, self-identify, as having disabilities;
- (iv) a description of actions taken and methods used in its diversity efforts to promote, as much as possible, the participation of all segments of the areas served;
- (v) information regarding how they notified and provided organizations, including neighborhood associations representing the interests of minorities, women, and people with disabilities, the opportunity to select members and their own representatives;
- (vi) a list of employees on the staff of the organization by name, position title, salary, funding source, and hiring data indicating race, sex, national origin, and age;
- (vii) a brief summary of any economic development activities undertaken during the previous 12 months that may have impacted the covered persons in the area. This information is required with the initial application and annually thereafter for continuation planning funding.

(4) Prior to approval of continuation funding for a planning grant each district and other planning organization so supported by EDA is required to submit a report which includes the items outlined in paragraph (f) (3) of this section except items in paragraphs (f) (3) (ii) and (v), (although paragraph (f) (3) (v) may be required when changes to the boards and committees affecting minorities, women, and people with disabilities have occurred), and a summary indicating the annual progress made in the diversity efforts including a list by name, race, national origin, sex, and age, of all hires, promotions, terminations, and composition of applicant pools since the last reporting period and steps taken to ensure nondiscrimination and to provide equal employment opportunity.

(5) In order to determine whether districts and other planning organizations supported by EDA are complying with these requirements, EDA shall conduct annual compliance reviews of these organizations through either an in-depth desk audit or onsite review.

(g) Applicants for Revolving Loan Funds will provide information describing the make-up of the existing or proposed RLF Loan Board members by race, national origin, gender, age, and those who voluntarily, self-identify, as having disabilities. The reports submitted to EDA by RLF grantees will be used to monitor civil rights compliance. Additional information may be requested as needed to determine compliance. Compliance issues which will be reviewed and monitored include, but are not limited to, the following:

- (1) the representation of minorities, women, and those who voluntarily, self-identify, as having disabilities, as well as the age of members on the RLF Loan Board;

(2) recipient's plans to openly market the RLF to prospective minority, disabled, and women business borrowers; and

(3) recipient's monitoring plans for borrowers' compliance with civil rights requirements concerning employees or applicants for employment, and/or providers of goods and services.

(h) Reporting and other procedural matters are set forth in 15 CFR parts 8, 8b, 8c, and 20 and the Civil Rights Guidelines which are available from EDA's Regional Offices. See part 300 of this chapter.

APPENDIX "B"

DEFINITIONS

- (1) "Compliance review" means an analysis and evaluation of the practices and policies of a recipient or "other party" subject to these Guidelines as they relate to nondiscrimination in employment or the providing of services.
- (2) "Employment practices" (for recipients and "other parties") means all terms and conditions of employment, including, but not limited to, recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities and treatment of employees. (See 15 CFR 8.4(c).)
- (3) "Designation of Persons" refers to where designation of persons by race, color, or national origin is required, the following designations shall be used:
 - a. "Black, not of Hispanic Origin". A person having origins in any of the Black racial groups of Africa.
 - b. "Hispanic". A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
 - c. "Asian or Pacific Islander". A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including, for example, persons from China, Japan, Korea, the Philippine Islands, and Samoa.
 - d. "American Indian or Alaskan Native". A person who has origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.
 - e. "White, not of Hispanic Origin". A person having origins in any of the original people of Europe, North Africa, or the Middle East.

The definitions listed above in this paragraph (3) a. - e. Inclusive, are in conformity with the OMB Ad Hoc Committee on Race/Ethnic categories' recommendations. To the extent that said designations are modified by the OMB Ad Hoc Committee, this paragraph (3) a. - e. inclusive, shall be interpreted to conform with those modifications.

- (4) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the basis of race, color, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself.
- (5) "Other Parties" Includes any entity, whether a state or local governmental, public or private agency, institution, organization, or any individual that, like a recipient, is not to engage in discriminatory acts with respect to applicable persons because of direct or substantial participation in any program, such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program. (See 15 CFR 8.3(l).)

As an elaboration of the above definition, "other parties" mean entities which, are intended to create and/or save 15 or more permanent jobs as a result of EDA assistance provided that they are also either specifically named in the application as benefitting from the project, or are or will be located in an EDA building, port, facility, or industrial, commercial or business park prior to EDA's final disbursement of funds awarded for the project. (See 13 CFR 317.1(c)(1).)

APPENDIX "C"

DISSEMINATION OF PROJECT CIVIL RIGHTS INFORMATION TO THE PUBLIC

- A. Where a significant number or proportion of the population eligible to be served or likely to be directly affected by EDA's Federal assistance programs needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall provide a public information program which is appropriate to the needs of the community by using the particular media opportunities of the community (see 28 CFR 42.405). An acceptable program providing publicity about employment opportunities (if new jobs are being created by the EDA project) should include the following:
- (1) Written notices of specific employment opportunities ought to be sent to:
 - a. State and local employment offices within the project's area of operation.
 - b. Local radio and television stations that provide public service announcements.
 - c. Community minority leaders or organizations.
 - d. Community women leaders or organizations.
 - e. Community organizations representing the interests of people regarding age and disability.
 - f. Local unions.
 - (2) Classified advertisements in newspapers and periodicals that cover the project's area of operation published in languages other than English, when applicable. Publications that appeal to minorities and women should be included. Most newspapers offices or local libraries can provide a copy of the publication, Editor & Publisher Year Book, (Black and foreign language newspapers published and distributed in the United States). (See Section B below for additional guidelines.)
 - (3) Posters displayed in high visibility areas on the project grounds and in other areas within the community. Displays and placement of posters, as with all other uses of media, must conform to local laws and regulations.

- (4) Any available visual, audio or written media available for dissemination of job information.
- B. To determine when it is appropriate to use a second language in addition to English, the following steps may be helpful:
- (1) Solicit recommendations from the local community minority leaders or organizations.
 - (2) Review demographic data that is published locally or by the Bureau of the Census to determine which languages are spoken and the size and location of the language groups.
 - (3) Obtain information from local and State government offices about what languages they use in employment recruiting and in publicizing voting information.

APPENDIX "D"

**ADDRESSES OF EDA AND DEPARTMENT OF COMMERCE
CIVIL RIGHTS OFFICES**

EDA Washington Office

Compliance Review Division, Civil Rights
U.S. Department of Commerce
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Room H-7816
Washington, D.C. 20230
(202) 482-5575

U.S. Department of Commerce

Director, Office of Civil Rights
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Room H-6010
Washington, D.C. 20230
(202) 482-5691

EDA REGIONAL OFFICES AND THE AREAS THEY SERVE:

Atlanta - 401 West Peachtree Street, N.W.
Suite 1820
Atlanta, Georgia 30308-3510

Regional Director: (404) 730-3002
Equal Opportunity Specialist: (404) 730-3011

Serving: Alabama, Florida, Georgia, Kentucky, Mississippi,
North Carolina, South Carolina, Tennessee

Austin - 327 Congress Avenue
Suite 200
Austin, Texas 78701

Regional Director: (512) 381-8144
Equal Opportunity Specialist: (512) 381-8175

Serving: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Chicago - 111 North Canal Street
Suite 855
Chicago, Illinois 60606-7204

Regional Director: (312) 353-8143 - Ext. 121
Equal Opportunity Specialist: (312) 353-8143 - Ext. 127

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Program Specialist: (303) 844-5455
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Program Specialist: (303) 844-4703
Serving: Colorado, Montana, North Dakota, Utah, Wyoming

Philadelphia - The Curtis Center
Independence Square West
Suite 140 South
Philadelphia, PA 19106

Regional Director: (215) 597-4603
Equal Opportunity Contact: (215) 597-7806

Serving: Connecticut, Delaware, District of Columbia, Maine,
Maryland, Massachusetts, New Hampshire,
New Jersey, New York, Pennsylvania, Puerto Rico,
Rhode Island, Vermont, Virginia, Virgin Islands,
West Virginia

Seattle - Jackson Federal Building
Room 1856
915 Second Avenue
Seattle, Washington 98174

Regional Director: (206) 220-7660
Equal Opportunity Specialist: (206) 220-7703

Serving: Alaska, American Samoa, Arizona, California, Guam,
Hawaii, Idaho, Nevada, Oregon, Washington