

NOTICE OF FUNDING OPPORTUNITY
Public Works and Economic Adjustment Assistance Programs

EXECUTIVE SUMMARY

- **Federal Agency Name:** Economic Development Administration (EDA), U.S. Department of Commerce (DOC).
- **Federal Funding Opportunity Title:** FY 2018 Economic Development Assistance Programs Notice of Funding Opportunity (EDAP NOFO).
- **Announcement Type and Date:** FY 2018 EDAP NOFO publishing EDA's proposal and application submission requirements and review procedures for proposals and applications received under EDA's (i) Public Works and Economic Development 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: July 2, 2018**
- **Funding Opportunity Number:** EDAP2018
- **Catalog of Federal Domestic Assistance (CFDA) Numbers:** 11.300, Investments for Public Works and Economic Development Facilities and 11.307, Economic Adjustment Assistance.
- **Key Dates:** EDA employs a two-phase review process for proposals/applications submitted under this NOFO. There are no submission deadlines. Proposals and applications will be accepted on an ongoing basis until the publication of a new EDAP NOFO, cancellation of this NOFO or all available funds have been expended. EDA intends to review proposal packages within 30 days of their receipt and review full applications within 60 days of receipt. Please see Section E of this NOFO for complete information on EDA's two-phase review process.
- **Funding Opportunity Description:** EDA provides strategic investments on a competitive merit basis to support economic development, foster job creation, and attract private investment in economically distressed areas of the United States. Under this NOFO, EDA solicits applications from applicants in order to provide investments that support construction, non-construction, planning, technical assistance, and revolving loan fund projects under EDA's Public Works program and EAA program (which includes Assistance to Coal Communities). Grants and cooperative agreements made under these programs are designed to leverage existing regional assets and support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities, including those negatively impacted by changes to the coal economy.
- **Eligible applicants:** EDA is not authorized to provide grants or cooperative agreements under its Public Works or EAA programs to individuals or to for-profit entities. Requests from such entities will not be considered for funding. Pursuant to Section 3 of PWEDA (42 U.S.C. § 3122) and 13 C.F.R. § 300.3, 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.

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EDA Public Works and Economic Adjustment Assistance Programs

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A. Program Description

1. Overview

This Notice of Funding Availability (NOFO) announcement sets out EDA’s proposal and application submission and review procedures for two of its Economic Development

Assistance Programs (EDAP) authorized under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq.*) (PWEDA): (i) Public Works and Economic Development (Public Works); and (ii) Economic Adjustment Assistance (EAA). EDA will publish separate NOFO announcements for its other programs: Regional Innovation Strategies, Planning, Partnership Planning, Local Technical Assistance, University Center, and Research and National Technical Assistance.

EDA's Public Works and EAA programs provide economically distressed communities and regions with comprehensive and flexible resources to address a wide variety of economic needs. Projects funded by these programs will support the DOC Strategic Plan (2018-2022) by, among other things, leading to the creation and retention of jobs and increased private investment, advancing innovation, enhancing the manufacturing capacities of regions, providing workforce development opportunities and growing ecosystems that attract foreign direct investment. Through these programs, 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.

2. EDA EDAP Investment Priorities

All projects considered for EDA funding under this NOFO must be consistent with at least one of EDA's EDAP Investment Priorities. EDA's EDAP Investment Priorities can be found at <https://www.eda.gov/about/investment-priorities.htm>. EDA's website will be updated on January 15, April 15, June 15, or September 15 of each year if there are any revisions to these Priorities.

3. EDA Program Information

This section provides detailed information on the two programs to which this NOFO applies. Additional information about EDA's programs, including information about the eligibility of specific kinds of projects, is available through EDA staff.

EDA staff provides technical assistance to prospective applicants to assist in proposal development and application submission. Applicants are *strongly encouraged* to contact the EDA representative listed for their applicable State in Section G of this NOFO to clarify technical matters involving their proposed project, its alignment with EDA's mission and investment priorities, and all other relevant publicly available information relating to technical matters before submitting a proposal or application to EDA.

Except for a "Strategy Grant" as described below, each project funded under Public Works and EAA must be consistent with the region's current Comprehensive Economic Development Strategy (CEDS) or equivalent EDA-accepted regional economic development strategy that meets EDA's CEDS or strategy requirements. Applicants must clearly detail how the proposed project will support the economic development needs and objectives outlined in the CEDS or equivalent strategy. Applicants should identify the CEDS or strategy and provide a copy of this planning document, either by attaching the document to the application or by submitting a hard copy. In addition, applicants should highlight where and how the proposed project will be aligned with, integrated into, and/or will further leverage other public and private investments in the community and region.

Under this NOFO, applicants may also seek funding in the form of a “Strategy Grant” to develop, update, or refine a CEDS that alleviates long-term economic deterioration or a sudden and severe economic dislocation, as described in EDA’s regulations at 13 C.F.R. § 307.3.

Additional information and a summary of EDA’s CEDS and strategy requirements may be obtained through the appropriate EDA representative listed in Section G of this NOFO.

a. Public Works¹

Through the 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. Prior examples of investments EDA has supported through the Public Works program include projects supporting water and sewer system improvements, industrial parks, high-tech shipping and logistics facilities, workforce training facilities, business incubators and accelerators, brownfield redevelopment, technology-based facilities, wet labs, multi-tenant manufacturing facilities, science and research parks, and telecommunications infrastructure and development facilities.

As noted above, investments made through the Public Works program must be aligned with a current CEDS or EDA-accepted regional economic development strategy and clearly lead to the creation or retention of long-term high-quality jobs. For example, under this program, EDA may provide funding to a consortium of eligible recipients to support the construction of a technology center that provides laboratory, office, and manufacturing space that leads to the creation of advanced manufacturing jobs. As another example, EDA may provide funding to a county government to support regional job creation in targeted cluster industries and expand those industries’ ability to export goods.

b. Economic Adjustment Assistance (EAA)²

Through the EAA program, EDA provides investments that support a wide range of construction and non-construction activities (including infrastructure, design and engineering, technical assistance, economic recovery strategies, and capitalization or re-capitalization of Revolving Loan Funds (RLF)) in regions experiencing severe economic dislocations that may occur suddenly or over time. 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. For example, EDA might provide funding to a university or community college to create and launch an economic diversification strategy to promote and enhance the growth of emerging industries in a region

¹ CFDA No. 11.300. The regulations implementing the Public Works program may be found at 13 C.F.R part 305.

² CFDA No. 11.307. The regulations implementing the EAA program may be found at 13 C.F.R. part 307. Please note that Section 307.3 of EDA’s regulations describe the differences between an EAA implementation grant and an EAA strategy grant. See also 42 U.S.C. § 3149(b)(2) (EAA planning project is not required to be carried out in an area with a CEDS or be consistent with an existing CEDS).

facing job losses due to declines in regionally important industries. As another example, EDA might provide funding to a city to support the construction of a publicly-owned multi-tenant business and industrial facility to house early-stage businesses.

Assistance to Coal Communities (ACC)

EDA designates a portion of its EAA funding to support communities and regions that have been negatively impacted by changes in the coal economy.³

To support these projects, EDA prioritizes ACC implementation projects and activities that:

- Will produce multiple economic and workforce development outcomes, such as promoting regional economic growth and diversification, new job creation, and re-employment opportunities for displaced coal economy workers; and
- Are specifically identified under local and regional economic development plans that have been collaboratively produced by diverse local and regional stakeholders.

Under this NOFO, EDA will also support ACC planning through strategy grants that develop, update, or refine a CEDS or an equivalent planning document.

ACC projects should respond to one or more of the following funding principles, as appropriate:

- *Collaborative Partnerships:* Competitive proposals and applications will successfully demonstrate that the applicant is engaged in collaborative relationships with a variety of local and regional stakeholders (public, private, for-profit, and non-profit) whose combined contributions will be invested to support the development and implementation of the proposed project.
- *Economic and Workforce Development Integration:* Competitive proposals and applications will clearly demonstrate how the project is designed to simultaneously address the workforce needs of local and regional businesses and the re-employment needs of local and regional workers who have been displaced by changes in the coal economy.
- *High Quality Jobs and Worker Advancement:* Numerous communities, regions, and states across the country have historically relied upon the coal industry to provide good, reliable jobs and economic prosperity. Contractions in the coal economy and the resulting loss of these jobs are particularly harmful to workers in the various sectors of the coal economy. Competitive proposals and any resulting applications will include those that propose to implement or otherwise incorporate workforce development strategies that prioritize:

³ “Coal economy” is a term that reflects the complete supply chain of coal-reliant industries. This includes, but is not limited to: coal mining, coal-fired power plants, along with related transportation, logistics, and supply chain manufacturing. This NOFO represents the fourth consecutive fiscal year in which EDA has made grant funds available specifically to assist communities and regions negatively impacted by economic contractions in the coal economy. During the previous competitive funding cycles, EDA made these funds available through the POWER+ Initiative. Through this NOFO, EDA now makes these funds available solely through ACC grants, though other Federal agencies may still have POWER grants that are open to apply for.

- The creation and growth potential of family-supporting jobs and careers;
 - Workforce development activities that offer workers “career pathways” upon re-employment – the provision of additional educational and skills attainment opportunities directly linked to employee career advancement and better paying jobs within the targeted industry; and
 - The provision of job training courses that equip workers with industry-recognized credentials that enhance their economic mobility and advancement.⁴
- *Multi-Jurisdictional Project Impact:* Among other factors, applications that strive to produce economic diversification and job creation on a multi-jurisdictional basis will be prioritized for selection and funding. “Multi-Jurisdictional” is a term that can include, but is not limited to:
 - Multiple communities within a county;
 - Multiple counties within a Region;
 - Multiple regions within a State; and
 - Multiple regions in two or more States.

ACC projects can include but are not limited to:

- Supporting the creation of new businesses and jobs in a variety of industry sectors, including, but not limited to advanced manufacturing, agriculture, energy, information technology (IT), health care, telecommunications, tourism and recreation, transportation, and cultural and natural assets.
- Implementing local and regional job creation and growth and economic diversification strategies targeted towards affected workers and businesses.
- Strengthening or developing existing or emerging industry clusters.⁵
- Developing business incubator programs.
- Enhancing access to and use of broadband services to support job growth through business creation and expansion.

⁴ EDA recognizes that the quality of jobs created in emerging industries is often evolving, and such industries typically do not yet have mature career pathways or skill standards. Applicants focused on emerging industries where these circumstances prevail should explain how their proposed strategies will create the conditions for increasing job quality and better defined pathways for worker advancement over the longer term (which may extend beyond the time frame of eligible funding).

⁵ Industry clusters are networks of interconnected firms and supporting institutions in a common geographic region. Clusters also are generally defined by and benefit from shared labor pools, infrastructure and markets.

- The development of economic development diversification strategies in accordance with CEDS criteria.⁶
- Facilitating access to private capital investment and providing related capacity building and technical assistance; re: effective utilization of capital investment for business development and job creation.
- Facilitating and promoting market access for goods and services created and manufactured by businesses in the impacted community/region.

Applicants are strongly encouraged to contact the appropriate Regional Office ACC program point of contact (POC) listed in Section G of this NOFO for specific guidance pertaining to the eligible use of program funds.

Note: EDA’s EAA program supports a wide range of technical, planning, and public works and infrastructure projects in regions that are experiencing adverse economic changes that may occur suddenly or over time, including communities experiencing economic distress as the result of contractions in the local/regional coal economy. For more information further details regarding the full scope of EAA along with EDA’s other programs, as well as recent examples of awarded projects, applicants are encouraged to visit www.eda.gov.

c. Statutory authorities for EDA’s programs

The statutory authorities for EDA’s Public Works and EAA programs are Sections 201 (42 U.S.C. § 3141) and 209 (42 U.S.C. § 3149) of PWEDA, respectively.

Applicant eligibility and program requirements are set forth in EDA’s regulations (codified at 13 C.F.R. chapter III), and all applicants must address these requirements. Specific program requirements for the Public Works program are set out at 13 C.F.R. part 305 and for the EAA program at 13 C.F.R. part 307. For EDA’s Public Works and EAA programs, this announcement supersedes the EDAP NOFO announcement dated June 19, 2017. EDA’s regulations are accessible at the U.S. Government Publishing Office (GPO) website at <https://www.gpo.gov/fdsys/>.⁷ Under “Browse”, select the Code of Federal Regulations, choose the most recent year, and scroll down to find Title 13, Chapter III.

B. Federal Award Information

1. What funding is available under this announcement?

For FY 2018, EDA has been appropriated \$117.5 million for the Public Works program, \$37 million for the EAA program, and an additional \$30 million in EAA funds for ACC pursuant to the Consolidated Appropriations Act, 2018 (P.L. 115-141) (Division B - Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018).

⁶ See 13 C.F.R. § 303.7.

⁷ In the event of discrepancies between the instructions and information provided in this NOFO and EDA’s regulations, EDA regulations will control.

The funding periods and amounts referenced in the NOFO are subject to the availability of funds at the time of award as well as Department of Commerce (DOC) and EDA priorities at the time of award. Neither DOC nor EDA will be held responsible for proposal or application preparation costs. Publication of this announcement does not obligate DOC or EDA to award any specific grant or cooperative agreement or to obligate all or any part of available funds.

The average award amounts set out below are provided only for your information and may prove useful for planning purposes. EDA anticipates making similar awards, subject to the availability of funding. Actual amounts awarded may be higher or lower depending on the nature of the proposed project and the availability of funds. Applications for funding of activities related to existing awards may compete with applications for new awards.

The average size of a Public Works investment has been approximately \$1.4 million, and investments generally range from \$600,000 to \$3,000,000. Historically, EDA has awarded funds for between 80 and 150 Public Works projects a year.

The average size of an EAA investment has been approximately \$650,000, and investments generally range from \$150,000 to \$1,000,000. Historically, EDA has awarded funds for between 70 and 140 EAA projects a year.

In FY 2018, EDA will continue to support assistance to coal communities through the ACC program and expects to award grants generally ranging between \$500,000 - \$2,000,000 for implementation projects, and \$100,000 - \$350,000 for planning activities.

DOC or EDA may cancel or withdraw this NOFO at any time.

2. What type of funding instrument will be used to make awards and how long will a project's period of performance be?

Subject to the availability of funds, EDA may award grants or cooperative agreements to eligible applicants to help support economic development project-based activities. EDA will award a cooperative agreement on a case-by-case basis if substantial agency involvement is required. Situations that may warrant substantial involvement by EDA include: (1) authority to halt immediately an activity if detailed performance specifications (e.g., construction specifications) are not met, (2) stipulation that the recipient must meet or adhere to specific procedural requirements before subsequent stages of a project may continue, (3) approval by an appropriate DOC official of substantive provisions of proposed subawards and/or (4) notification of changes to key recipient personnel. The period of performance for a given project will depend on the type of project, scope of work, and the EDA program under which the grant or cooperative agreement for the project is awarded. For example, the period of performance for a construction investment under EDA's Public Works program may last for three years, while a strategy investment under the EAA program may allow for one to three years for completion of the scope of work, depending on its complexity or urgency. EDA expects that all projects will proceed efficiently and expeditiously, and EDA encourages applicants to clearly document how quickly the applicant will be able to start and complete the proposed work. All construction projects are expected to be completed within five years from the date of award.

C. Eligibility Information

1. Eligible Applicants

Pursuant to PWEDA, eligible applicants for, and eligible recipients of, EDA investment assistance under this NOFO include a(n):

- a. District Organization;
- b. Indian Tribe or a consortium of Indian Tribes;
- c. 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;
- d. Institution of higher education or a consortium of institutions of higher education; or
- e. Public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State.⁸

Under its 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 Sharing or Matching

Cost sharing is an essential element of any EDA project, and the availability and committed nature of matching funds is a competitiveness factor in evaluating applications against each other. Generally, the amount of an EDA award may not exceed 50 percent of the total cost of the project. Projects may receive an additional amount that may not exceed up to 30 percent of the total project cost, based on the relative needs of the Region⁹ in which the project will be located, as determined by EDA.

In general, EDA’s maximum investment rate (percent of the total project cost) is determined by the average per capita income or unemployment rate of the Region in which the project is located, as outlined in Table 1 below:¹⁰

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

⁸ See Section 3 of PWEDA (42 U.S.C. § 3122) and 13 C.F.R. § 300.3.

⁹ See 13 C.F.R. § 300.3 for definition of Region.

¹⁰ See Section 204(a) of PWEDA (42 U.S.C. § 3144) and 13 C.F.R. § 301.4(b)(1).

(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 below, EDA will determine the maximum allowable investment rate, not to exceed 80 percent of the total project cost, based on the actual or threatened overall economic situation of the Region in which the project is located.

In addition, the Secretary of Commerce has delegated to the Assistant Secretary for Economic Development the discretion to establish a maximum EDA investment rate of up to 100 percent of the total project cost for projects: (i) of a State (or political subdivision of a State) that the Assistant Secretary for Economic Development determines has exhausted its effective taxing and borrowing capacity or (ii) of a non-profit organization that the Assistant Secretary for Economic Development determines has exhausted its effective borrowing capacity.¹¹ Additionally, EDA’s regulations provide discretion to establish a maximum EDA investment rate of up to 100 percent for projects of Indian Tribes.¹²

Potential applicants should contact the EDA representative listed for their State in Section G of this NOFO to obtain additional information regarding these EDA investment rate determinations.

The applicant must document that the matching share will: (i) be committed to the project for the period of performance, (ii) be available as needed, and (iii) not be conditioned or encumbered in any way that may preclude its use consistent with the requirements of EDA investment assistance.¹³ In order to meet these requirements, applicants may submit for each source of matching share, a commitment letter or equivalent document signed by an authorized representative of the organization providing the matching funds. Additional documentation may be requested by EDA in order 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. Please contact the appropriate EDA representative listed in Section G of this NOFO with questions regarding EDA’s matching share requirements.

In the application review process, EDA will consider the nature of the contribution (cash or in-kind) and the amount of the matching share funds. Documented in-kind contributions may provide the required non-Federal Share of the total project cost. All in-kind contributions must be eligible project costs and meet applicable Federal cost principles and uniform administrative

¹¹ See Sections 204(c)(1) and (2) of PWEDA (42 U.S.C. § 3144) and 13 C.F.R. § 301.4(b)(5).

¹² See 13 C.F.R. § 301.4(b)(5).

¹³ See 13 C.F.R. § 301.5.

requirements. Examples of in-kind contributions can include space, equipment, services, or forgiveness or assumptions of debt.¹⁴ 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.¹⁵

Applicants are *strongly encouraged* to work with the appropriate EDA representative listed in Section G of this NOFO to determine how in-kind contributions may be utilized to satisfy the matching share requirement for their respective project concept and application.

3. Economic 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.¹⁶

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 proposal or 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 proposal or complete application for PRC review. 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 project in their Region.

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

¹⁴ See Section 204(b) of PWEDA (42 U.S.C. § 3144) and the definition of "In-Kind Contribution" at 13 C.F.R. § 300.3.

¹⁵ See the definition of "Local Share or Matching Share" at 13 C.F.R. § 300.3. See also 2 C.F.R. § 200.306.

¹⁶ See Section 301(a)(3) of PWEDA (42 U.S.C. § 3161(a)(3)) and 13 C.F.R. § 301.3.

a geographic area within the District 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.

Following 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.¹⁷

b) “Special Need” Criteria

For the purposes of determining eligibility based on a “Special Need”, an applicant must provide current and appropriate economic and demographic statistics for the applicable Region to support the identified Special Need. EDA will base its Special Need eligibility determination on whether the proposed project meets the specific requirements outlined below or, in cases where specific thresholds are not identified, on whether the data and information provided by the applicant presents a compelling case that the Region meets the Special Need criteria, as defined by EDA.

A project may be eligible pursuant to a Special Need if the project is located in a Region that meets one or more of the criteria described below¹⁸:

- a. Closure or restructuring of industries or the loss of a major employer essential to the Regional economy as defined by:

¹⁷ See Section 301 of PWEDA (42 U.S.C. § 3161) and 13 C.F.R § 301.3.

¹⁸ The following criteria are published in accordance with 13 C.F.R. § 301.3(a)(1)(iii) and define what may constitute a “Special Need” (as defined in 13 C.F.R. § 300.3) sufficient to make a project eligible for Public Works or EAA investment assistance, as described in Section C.3 of this announcement.

- i. a public announcement of an impending closure or restructuring of a firm expected to occur within four (4) years of PRC review of a proposal or complete application submission; or
- ii. an actual closure or restructuring of a firm within the 24 months prior to submission of a proposal or complete application for PRC review, resulting in sudden job losses; AND
- iii. 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.
- b. Substantial out-migration or population loss.
- c. Underemployment, meaning employment of workers at less than full-time or at less skilled tasks than their training or abilities permit.
- d. Military base closures or realignments, defense contractor reductions-in-force, or Department of Energy defense-related funding reductions.
 - i. A military base closure refers to a military base that was closed or is scheduled for closure, realignment, or growth pursuant to the base closure and realignment process or other Department of Defense (DOD) process. Unless further extended by the Assistant Secretary for Economic Development, the Region is eligible from the date of DOD's recommendation for closure, realignment, or growth until five years after the actual date of closing of the installation or five years after the announced realignment or growth actually occurs.
 - ii. A defense contractor reduction-in-force refers to a defense contractor(s) experiencing defense contract cancellations or reductions resulting from official DOD announcements that have aggregate value of at least \$10 million per year. Actual dislocations must have occurred within one year of the date a proposal or complete application is submitted to EDA for PRC review and threatened dislocations must be anticipated to occur within two years of submittal of a proposal or complete application to EDA for PRC review. Defense contracts that expire in the normal course of business will not be considered to meet this criterion.
 - iii. A Department of Energy defense-related funding reduction refers to a Department of Energy facility that has experienced or will experience a reduction of employment resulting from its defense mission change. The Region is eligible from the date of the Department of Energy announcement of reductions until five years after the actual date of reduced operations at the installation.
- e. Natural or other major disasters or emergencies. A Region that has received one of the following disaster declarations is eligible:
 - i. 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
 - ii. 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.

- f. 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.
- g. Communities undergoing transition of their economic base as a result of changing trade patterns.
- h. A project located in a persistent poverty county is eligible. 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.
- i. The project is located in a designated "Qualified Opportunity Zone." A current list of Qualified Opportunity Zones designated by the U.S. Department of the Treasury can be found at <https://www.cdfifund.gov/pages/Opportunity-Zones.aspx>.
- j. Communities or regions that have been impacted¹⁹, or can reasonably demonstrate that they will be impacted, by coal mining or coal power plant employment loss, or employment loss in the supply chain industries²⁰ of either (applicable to applicants for ACC funding only). Complete applications seeking ACC funding must provide appropriate third party economic and demographic statistics for the applicable community or region in order to document the extent to which contractions in the coal economy have negatively impacted the community or region.²¹ Applicants are encouraged to cite federal data resources that may include, but are not limited to: (i) U.S. Department of Commerce (Bureau of Economic Analysis, <http://www.bea.gov/>); U.S. Census Bureau, American Community Survey (ACS), <https://www.census.gov/programs-surveys/acs/>); (ii) U.S. Department of Labor (Bureau of Labor Statistics (BLS), <http://www.bls.gov/>); (iii) U.S. Department of Energy (Energy Information Administration (EIA), <https://www.eia.gov/>); (iv) U.S. Department of the Interior (Mine Safety

¹⁹ In general, EDA will consider applications for projects in communities and regions where the primary coal economy contraction "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.

²⁰ Examples of supply chain industries include, but are not necessarily limited to, manufacturers of mining equipment and parts for coal-fired power plants and transportation companies that carry coal. Note, this timeframe is a range during which projects will generally be eligible; applicants may propose projects outside this timeframe, but should take special care to demonstrate that the primary coal economy contraction "event" continues to tangibly impact the community.

²¹ Examples of the types of acceptable data that applicants can use to demonstrate the negative impacts of local and/or regional coal industry contractions include (and are not limited to) economic indicators, labor market analyses, official announcements made by local and regional industries and firms, demographic, and industry data.

Health Administration,
<http://www.msha.gov/OpenGovernmentData/OGIMSHA.asp>; Bureau of
Indian Affairs (BIA)-American Indian Population and Labor Force Reports,
<http://www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm>).

- k. Other Special Need. The area is experiencing other special or extraordinary economic adjustment needs, as determined by the Assistant Secretary for Economic Development.

In addition to the above, all applications for funding based on Special Need must demonstrate how the project will address the economic development needs of the Region resulting from that Special Need.

D. Proposal and Application Submission Information

In order to make the application process more efficient and effective, EDA employs a two-phase review process for proposals/applications submitted under this NOFO.

Please note that all submissions under this NOFO are subject to the two-phase review process.

Phase I, the Proposal Phase, is designed to provide applicants with an economical and efficient means of determining if their proposed project meets basic technical criteria to be considered responsive to this NOFO.

In Phase I, potential applicants will provide EDA with general project information, as detailed in Section D.2.a of this NOFO, to allow EDA to make a threshold determination as to whether the proposed project meets basic technical criteria to be considered responsive to this NOFO.

Proposal packages submitted for Phase I consideration may be presented at any time during the fiscal year.

All complete Phase I proposal packages will be reviewed by the respective Regional Office Proposal Review Committee (PRC), and EDA intends to advise the applicant of the agency's Phase I Determination within 30 calendar days of EDA's receipt of the proposal.

If the Regional Office PRC determines that a proposal is responsive to this NOFO (Phase I Responsive Determination), EDA will inform the applicant that it may submit a complete application to proceed to Phase II of the process.

In Phase II, the Application Phase, an applicant **must submit a complete application**, as detailed in Section D.2.b. of this NOFO, to be considered for funding.

In Phase II, EDA's goal is to make a determination on an application within 60 days of EDA's receipt of the **complete application**.

Again, please note that all submissions under this NOFO must proceed through the two-phase review process. If an applicant submits an application in lieu of or concurrent with a proposal package, the Regional Office PRC must first make a Phase I Determination regarding the applicant's submission before moving to Phase II, the Application Phase, if a Responsive Determination is made.

In either Phase I or II, EDA may seek additional information or documentation from the applicant to clarify information presented in the proposal/application. Please see Section E of this NOFO for more information on EDA's review and selection process.

EDA strongly encourages applicants to consult with the EDA representative for their State to discuss whether their project is in alignment with EDA's investment priorities, eligibility requirements, cost-sharing requirements, property standards, or other requirements outlined in this NOFO. This consultation is limited to clarification of technical matters involving their proposed project, project alignment with EDA's mission and Investment Priorities, and all other relevant and publicly available information relating to general technical matters.

1. Address to Request a Proposal or Application Package

An applicant may obtain the appropriate proposal or application package electronically at www.grants.gov (Grants.gov). Applicants may search for this funding opportunity on Grants.gov using Funding Opportunity Number "EDAP2018". All components of the appropriate proposal and application package may be accessed and downloaded at www.grants.gov/web/grants/search-grants.html.

Applicants are advised that they **must complete the registration process prior to submitting a proposal and/or application through Grants.gov**; please note, however, that registration is not required for an applicant to access, view, or download the proposal and application package. Even though an applicant may be able to view and download a proposal or application, if the applicant has not correctly completed the Grants.gov registration process, the applicant will not be able to submit the proposal or application electronically for EDA's review. Alternatively, an applicant eligible for assistance under this announcement may request a paper proposal or application package by contacting the EDA representative listed for their State under Section G of this NOFO.

2. Content and Form of the Proposal or Application Package

EDA has developed a suite of forms designed to address all types of assistance the agency provides. In addition, Federal grant assistance forms from the Standard Form (SF) 424 family and certain Department of Commerce Forms (CD) forms are required as part of a complete application package. The tables in Sections D.2.a. and D.2.b. below describe all the forms and other documentation required for a complete proposal and application for each type of assistance EDA will provide under this NOFO and may serve as a checklist for applicants in preparing their submissions.

EDA encourages applicants to submit a proposal package as outlined in Section D.2.a below as the documentation is designed to provide a general overview of a project with fewer resources invested by the applicant. An applicant may submit a complete application as outlined in Section D.2.b below either in lieu of or concurrent with a proposal; however, as noted above, the applicant's submission will still proceed through EDA's two-phase review process.

For proposals and applications submitted through Grants.gov, all relevant forms must be signed electronically by the applicant's Authorized Organizational Representative (AOR); please see Section I of this NOFO for information on AOR requirements. Paper proposals and applications must include original signatures of an authorized official of the applicant. EDA will

not accept facsimile or email transmissions of proposals or applications. Please refer to important information on submitting your application provided in Section D.4 of this NOFO.

All documentation and data submitted should be current and applicable as of the date submitted. Applicants are encouraged to contact the EDA representative for their State for technical assistance before submitting a proposal or application under this NOFO. EDA staff members are available to provide applicants with technical assistance regarding proposal or application requirements. Additionally, EDA may reach out to the applicant to clarify proposal or application materials received.

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a. What is required for a complete proposal?

The following table provides a complete list of documents required for a complete proposal based on whether the applicant is requesting construction or non-construction assistance.

<p>Proposals for construction assistance (including design and engineering) must include:</p> <ol style="list-style-type: none">1. One Form SF-424 (Application for Federal Assistance) from each co-applicant, as applicable.2. One Form ED-900P (EDA Proposal Form) and accompanying supporting documentation.²² Applicants seeking ACC funding should note this information as a part of their response to section I.A.2 of the form.3. One Form SF-424C (Budget Information—Construction Programs) per project.4. Map of Project Site.
<p>Proposals for non-construction assistance must include:</p> <ol style="list-style-type: none">1. One Form SF-424 (Application for Federal Assistance) from each co-applicant, as applicable.2. One Form ED-900P (EDA Proposal Form) and accompanying supporting documentation.²³ Applicants seeking ACC funding should note this information as a part of their response to section I.A.2 of the form.3. One Form SF-424A (Budget Information—Non-Construction Programs).

b. What is required for a complete application?

The following table provides a complete list of documents required for a complete application based on the type of EDA assistance: construction, design and engineering (without a construction component), both construction and design and engineering, non-construction, and RLF.

<p>Applications for construction assistance (including applications for design and engineering with construction activities) must include:</p> <ol style="list-style-type: none">1. A copy of the completed proposal package as detailed above in Section D.2.a, including any relevant updates (if the applicant did not submit a proposal, the applicant must submit one Form SF-424 (Application for Federal Assistance) from
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²² In the event of discrepancies between instructions provided in any of the forms and this NOFO, the requirements for complete proposals and applications as stated in this NOFO will control.

²³ Id.

each co-applicant, as applicable, and one Form SF-424C (Budget Information—Construction Programs) per project).

2. **One Budget Narrative** that clearly identifies and justifies how funds in each line item of the budget (Form SF-424C) 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-424C (“Total Project Costs”). 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.
3. **One Form SF-424D** (Assurances—Construction Programs) from each co-applicant, as applicable.
4. **One Form ED-900** (General Application for EDA Programs). Applicants seeking ACC funding should note this information as a part of their response to section B.1 of the form.
5. **One Form ED-900A** (Additional EDA Assurances for Construction Or Non—Construction Investments) from each co-applicant, as applicable.
6. **One Form ED-900B** (Beneficiary Information Form) from each beneficiary of the proposed project, as applicable.
7. **One Form ED-900C** (EDA Application Supplement for Construction Programs) and accompanying supporting documentation, e.g., Preliminary Engineering Report.
8. **One Form ED-900E** (Calculation of Estimated Relocation and Land Acquisition Expenses).
9. **An Environmental Narrative** that will enable EDA to comply with its NEPA responsibilities. A narrative outline that details required components may be accessed in EDA’s website at:
http://www.eda.gov/files/012_Environmental_Narrative_Template.zip.
10. **One Applicant’s Certification Clause** (see Appendix A to the Environmental Narrative noted above) completed separately and signed by each co-applicant, as applicable.
11. **One Form CD-511** (Certification Regarding Lobbying) from each co-applicant, as applicable.
12. **One Form SF-LLL** (Disclosure of Lobbying Activities) from each co-applicant, as applicable.

Applications for **design and engineering assistance only** (without a construction component) must include:

1. **A copy of the completed proposal package** as detailed above in Section D.2.a, including any relevant updates (if the applicant did not submit a proposal, the applicant must submit one Form SF-424 (Application for Federal Assistance) from each co-applicant, as applicable and one Form SF-424A (Budget Information—Non-Construction Programs) per project).
2. **One Budget Narrative** that clearly identifies and justifies how funds in each line item of the budget (Form SF-424C) 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-424C (“Total Project Costs”). 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.
3. **One Form SF-424D** (Assurances—Construction Programs) from each co-applicant, as applicable.
4. **One Form ED-900** (General Application for EDA Programs). Applicants seeking ACC funding should note this information as a part of their response to section B.1. of the form.
5. **One Form ED-900A** (Additional EDA Assurances for Construction Or Non—Construction Investments) from each co-applicant, as applicable.
6. **One Form ED-900D** (Requirements for Design and Engineering Assistance).
7. **An Environmental Narrative** that will enable EDA to comply with its NEPA responsibilities. A narrative outline that details required components may be accessed in EDA’s website at:
http://www.eda.gov/files/012_Environmental_Narrative_Template.zip.
8. **One Applicant’s Certification Clause** (see Appendix A to the Environmental Narrative noted above) completed separately and signed by each co-applicant, as applicable.
9. **One Form CD-511** (Certification Regarding Lobbying) from each co-applicant, as applicable.
10. **One Form SF-LLL** (Disclosure of Lobbying Activities) from each co-applicant, as applicable.

Applications for **non-construction assistance** must include:

1. **A copy of the completed proposal package** as detailed above in Section D.2.a, including any relevant updates (if the applicant did not submit a proposal, the applicant must submit one Form SF-424 (Application for Federal Assistance) from each co-applicant, as applicable and one Form SF-424A (Budget Information—Non-Construction Programs) per project).
2. **One Budget Narrative** that clearly identifies and justifies how funds in each line item of the budget (Form SF-424A) 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 (“Totals”). 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.
3. **One Form SF-424B** (Assurances—Non-Construction Programs) from each co-applicant, as applicable.
4. **One Form ED-900** (General Application for EDA Programs). Applicants seeking ACC funding should note this information as a part of their response to section B.1 of the form.
5. **One Form ED-900A** (Additional EDA Assurances for Construction Or Non—Construction Investments) from each co-applicant, as applicable.
6. **One Form CD-511** (Certification Regarding Lobbying) from each co-applicant, as applicable.
7. **One Form SF-LLL** (Disclosure of Lobbying Activities) from each co-applicant, as applicable.

Applications for **RLF assistance** must include:

1. **A copy of the completed proposal package** as detailed above in Section D.2.a, including any relevant updates (if the applicant did not submit a proposal, the applicant must submit one Form SF-424 (Application for Federal Assistance) from each co-applicant, as applicable and one Form SF-424A (Budget Information—Non-Construction Programs) per project).
2. **One Budget Narrative** that clearly identifies and justifies how funds in each line item of the budget (Form SF-424A) 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 (“Totals”). 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.

3. **One Form SF-424B** (Assurances—Non-Construction Programs) from each co-applicant, as applicable.
4. **One Form ED-900** (General Application for EDA Programs).
5. **One Form ED-900A** (Additional EDA Assurances for Construction Or Non—Construction Investments) from each co-applicant, as applicable.
6. **One Form ED-900F** (Supplement for Revolving Loan Fund Applications).
7. **A draft RLF plan** that addresses all components required by EDA’s regulation at 13 C.F.R. § 307.9.
8. **One Form CD-511** (Certification Regarding Lobbying) from each co-applicant, as applicable.
9. **One Form SF-LLL** (Disclosure of Lobbying Activities) from each co-applicant, as applicable.

In addition, **an application to support a business incubator**, technology or other type of incubator or accelerator, regardless of the type of assistance being requested (i.e., construction or non-construction) must also include:

- a. A feasibility study establishing the market demand for the specific start-up companies proposed for incubation (technology, general business, bio-tech, manufacturing, etc.), presence of necessary resources, and community support for the incubator;
- b. Documentation with detailed demonstration that the applicant has the financial capacity to operate the incubator facility (if applicable) and reach a positive cash flow within a reasonable period of time, which EDA generally expects to be three years; *and*
- c. A management plan for operation of the incubator that, *at a minimum*, includes a/an:
 - i. *Tenant/client selection policy* that includes a description of the types of businesses sought and any established selection criteria;
 - ii. *Tenant lease or license agreement* (if applicable) that enumerates the shared services to be provided; delineates the incubator’s business assistance policy, including the provision of management, technical, and training, assistance and the incubator’s 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;

- iii. *Business assistance policy* that outlines the various types of assistance that the incubator will provide to start-up firms, including how the incubator will support tenants/clients with access to capital needed to grow their businesses successfully;
- iv. *Staffing plan* that details the talent and resources that will be dedicated to supporting the startup companies accepted into the incubator;
- v. *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 of the incubator; and
- vi. *Incubator performance plan* that includes how the incubator will track the success of incubator tenants/clients, specifically identifying what performance measurement data the incubator proposes to collect 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 for the incubator that will be responsible for setting performance goals of the incubator, selecting or approving selections of staff, establishing and reviewing policy, and monitoring performance.

Any applicant that proposes a project to support an incubator is ***strongly encouraged*** to contact the EDA representative listed for their applicable State in Section G of this NOFO to clarify technical matters involving their proposed project.

c. Environmental and Historic Preservation Requirements

All applicants for EDA construction assistance (including design and engineering assistance) are required to provide adequate environmental information. Each application will be reviewed by EDA for compliance with the National Environmental Policy Act of 1969, as amended (NEPA). 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. For further guidance and information, please contact the appropriate Regional Environmental Officer listed in Section G of this NOFO.

d. Copy of Negotiated Indirect Cost Rate Agreement (if applicable)

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

However, if indirect costs are included in the budget for a non-construction project, the applicant must include documentation to support the indirect cost rate it is using. For most applicants, this will entail the submission of 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 shall be the lesser of the (1) line-item amount for the Federal Share of indirect costs contained in the EDA approved budget for the award, or (2) Federal Share of the total allocable indirect costs of the award based on either (a) 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 (b) 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 (90) days from the award start date. 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 applicable cognizant Federal agency). If the applicant chooses to pursue this option, it 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.

If the applicant (1) does not have a current NICRA and (2) has never received a negotiated indirect cost rate, the applicant may alternatively elect to charge a *de minimis* rate of 10% of modified total direct costs subject to the exceptions of 2 C.F.R. § 200.414(f). The applicant should include a statement in its Budget Narrative that it does not have a NICRA; it has never received a negotiated indirect cost rate; and it is electing to charge the *de minimis* rate.

Note if the applicant is a State or local unit of government (or a Tribe) that receives less than \$35 million in direct Federal funding per year it may submit any of the following:

- i. A Certificate of Indirect Costs from DOI or EDA;
- ii. Acknowledgment received from EDA and Certificate of Indirect Costs;
- iii. Cost Allocation Plan approved by a Federal agency; or
- iv. NICRA.

3. Unique Entity identifier and System for Award Management (SAM)

To enable the use of a universal identifier and to enhance the quality of information available to the public as required by the Federal Funding Accountability and Transparency Act of 2006, to the extent applicable,²⁴ applicants are required to: (i) be registered in the SAM before submitting their application; (ii) provide a valid unique entity identifier in their application; and (iii) 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 unique entity identifier and SAM requirements, and if an applicant has not fully complied with the requirements by the time EDA is ready to make an award, EDA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant. Recipients will be subject to reporting requirements, as identified in OMB guidance published at 2 C.F.R. parts 25 and 170 (2014). The guidance set out at 2 C.F.R. part 25 can be found at <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part25.pdf> and the guidance set out at 2 C.F.R. part 170 can be found at <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part170.pdf>. Note that SAM now encompasses the Central Contractor Registration (CCR) and that the unique entity identifier is commonly

²⁴ Individuals who apply for or receive agency awards or direct subawards are exempt from the requirements of the unique entity identifier and SAM. See 2 C.F.R. § 25.110(b). However, individuals are not eligible to receive awards under EDA's Public Works and EAA programs.

referred to as the Data Universal Numbering System (DUNS) Number. The recipient must keep its SAM registration current.

4. Submission Dates and Times

There are no proposal or application deadlines under this NOFO. Proposals and applications are accepted and reviewed on an ongoing basis in accordance with the timelines set out in this NOFO or until the NOFO is amended in relevant part or a new EDAP NOFO is published. EDA may cancel or withdraw this NOFO at any time.

a. How to Submit a Proposal or an Application?

i. Electronic submission

EDA strongly encourages electronic submissions of proposals and applications through Grants.gov. EDA will not accept facsimile or email transmissions of proposals or applications.

Once a proposal or an application is submitted, it undergoes a validation process through Grants.gov during which the proposal or application may be accepted or rejected by the system. Please be advised that the validation process may take 24 to 48 hours to complete. Proposals or applications that contain errors will be rejected by Grants.gov and will not be forwarded to EDA for review. The applicant must correct the error before Grants.gov will accept and validate the proposal or application.

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.

Please see Section I of this NOFO for more detailed instructions and information on the requirements for submitting proposals or applications electronically via Grants.gov.

ii. Paper submission

An applicant may submit a completed paper proposal or application via postal mail or courier service, using the selected courier's delivery confirmation service, to the appropriate Regional Office listed in Section G of this NOFO. The applicant may download the appropriate proposal or application package, whether construction or non-construction as provided in Section D.2 of this NOFO, from <https://www.grants.gov/web/grants/applicants/apply-for-grants.html>, save it electronically, and print it for paper submission. EDA recommends that applicants avoid the use of three-ring binders when submitting paper proposals/applications in the interest of green business practices.

One original and two copies of the complete proposal or application must be received by the appropriate Regional Office.

DOC mail security measures may delay receipt of United States Postal Service mail for up to two weeks. Therefore, applicants that submit paper submissions are advised to use guaranteed delivery services.

5. Intergovernmental review

Applications submitted under this 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.²⁵ 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/2017/11/Intergovernmental_-Review-_SPOC_01_2018_OFFM.pdf. Question 19 of Form SF-424 allows applicants to demonstrate compliance with EO 12372. Note that question E.3 in the ED-900 also requires applicants to demonstrate such compliance.

An applicant seeking funding under the Public Works program or for a construction project 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.

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. In order 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 proposal and application preparation expenditures, which are distinguished from pre-award project costs.

7. Other Submission Requirements

After EDA reviews your proposal and application, EDA may contact you to request any necessary additional documentation to clarify or substantiate submitted proposal or application materials, depending on the type of project proposed. Examples of additional documentation may include title verification, documentation of the value of in-kind contributions, evidence that 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 your application.

²⁵ As provided for in 15 C.F.R. part 13.

EDA may make changes or additions to this NOFO. All changes will be communicated on Grants.gov.

E. Proposal and Application Review Information

Throughout the review and selection process, EDA reserves the right to seek clarification in writing from applicants whose proposal or 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 proposal or application materials, objectives, and work plans, or modify budgets or other specifics necessary to comply with Federal requirements. Before proposals and applications are reviewed as described below, EDA will conduct an initial screening to verify that all required forms are complete and all required documentation is included. Proposals and applications that do not contain all elements listed in Sections D.2.a. and D.2.b., respectively, of this NOFO will not be reviewed.

1. Evaluation Criteria

a. Phase I: Proposal Review

A Proposal Review Committee (PRC) of at least three EDA staff will review all complete proposal packages received to ensure that they are sufficiently responsive to this NOFO. EDA staff will use the following factors to determine if a proposal is “Responsive” or “Not Responsive” to this NOFO:

- The project’s consistency with at least one of EDA’s current EDAP Investment Priorities as outlined at <https://www.eda.gov/about/investment-priorities.htm>²⁶;
- The project’s clear and reasonable estimates of job creation and/or private investment or the project’s ability to provide information and tools necessary to further regional economic goals;
- The applicant’s eligibility to receive an EDA grant (for more information on applicant eligibility requirements, see Section C.1 of this NOFO);
- The eligibility of the area in which the project will be located or which the project will benefit (for more information on Regional economic distress eligibility requirements, see Section C.3 of this NOFO);
- The project’s consistency with the goals of Public Works or EAA as detailed in Section A.3 of this NOFO; and
- The project’s relevancy to the economic objectives stated in the region’s CEDS (or CEDS equivalent).

If the PRC determines that a proposal is “Not Responsive” to any of the above criteria, the proposal will not receive further consideration for funding. Applicants will be notified within 30 days of receipt of their complete proposal (or combined proposal/application package) of the PRC’s determination regarding their proposal.

²⁶ The EDA Investment Priorities may be updated from time to time. Any future revisions will be reflected on EDA’s website on January 15, April 15, June 15, or September 15 of each year.

If the PRC determines that a proposal is “Responsive” to all of the above criteria, the applicant will be asked to submit a **complete application** to EDA for further evaluation (see Section E.2 of this NOFO).

An EDA manager/supervisor will verify that the PRC properly applied each of the responsiveness factors. If the manager/supervisor determines that the PRC’s application of the responsiveness factors is incorrect and reverses the PRC’s determination, the manager/supervisor will justify his or her decision in writing and with specificity.

Please note that Phase I is a limited review of technical criteria, and is not a merit review. If EDA determines that a proposal is “Responsive” to this NOFO and requests that an applicant submit a complete application, EDA is not obligated and cannot guarantee that the relevant project will receive funding in whole or in part. EDA receives far more applications than it can fund.

b. Phase II: Investment Review Committee (IRC)

Each Regional Office will convene an IRC that consists of at least four EDA employees (except in the case of an IRC to review ACC applications, which need only consist of three EDA employees) to review each complete application where the PRC has determined that the proposed project is “Responsive” to this NOFO. Additional IRCs may be convened depending on the volume of applications received. Before the IRC reviews an application, EDA will conduct an administrative review to determine that the application is complete. An application package that does not contain all elements listed in Section D.2.b of this NOFO will not be reviewed.

All IRC members will review each complete application before the IRC discussion and evaluation. 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 provided in 13 C.F.R. part 305 for Public Works investments and 13 C.F.R. part 307 for EAA investments. The IRC will use the following criteria in its review, with each criterion receiving equal weight:

1. The project’s feasibility, including the availability and committed nature of proposed matching funds;
2. The project’s sustainability/durability, including the extent to which the project demonstrates support from regional stakeholders (private, public, and non-profit entities, etc.);
3. The applicant’s organizational capacity, including its financial and management capacity;
4. The project’s alignment with the regional CEDS or other CEDS equivalent EDA-accepted economic development strategy, including 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;
5. The project’s demonstrated alignment with EDA’s current EDAP Investment Priorities;
6. The project’s demonstrated ability to foster job creation and promote private investment in the regional economy; and
7. The extent to which the project will enable the community/region to become more economically diversified and prosperous.

In addition to the above criteria, for ACC projects, the IRC will also equally weigh:

8. The integration and/or alignment of the impacted region's workforce development needs and priorities with the economic development strategy referenced under the proposal;
9. The extent to which the project objectives are designed to create jobs that pay family-supporting wages, create career pathways for workers, and are linked to industry-recognized credentials for high-demand positions; and
10. The geographic impact and resulting economic benefit of the proposed scope of work.

Note: Throughout the proposal and application review and selection process, ACC projects will be evaluated independently from EAA and Public Works applications. Each ACC project evaluation will be reviewed based on both EAA and ACC evaluation criteria.

Based on its consideration of the above factors, the IRC will prepare a priority order of funding recommendations for the respective Regional Director. EDA's final decision on whether to fund a project is dependent upon the ability of the applicant to provide sufficient documentation of the project's compliance with applicable rules and regulations.

Applicants should expect written notification from EDA regarding the outcome of the IRC within 60 days of EDA's receipt of their **complete application**.

2. Review and Selection Process

a. Due Diligence

If the IRC recommends an application, the applicant still may have to complete certain due diligence requirements before EDA can make an award. After an applicant has been notified that their application has been recommended by the IRC, EDA may request that the applicant submit additional documents and information to allow EDA to fully evaluate compliance with applicable rules and regulations.

For example, in the case of construction projects, such additional due diligence may include:

1. Title verification;
2. Proof of project ownership;
3. Documentation of matching funds; and
4. Documentation required for environmental or legal compliance. This may include, but is not limited to: 404 Clean Water Act permits from the U.S. Army Corps of Engineers and accompanying environmental documentation (environmental assessment or environmental impact statement), Phase I and Phase II environmental assessments, State environmental assessment documentation (for compliance with State environmental statutes such as the Massachusetts Environmental Policy Act (MEPA) or the California Environmental Quality Act (CEQA)), archeological and biological surveys, and proof of coordination with resource agencies.

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 Regional Director 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 has been denied.

b. Grants 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 Grants Officer under this announcement. Each Regional Director has been delegated the authority to make the final decision on whether to fund an application and may select a project for funding that differs from the IRC's recommendations based on any of the following Selection Factors:

1. The relative economic distress of the region;
2. For Public Works projects, the extent to which the selection of the application, alone or in the context of other applications, supports EDA's compliance with appropriations law requirements and report language guidance;
3. The likelihood a given project will start quickly, realistically achieve project goals, and catalyze additional resources;
4. The extent to which the application meets the overall objectives of Section 2 of PWEDA (42 U.S.C. § 3121);
5. For ACC projects, the extent to which the project proposes an implementation activity that supports economic diversification, job creation, capital investment, and workforce development and re-employment opportunities;
6. The applicant's performance under previous Federal financial assistance awards, including whether the grantee submitted required performance reports and data;
7. The availability of program funding; and
8. 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 organizations) and the overall portfolio.

The Regional Officer'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

EDA, prior to making a Federal award with a total amount of Federal Share greater than the simplified acquisition threshold, 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. § 200.205.

F. Federal Award Administration Information

1. Federal Award Notification

Under this NOFO, EDA expects to provide applicants with written notification regarding the status of their application at each phase of the evaluation process, as outlined in Section E of this NOFO above. Applicants are advised that though this notification may express the applicant's success in a particular phase of the evaluation process, it will not obligate EDA to make an award to the applicant and is not the official award document.

If an application is selected for funding and the applicant successfully and timely completes all due diligence requirements, the expectation is that the EDA Grants Officer will issue the grant award (Form CD-450), which is the authorizing financial assistance award document and includes 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), or the EDA Construction ST&Cs, as described in Section F.2.b, below.

By signing Form CD-450, the applicant agrees to comply with all award provisions. EDA will provide Form CD-450 via the award package to the appropriate business office of the recipient's organization. The applicant must sign and return the Form CD-450 to the applicable Regional Office without modification within 30 days of the date of EDA's signature on the form.

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. 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. See a copy of these regulations at: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title2-vol1/pdf/CFR-2016-title2-vol1-part200.pdf>. Please note that the Uniform Guidance superseded DOC's Uniform Administrative Requirements, which were found at 15 C.F.R. parts 14 and 24.

b. DOC Financial Assistance Standard Terms and Conditions

For all projects except construction awards, DOC will apply the DOC ST&Cs dated March 31, 2017, to this award. The DOC ST&Cs may be accessed at the following website: http://www.osec.doc.gov/oam/grants_management/policy/documents/Department%20of%20Commerce%20Standard%20Terms%20&%20Conditions%2031%20March%202017.pdf.

For RLF awards, in addition to the DOC ST&Cs, EDA will apply 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”.

For construction awards, EDA will apply the 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”.

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 <http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30297.pdf>.

3. Reporting

- a. 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. The Federal Funding Accountability and Transparency Act of 2006 includes a requirement for awardees of applicable Federal grants to report information about first-tier subawards²⁷ 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 on all sub-awards over \$25,000. Please see the OMB guidance published at 2 C.F.R. part 170 (2015), which can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-part170.pdf>.
- c. EDA may require additional data on activities, outputs, and actual impact of the funded investment, pursuant to the Government Performance and Results Act (GPRA), as well as specified under the terms and conditions of the EDA grant award. For example, recipients may be expected to continuously track their engagement activities within the scope of work, other beneficiaries, and project-related stakeholders. They may also be expected to collect data on the outputs and impacts of their activities, such as, for example, the number of beneficiary strategic plans developed, the number of new business partnerships formed, or

²⁷ A first-tier subaward means an award provided by the recipient to a subrecipient for the subrecipient to carry out as part of a Federal award.

new capabilities acquired using surveys of beneficiaries or clients if necessary. EDA will specify the data collection techniques and reporting mechanisms to be used.

G. EDA Contact Information

For questions concerning this solicitation, or more information about EDA programs, you may contact the appropriate EDA representative listed below. Updated contact information can be found on EDA's website at <https://www.eda.gov/contact/>.

Atlanta Regional Office

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(404) 730-3025 Fax

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North Carolina

Hillary Sherman
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Tennessee

Bertha Partin
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404-730-3010

Environmental Officer

Keith Dyche
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404-730-3029

Austin Regional Office

Jorge Ayala, Regional Director
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(512) 499-0478 Fax

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Environmental Officer
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DRAFT

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Indiana, Ohio

Kyle Darton
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Michigan, Wisconsin

Lee Shirey
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312-789-9751

Environmental Officer and ACC

Robin Bush
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312-789-9750

DRAFT

Denver Regional Office

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Montana, Wyoming and ACC

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**North Dakota, South Dakota,
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**Eastern Iowa, Eastern and Central
Missouri**

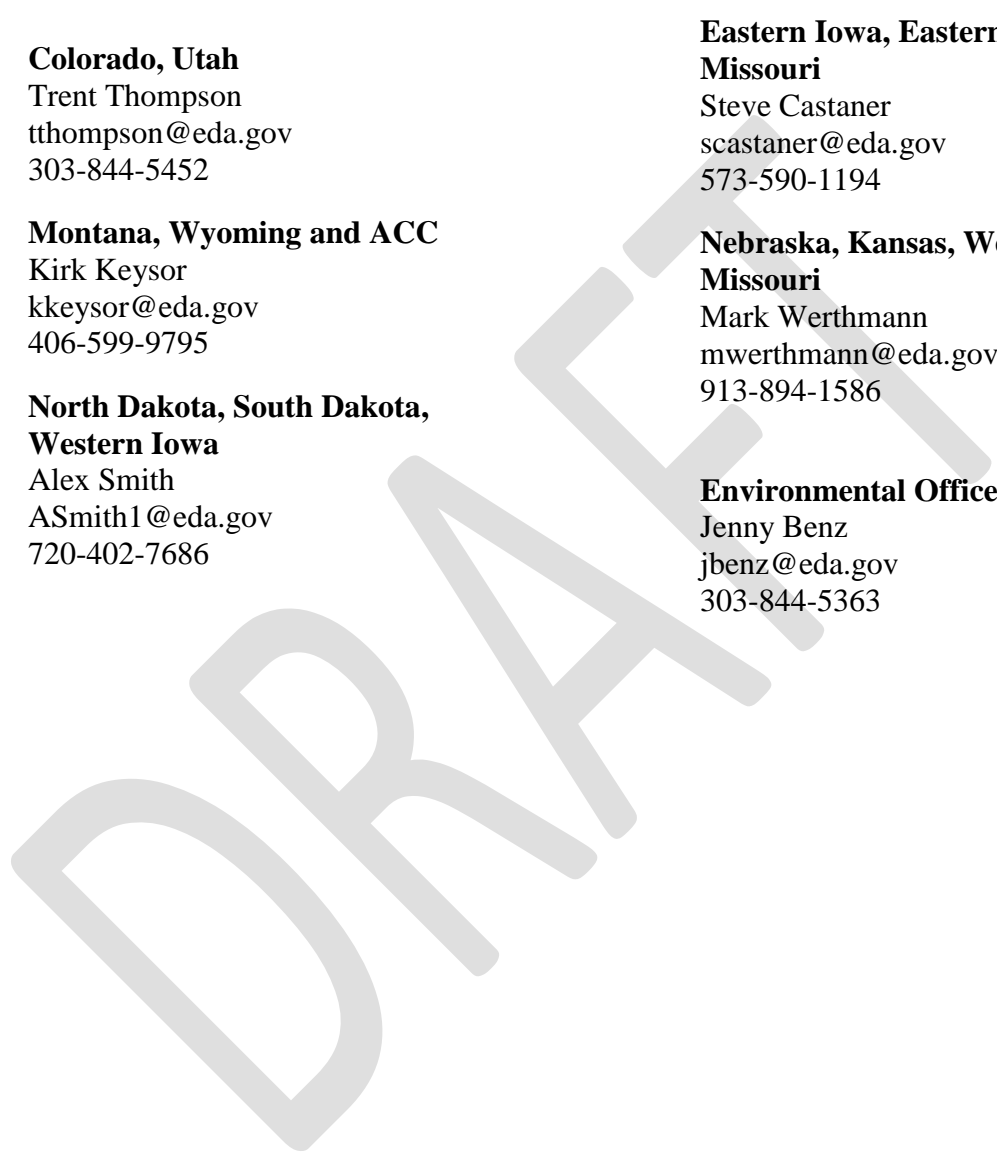
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**Nebraska, Kansas, Western
Missouri**

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Environmental Officer

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Philadelphia Regional Office

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Pennsylvania

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Puerto Rico, Virgin Islands

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Vermont

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215-597-1242

Virginia

Bob Gittler
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West Virginia and ACC

Tracey Rowan
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Environmental Officer

Christopher Christian
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Seattle Regional Office

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California (Southern and Central Valley), Nevada

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Hawaii, Guam, Northern Mariana Islands, American Samoa, Marshall Islands, Federated States of Micronesia, Palau

Herbert Thweatt
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Idaho

Richard Berndt
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206-220-7682

Oregon, Washington (Eastern and Southern)

David Porter
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Environmental Officer

Jenny Benz (acting)
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303-844-5363

ACC

Brian Parker
BParker3@eda.gov
206-220-7675

H. Other Information

1. Right to Use Information

DOC reserves the right to use information contained in applications submitted under this opportunity, as well as all reports and performance data submitted by recipients to undertake an

evaluation of its programs, either through its staff or by hiring a third party. 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 DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, applicant information and data may be accessed, reviewed and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of whom enter into appropriate confidentiality and nondisclosure 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 DOC 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 DOC Federal financial assistance award.

2. Freedom of Information Act Disclosure

The Freedom of Information Act (5 U.S.C. § 552) (FOIA) and DOC's implementing regulations at 15 C.F.R. part 4 set forth the rules and procedures to make requested material, information, and records publicly available. Unless prohibited by law and to the extent permitted under FOIA, contents of applications submitted by applicants may be released in response to FOIA requests. In the event that a proposal or application contains information or data that the applicant deems to be confidential commercial information, that information should be identified, bracketed, and marked as "Privileged, Confidential, Commercial or Financial Information." Based on these markings, the confidentiality of the contents of those pages will be protected 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. Before the Uniform Guidance took effect, pursuant to the DOC grant regulations at 15 C.F.R. parts 14 and 24, the prohibition applied to institutions of higher education, hospitals, non-profits and commercial and international organizations but did not apply to States, local governments, or Indian Tribes. However, under 2 C.F.R § 200.319 and 200.317, which are now controlling, only State recipients are expressly exempt from this prohibition. Despite this change, 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 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. Restrictions Governing Making Grants to Corporations Convicted of Felony Criminal Violations and/or Unpaid Federal Tax Liabilities

In accordance with current Federal appropriations law, execution by an applicant of the Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction Under Any Federal Law (see Appendix A) will be required—and in a designated format—by EDA before any award will be made under this NOFO.

6. EDA's Non-Relocation Policy

Applicants are advised that should an application be selected for an award, the recipient will be required to adhere to an 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 cause, 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. 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.

8. Implementing the Americans with Disabilities Act (ADA)

The U.S. Department of Justice has issued revised regulations implementing Title II of the ADA (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286).

I. Instructions for Proposal and Application Submission via Grants.gov

Register early and submit early. In order to submit a proposal/application through Grants.gov, an applicant must register for a Grants.gov user ID and password. Note that this process can take between three to five business days or as long as four weeks if all steps are not completed correctly. To avoid delays, EDA strongly recommends that applicants start this process as soon as possible before applying. Information about the Grants.gov registration process for organizations can be found at <http://www.grants.gov/web/grants/applicants/organization-registration.html>. Please note that organizations already registered with Grants.gov do not need to re-register; however, all registered organizations must keep their registration for SAM, which includes the CCR database, up-to-date through sam.gov or their applications will not be accepted by Grants.gov.

AOR requirement. Applicants must register as organizations, not as individuals. As part of the registration process, you will register at least one AOR for your organization. AORs registered at Grants.gov are the only officials with the authority to submit applications at Grants.gov, so please ensure that your organization’s proposal/application is submitted by an AOR. If the proposal/application is submitted by anyone other than your organization’s AOR, it will be rejected by the Grants.gov system and cannot be considered by EDA. Note that a given organization may designate multiple individuals as AORs for Grants.gov purposes.

The most up-to-date instructions for application submission via Grants.gov can be found at <https://www.grants.gov/web/grants/applicants/workspace-overview.html>. In order to begin, complete, and submit your application:

- Navigate to <https://www.grants.gov/web/grants/applicants/workspace-overview.html>;
- Click “Get Application Package”;
- In “Funding Opportunity Number” field, enter “EDAP2018”;

- Click “Search”;
- Under the “Actions” column, click the “Apply” link that corresponds with this opportunity;
- Enter your email address (if you would like to receive updates from Grants.gov regarding this grant opportunity) or check the box that indicates you do not wish to provide it, then click “Submit”;
- Choose to apply using Workspace by clicking “Login to Apply Now”;
- Follow the instructions provided on the Grants.gov website and on each webpage to complete and submit your application;
- For detailed step-by-step guidance on how to create a workspace, an application, and submit a workspace package, see the Grants.gov Online User Guide. Navigate to www.grants.gov and select “Apply for a Grant with Workspace” located in the banner or see https://www.grants.gov/help/html/help/Applicants/Apply_for_Grants.htm.

Field limitations and special characters. Please be advised that Grants.gov provides the following notice with respect to form field limitations and special characters:

Are there restrictions on file names for any attachment I include with my proposal/application package?

Please limit file names to 50 characters and do not use special characters (example: &, -, *,% ,/#) in attachment names and application form fields (including periods (.), blank spaces and accent marks) or attach documents with the same name. An underscore (example: my_Attached_File.pdf) may be used to separate a file name. Please note that if these guidelines are not followed, your proposal/application may be rejected.

What kind of information can be entered into form fields within my application?

Grants.gov proposal/application packages offer fields to enter a set amount of data. When the limit is reached for a certain field, you will no longer be able to enter data into that field. For every form, there are different limitations to the data that you are allowed to enter (this varies between agency and form). Refer to the agency instructions available for download with the proposal/application package for more detail.

Do not use special characters (example: &,-,* ,% ,/#) within the proposal/application form fields including periods (.), blank spaces and accent marks; an underscore may be used. Please note that if these guidelines are not followed, your proposal/application may be rejected.

In EDA’s experience, use of apostrophes (‘) in file names and fillable fields of required forms has resulted in proposal/application submission issues. Accordingly, please periodically check the status of your proposal/application to make sure it has been validated, and use file naming conventions that do not negatively affect your proposal/application submission.

If a response exceeds the field limit requirements of any form, including Form ED-900, the applicant is advised to include the response as an attachment to the application. The applicant

should check the ‘Attachments’ box under ‘Optional Documents for Submission’ in the proposal/application package, and clearly indicate in the form field that the information is included as an electronic file.

Verify submission was successful. Applicants should save and print written proof of an electronic submission made at Grants.gov. Applicants can expect to receive multiple emails regarding the status of their submission. Since email communication can be unreliable, applicants must proactively check on the status of their proposal/application if they do not receive email notifications within a day of submission.

An applicant should expect to receive two initial emails from Grants.gov: the first will confirm receipt of the proposal/application, and the second will indicate that the proposal/application has either been successfully validated by the system before transmission to EDA or has been rejected due to errors. Applicants should be aware that it may take up to two business days after Grants.gov receives a proposal/application for applicants to receive email notification of an error. Applicants will receive a third email once EDA has retrieved their proposal/application.

EDA requests that applicants kindly refrain from submitting multiple copies of the same proposal/application package. Applicants should save and print both the confirmation screen provided on the Grants.gov website after the applicant has submitted a proposal/application and the confirmation email sent by Grants.gov when the proposal/application has been successfully received and validated in the system. If an applicant receives an email from Grants.gov indicating that the proposal/application was received and subsequently validated, but does not receive an email from Grants.gov indicating that EDA has retrieved the proposal/application package within 72 hours of that email, the applicant may contact the appropriate EDA representative listed in Section G of this announcement to inquire if EDA is in receipt of the applicant’s submission.

It is the applicant’s responsibility to verify that its submission was timely received and validated successfully at Grants.gov. To see the date and time your proposal/application was received, log on to Grants.gov and click on the “Track My Application” link from the left-hand menu. For a successful submission, the proposal/application must be received and validated by Grants.gov, and an agency tracking number assigned. If your proposal/application has a status of “Received,” it is awaiting validation by Grants.gov and has not yet been received by EDA. Once validation is complete, the status will change to “Validated” or “Rejected with Errors.” If the status is “Rejected with Errors,” your proposal/application has not been received successfully. Some of the reasons Grants.gov may reject a proposal/application can be found at <http://www.grants.gov/web/grants/applicants/encountering-error-messages.html>.

Grants.gov systems issues. If you experience a Grants.gov systems issue (i.e., a technical problem or glitch with the Grants.gov website) that you believe threatens your ability to complete a submission before the deadline, please (i) print any error message received; (ii) call the Grants.gov Contact Center at (800) 518-4726 for immediate assistance; and (iii) contact EDA using the contact information in section G. of this NOFA prior to the deadline for receipt of applications. Ensure that you obtain a case number regarding your communications with Grants.gov. Please note that problems with an applicant organization’s computer system or equipment are **not** considered systems issues. Similarly, an applicant’s failure to, for example, (i)

complete the required registration, (ii) ensure that a registered AOR submits the application, or (iii) notice receipt of an email message from Grants.gov is **not** considered a systems issue. A Grants.gov systems issue is an issue occurring in connection with the operations of Grants.gov itself, such as the temporary loss of service by Grants.gov due to unexpected volume of traffic or failure of information technology systems, both of which are highly unlikely. If a systems issue is confirmed, EDA reserves the right to accept an application in an alternate format; however, all applications must be received by the deadline. Late applications will not be accepted.

Applicants should access the following link for assistance in navigating Grants.gov and for a list of useful resources: <http://www.grants.gov/web/grants/support.html>. The following link lists “Frequently Asked Questions by Applicants”: <https://www.grants.gov/web/grants/applicants/applicant-faqs.html>. If you do not find an answer to your question there, try consulting the “Applicant User Guide” at https://www.grants.gov/help/html/help/Get_Started/Get_Started.htm or contacting Grants.gov by email at support@grants.gov or telephone at (800) 518-4726. The Grants.gov Contact Center is open 24 hours a day, seven days a week, except on Federal holidays.

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Appendix A. Certifications Regarding Federal Felony and Federal Criminal Tax Convictions, Unpaid Federal Tax Assessments and Delinquent Federal Tax Returns

As discussed in Part I and Part II below, current Federal appropriations law contains certain funding prohibitions and certification requirements applicable to financial assistance awards issued with appropriated funds. Based on these requirements, DOC requires the following certifications from prospective financial assistance award recipients (also referred to below as applicants):

PART I-Certifications from Corporations

None of the appropriated funds made available by relevant appropriations Acts may be used to issue a financial assistance to any corporation that:

- (a) Was convicted of a felony criminal violation under any 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) Has 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 purposes of the below certification, a corporation is defined as an entity that has filed articles of incorporation in one of the fifty States, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, and the U.S. Virgin Islands. (Note that this includes both for-profit and non-profit organizations.)

The below certification is required for all new financial assistance awards and for all amendments to existing financial assistance awards, that are made to corporations (as defined above) and that are funded with appropriated funds made available to the Department of Commerce pursuant to relevant appropriations Acts. This certification is further required to the extent that other appropriation Acts contain the same or substantively similar prohibitions against the issuance of financial assistance awards to certain corporations.

Instructions: All recipients that are corporations (as defined above) must complete paragraphs (1) and (2) below, which must be signed below by an authorized representative of the corporation. Recipients that are not corporations are not required to complete this representation.

(1) _____ [insert name of corporation] certifies that it is is not (check one) a corporation that was convicted of a felony criminal violation under a Federal law within the 24 months preceding the signature date of this Representation.

(2) _____ [insert name of corporation] certifies that it is is not (check one) a corporation that has 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.

By: _____
[Typed name and title of the signing individual]
[Typed phone number of the signing individual]
[Typed email address of the signing individual]

Date: _____

PART II-Certifications for Awards Over \$5 Million

For financial assistance awards in excess of \$5 million, the Department of Commerce is required to obtain written certification from all recipients that:

- (a) To the best of its knowledge and belief, the recipient has filed all Federal tax returns required during the three years preceding the certification;
- (b) The recipient has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and/or
- (c) The recipient has not, more than 90 days prior to certification, been notified 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 proceeding.

The below certification is required from all recipients receiving financial assistance awards in excess of \$5 million and funded with applicable appropriations. This certification is further required to the extent that other appropriation acts contain the same or substantively similar prohibitions against the issuance of financial assistance to certain recipients of financial assistance awards in excess of \$5 million.

Instructions: All applicants receiving financial assistance awards in excess of \$5 million and funded with applicable appropriations must complete paragraphs (1), (2) and (3) below, which must be signed below by an authorized representative of the applicant.

(1) _____ [insert name of applicant] certifies that it has has not (check one) filed all Federal tax returns required during the three years preceding this certification;

(2) _____ [insert name of applicant] certifies that it has has not (check one) been convicted of a criminal offense under the Internal Revenue Code of 1986, as amended; and/or

(3) _____ [insert name of applicant] certifies that it has has not (check one) been notified, more than 90 days prior to this certification, of any Federal tax assessment for which 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 proceeding.

By: _____
[Typed name and title of the signing individual]
[Typed phone number of the signing individual]
[Typed email address of the signing individual]

Date: _____

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