

EXHIBIT A

PORTLAND ECONOMIC DEVELOPMENT
LOAN FUND
MANAGEMENT AND ADMINISTRATIVE PLAN

Prepared by:

Portland Development Commission

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I. PROGRAM OVERVIEW

PURPOSE

The Portland Economic Development Loan Fund is a business assistance program of the City of Portland. Its purpose is to provide financial incentives for businesses to expand and create new employment opportunities within the City. The City hopes that through this, and related programs, to prevent the physical deterioration and high unemployment that has become prevalent in many eastern cities.

FUNDING

This program is funded through a grant from the U.S. Economic Development Administration in the amount of \$1.625 million. Loans will obtain a maximum of 50% EDA/City funds with the remainder loaned from commercial lending institutions or other private lenders. One-third of the fund is targeted for minority-owned businesses.

Interest rate on Revolving Loan Funds will be low enough to stimulate economic development but will not be less than 5%. RLF repayments to the City will be made available for additional lending, on a revolving basis.

ADMINISTRATION

The Loan Fund will be administered by the City Loan Corporation, a private non-profit corporation consisting of a 5-member Board of Directors appointed by City Council. Staff of the Portland Development Commission will assist in completing application materials and working with private lenders on the total loan package. Those loans which are consistent with adopted City economic policy guidelines and determined to be financially feasible will be recommended for loan approval. Loan approval will be made by the City Loan Corporation. Disbursal and collection of loan funds will be carried out by the City of Portland Development Commission.

BENEFITS

For Portland business and industry: access to financing difficult to obtain, lower cost financing, improved economic feasibility, incentive to remain in the City.

For Portland area lenders: incentive to participate in loans, which under more conservative practices would not be approved, but are nevertheless good loans. Less exposure and risk, ability to establish and maintain the credit needs of a client, demonstrated commitment to the community reinvestment needs of inner-City businesses.

For the City of Portland: retention of existing business and jobs, increased private investment, creation of new jobs for City residents, particularly, the unemployed and underemployed, visible commitment to the economic well-being of the community.

II. POLICY GUIDELINES

PROGRAM DEFINITION

The Portland Economic Development Loan Fund is a financial assistance program of the City of Portland administered by the City Loan Corporation, a private non-profit corporation consisting of a 5-member Board of Directors appointed by City Council. The primary objectives of the program are:

1. Providing jobs for City residents by financially assisting Portland business in relocation, expansion and diversification within the City.
2. Providing financial assistance to minority-owned business in the City.
3. Supporting the priority goals of the City's Comprehensive Economic Development Strategy (CEDS).

This program will aid in satisfying these objectives by:

1. Providing financial assistance to business and industry which will support existing or planned public capital improvements and technical assistance district projects within the City.
2. Providing financial assistance when commercial lending is not available without participation by the City, (and where the loan made under this program does not duplicate loans available from other government agencies).
3. Encouraging retention and location of projects in areas of highest unemployment.
4. Linking City job placement and training programs to City investments.

ELIGIBILITY CRITERIA

To be eligible for consideration for a loan, the following criteria must be met:

1. Applicant Status

- a. Sole proprietorships, partnerships, and corporations organized for the conduct of business; or

- b. Public and private non-profit organizations including industrial associations organized as a local economic development corporation or incorporated to legally receive a loan.

2. Location of Project

The business must be located within the Portland Economically Lagging Area, unless it is:

- a. a minority business; or
- b. a business being relocated by City-sponsored public improvements; or
- c. a business that signs a "First Source" employment agreement with the City, in which they agree to hire Portland residents referred by the City first.

Businesses that qualify under paragraphs a, b, or c, above can be located anywhere in the City.

3. Employment

More than 50% of the jobs created or retained must be non-professional and non-managerial jobs.

4. Project Costs

Eligible project costs include land acquisition, new construction, rehabilitation, renovation, equipment and other costs as detailed below:

- a. Land acquisition costs including engineering, legal, grading, testing, site mapping, and related costs associated with the acquisition and preparation of land.
- b. Building costs including real estate, engineering, architectural, legal and related costs associated with acquisition, construction and rehabilitation.
- c. Machinery and equipments costs including delivery, installation, engineering, architectural, legal, insurance and related costs associated with acquisition and installation of machinery and equipment (both attached and non-attached).
- d. Other costs including closing costs and interest on interim construction financing.

- e. Infrastructure costs.
- f. Relocation costs as per the Uniform Relocation Assistance Act of the United States.

Working capital is not an eligible business cost for the City portion of any loan. Working capital will be the sole responsibility of the participating private lender.

- 5. The Loan Fund may not be used for: (1) speculative purposes defined as, the acquisition of land or buildings with no on-site, long-term jobs created or retained as of the time the loan is closed; (2) interim construction financing; and, (3) refinancing an existing loan or financing a project already initiated or under construction.

6. Loan Amounts

The maximum City loan amount is the lesser of:

- a. 50% of the loan.
- b. 90% of the equity that remains in the subject property after other indebtedness secured by the property is subtracted from the appraised value of the property.
- c. The amount supportable by the business net cash flow.
- d. \$500,000 with not more than \$20,000 in City funds per job created or retained.

The City participation will be for the least amount and shortest term consistent with project feasibility. In no event, shall term exceed 30 years.

7. Financial Need

Applicant must demonstrate that the project cannot be fully financed by private means.

8. Financial Feasibility

Project must show sufficient cash flow to support debt, in order to be found financially feasible.

9. New Business

Start-up companies (in business less than one year) must have at least 25% equity contribution to company.

LOAN CONDITIONS

Interest Rate. The rate of interest on the City loan funds shall not be less than 5%.

Origination Fee. An origination fee of 2% of City portion of loan will be charged.

State Historic Preservation Officer. All loans must be approved as to historical significance by the State Historical Preservation Officer.

Security. An Economic Development Loan (EDL) shall be secured by the equity in the subject property or other security acceptable to CLC. Equity requirements shall not be less than those described in Maximum Loan Amount.

Security Position. When the Economic Development Loan is used together with a commercial loan, the EDL security may be subordinated to that of the commercial loan.

Loan Security Requirements. The applicant shall provide security for the loan in the form of a promissory note secured by a lien.

Loan Assumption and Repayment Conditions. City loans may be assumable. Upon the sale or other transfer by any means of the subject property or of any other property used as loan security the Economic Development Loan Fund will become due and payable in full. The loan may be assumed if the new purchaser applies and qualifies under the Policy Guidelines and Loan Conditions.

Civil Rights. The applicant shall not discriminate upon the basis of race, color, sex, marital status, handicap, religion or national origin in the sale, lease rental, use or occupancy of the property to be included in the project.

Equal Employment Opportunity. As required, the applicant shall comply with all applicable provisions of Federal statutes and regulations and City ordinances concerning equal employment opportunities for persons engaged in work undertaken in connection with EDL assistance.

Labor Standards Contract Work, Hours and Safety Standards. Applicant shall agree to notify its contractor(s) and subcontractors that in the employment of laborers and mechanics in connection with the work, such contractors and subcontractors are required to comply with the provisions of the Davis-Bacon Act, as amended, of the Contract Work House and Safety Standards Act, and of other applicable Federal laws and regulations pertaining to labor standards.

Use of Proceeds. The applicant shall agree to use the loans proceeds only to pay for costs of services and materials necessary to carry out the work.

Plan Approval. All plans and specifications must be submitted to the Bureau of Buildings and approved prior to loan closing.

Inspections. The applicant shall permit inspection of the property by City of Portland employees for compliance with all City codes and ordinance pertaining to property maintenance and safety standards. The applicant shall also permit any other inspections deemed necessary by the Bureau of Buildings and the Bureau of Fire in connection with the property, the rehabilitation work, and all contracts, materials, equipment, payrolls and conditions of employment pertaining to the work.

Ineligible Contractors. The applicant shall not award any contract for rehabilitation work to any contractor who is not registered and bonded by the State of Oregon and licensed by the City of Portland.

Records. The applicant shall keep such records as may be required by the City or its agent in connection with the work.

Interest of Public Body. The applicant shall not allow any member of the governing body of the City of Portland any member of the City Loan Corporation Board or any employee of the City of Portland to have any interest, direct or indirect, in the proceeds of any loan, or in any contract entered into by the applicant for the performance of work financed, in whole or in part, with the proceeds of the loan.

Bonus, Commission or Fee. The applicant shall not pay any bonus, commission or fee or other payment for the purpose of obtaining approval of the loan application or any other approval or concurrence required to complete the work except as may be required by a participating private lender.

Hazard Insurance. The applicant shall maintain hazard insurance on the property with a loss payable clause to the Portland Development Commission and the participating lender as required, during the term of the loan.

Form of Agreement. The contract for work entered into between the applicant and the contractor shall be in a form consistent with professional, standard building practices, and shall contain all terms and provisions necessary for compliance with applicable Federal, State and local laws and regulations.

Handicap Accessibility. Construction financed by a loan must assure accessibility for the handicapped as assured by compliance with the standards of 41CFR, subpart 101-19.6.

Escrow of Loan Funds: The borrower shall permit the CLC, or its designee to act as escrow agent of the funds and to disburse such funds to the borrower and the contractor as set forth in the contract between them, in order to ensure proper disbursement of such funds. In the case of multiple

ownership where the applicants hold title, the signature of every titleholder will be required on all documentations where the signature of the applicant/borrower is necessary.

Environmental Impact. The environmental impact of each project will be evaluated using EDA environmental assessment check list form SN-352.

Confidentiality. Loan documents will not be released without applicant's written consent.

Neighborhood Review. The applicant will notify affected neighborhood associations, industrial and other business organizations of loan applicant project plans.

MINORITY RESERVE

One-third of the total loan funds will be prioritized for assistance to minority business enterprises, as consistent with other loan fund requirements.

"Minority" means Negroes, Orientals, American Indians, Eskimoes, Aleuts and Spanish-surnamed Americans.

"Minority Business Enterprise" means a business at least 50% (percent) of which is owned by minorities or, in the case of a publicly-owned business, at least 51% (percent) of the stock of which is owned by minorities.

In the event an application is received from a non-minority firm which meets or exceeds the criteria for the granting of a loan and no funds are available for such a loan except within the one-third prioritized for minority business enterprises, the CLC will refer the matter to the Portland City Council. The CLC will report the status of minority applications, loan awards, and reasons for not achieving the adopted objective, prior to any Council redirection of loan funds. Upon receipt of such report, the Council shall review the extent of minority business involvement in the Loan Fund Program. If the Council finds that minority businesses have participated in loan fund to a degree that fulfills the loan fund goal of assisting the minority business community, the Council may direct the funds so prioritized be made available also to non-minority firms. Successful achievement of the one-third target for minority firms will not preclude subsequent minority loans under this program. In the event that a loan is approved for a majority firm the majority firm must demonstrate to City Council either that; a) the project undertaken with the loan will directly benefit minority firms or the minority community; or, b) that the firm has a history of activities benefitting minority businesses or the minority community.

CITY LOAN CORPORATION

The City Loan Corporation (CLC) has been formed under the provisions of Oregon law as a private non-profit corporation, and for the sole purpose of administering City loans which come under programs of the Portland Development Commission.

CLC will be composed of a 5-member Board of Directors appointed by City Council for 2 years over-lapping terms. Members will represent commercial lending institutions, and the business and minority community with experience in business financing. One member will be a minority.

The Board of Directors will select its Chairman. The Board may establish rules for loan approval such that loans may be authorized without a quorum.

III. ADMINISTRATION PROCEDURES

INTRODUCTION

The City of Portland Development Commission will market the program, be the first point of City contact, distribute application forms, and provide initial review and on the basis of adopted Policy Guidelines.

The City Loan Corporation (CLC) will review, approve, and process loan applications that have been submitted by the staff of the Portland Development Commission. This process is diagrammed in Figure 1.

LOAN APPLICATION PROCEDURES

1. Applicant Contact of Portland Development Commission

The applicant will contact the Portland Development Commission (PDC) indicating interest in the loan program. Attached as Exhibit A is program information sheet which will be distributed to applicants. This contact may be the result of:

- a. Previous contact and assistance through City business assistance programs;
- b. Lender referral of a client to the City; or
- c. Unsolicited applicant contact of the City.

2. Initial Review of Project

Applicant will meet with PDC staff to review project and receive preliminary eligibility/approval. Review will include assessment of financial feasibility as well as consistency with City economic development goals. If eligible, applicant will receive application material.

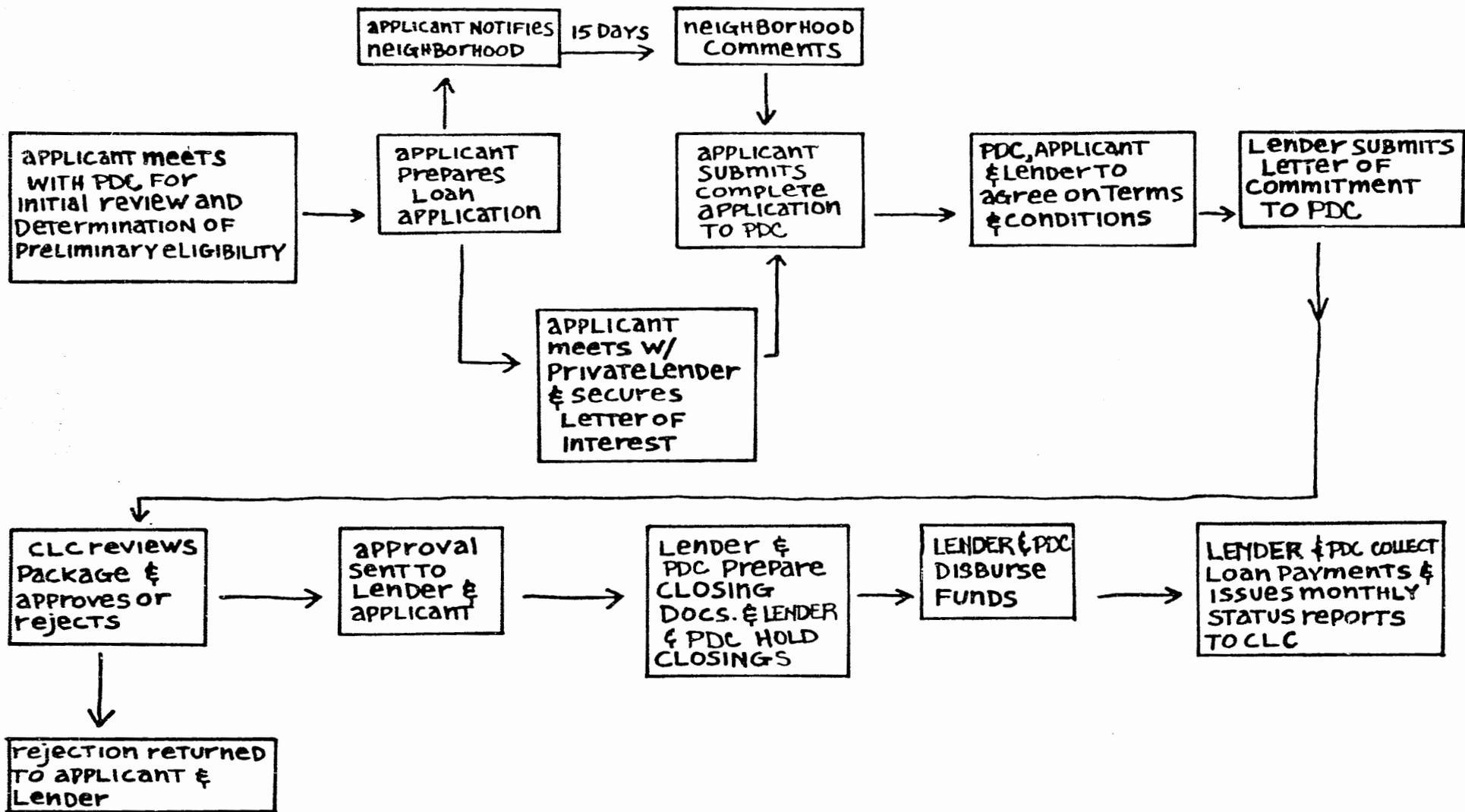
3. Private Lender Contact

Applicant will contact private lender and secure willingness to participate in total loan package.

4. Formal Application

Applicant will submit completed application materials, as shown in Exhibit B, together with private lender letter of interest obtained in #3 above. PDC will make credit analysis as shown in Exhibit C.

PORTLAND ECONOMIC DEVELOPMENT LOAN APPLICATION REVIEW PROCESS



PDC - PORTLAND DEVELOPMENT COMMISSION
 CLC - CITY LOAN CORP.

After receipt of complete application and private lender commitments (which varies from application to application, depending upon borrower and type of loan) it is expected that 15 working days will be required to have City Loan Corporation review and give final approval to application.

Figure 1

5. Neighborhood Notification and Comment

Applicant will provide notification of proposed project to affected industrial, commercial and neighborhood associations. PDC will allow up to 15 days to receive comments from the associations.

6. Complete Loan Package

PDC, applicant and private lender will meet to agree on proposed terms and conditions. Included in completed proposal will be the private lender loan commitment letter.

7. Loan Decision

The CLC will review applications and approve or disapprove the loan application.

8. Notice to Applicant and Lender

CLC will notify applicant and lender of loan decision.

9. Conditional Commitment

The private lender will issue a conditional commitment to the applicant.

10. Preparation of Documents

With conditional approval by the lender and CLC, the applicant will finalize plans, specifications, costs and other required documents. Required documents will be submitted to the lender.

11. Loan Processing

The PDC staff will prepare Economic Development Loan documents.

12. Closing

PDC holds and completes closing procedures for City loan.

13. Disbursement of Loan Funds

PDC will disburse City loan funds in accordance with prescribed practices and escrow instructions.

14. City Inspections

Final disbursement shall be made only after receipt of the code compliance letter issued by the Bureau of Buildings or bill of sale for equipment.

15. Loan Close-Out

Final disbursement of loan funds is completed.

16. Loan Servicing

PDC will service the City loan. PDC will credit all loan receipts to a CLC trust account. Each month PDC will transmit to CLC loan status and trust account balance report. In case of defaulted loans, the PDC will immediately notify the CLC and the private lender, so that a mutually satisfactory procedure for collection can be adopted.

MONITORING SYSTEM AND USE OF LOAN PROCEEDS

1. PDC will collect and tabulate the following information for all loan applicants by majority and minority status.
 - a. Number of loan inquiries received by PDC.
 - b. Number of loan applications completed.
 - c. Number of positive preliminary lender responses.
 - d. Number of lender letters of intent.
 - e. Number of CLC approved applications.
 - f. Number of loan fund disbursements.
 - g. Number of defaults on approved loans.
 - h. Reasons for rejection of applicant requests, where known.
2. The information described above will be presented to CLC, EDAC and Commissioner-in-charge quarterly. The data will be used to establish any findings with respect to requests to modify the one-third minority participation reserve as well as constituting an evaluation of the program as a whole.
3. PDC will maintain a cash flow projection in order to project the availability of funds for re-lending.
4. Payments of loan principal will be used solely for additional loans. Any interest and loan fee revenue will be used first, to defray loan program administrative costs as budgeted by the City and, second to augment the amount available for re-lending.

IV. MARKETING PROGRAM

The Portland Development Commission (PDC) will be responsible for marketing the availability of these loan funds in the following ways:

Private Lender

- o through meetings and briefings with private lenders throughout the City to alert them to the opportunity available for their clients. Special mailings will be designed specifically targetted for this group. Efforts will be concentrated on lenders in the Special Impact Area and Economically Lagging Area.

Business Community

- o through presentations to fraternal, neighborhood and commercial business organizations. Materials will be prepared for inclusion in newsletters to members of these organizations. Efforts will be concentrated on reaching the business community in the Special Impact Area and Economically Lagging Area.

Public Economic Development Groups

- o through meetings and briefings with public agencies involved in Economic Development throughout the City. Assuring information about loan program is included in publications distributed by these groups.

City Business Assistance Program

- o through work of the staff in commercial and industrial district organizing and business assistance activities, especially assisting businesses displaced by public improvement projects.

Minority Owned Business

- o through the Minority Business Development consultant contacts in working with minority-owned business.
- o through referral from Portland MBDA loan packaging office, IMPACT.
- o through work of PDC staff in contacting businesses and identifying projects in those Inner Northeast section of the City.

Publications and Information Material

- o through City-wide distribution of the Services to Portland Business and Industry brochure (published by PDC), which includes various public financing incentives.

- o through distribution of special loan information material and brochure.

V. E.D.A.ADMINISTRATIVE PLANI. Eligible Loan Activities

The intent and objectives of the program are defined in the Program Definition of the Policy Guidelines. Costs that are eligible for loans are defined in Eligible Project Cost section of the Guidelines.

II. Funds Administration Planning Process

A. Consistency with Area Plans.

1. The Revolving Loan Fund has been prioritized by the City's Economic Development Advisory Committee and Portland City Council. The City of Portland Comprehensive Economic Development Strategy has assigned a high priority to the program.
2. Each loan application will be evaluated by the Eligibility Criteria which are included in the Policy Guidelines. These criteria are derived directly from the CEDS goals and objectives.
3. The RLF will further the goals and objectives of the Comprehensive Economic Development Strategy summarized as follows:
 - a. Jobs for City residents through job creation, targeted lagging economic areas and hiring preferences.
 - b. Removal or mitigation of structural development limitations, e.g., promoting consolidation and improved location of business.
 - c. Assist developments that benefit both fiscal and community goals.
4. The specific area problems addressed in the Comprehensive Economic Strategy which will be overcome by the RLF are:
 1. Rehabilitate old and functionally obsolete buildings currently housing manufacturing firms in the City, e.g., multi-story structures in the Central Eastside Industrial District.

2. Develop employment and economic activity in areas of high and chronically high unemployment, e.g., Inner Northeast Area (Union Avenue) and Lents Industrial Area.
3. Lack of an adequate supply of land for business development, particularly land in single parcels, e.g., Albina, Northwest, Central Eastside and Brooklyn industrial districts are divided into many smaller parcels of multiple ownership which are underutilized in economic potential.

B. Identification of Participants in the Loan Fund Administration.

The organizations involved in the Revolving Loan Fund and the resources they will contribute to the program are listed below.

1. Portland Development Commission

The RLF will be staffed under the direction of the Economic Development Director of the City of Portland Development Commission, the designated urban renewal agency for the City of Portland. Staff will be the first contact for businesses seeking a loan and will assist the business in preparing application materials for loan approval.

2. Office of the Mayor, Business Ombudsman

The Business Ombudsman refers businesses who contact the City for assistance. Where appropriate, the Ombudsman will refer potential applicants to PDC for RLF loan processing.

3. Bureau of Human Resources, BHR Manpower Programs

BHR works with loan applicants to develop a "First Source" agreement which requires that a business hire unemployed or underemployed City residents referred by BHR first.

4. Port of Portland, Community Development Division

The Port holds land for development within the City of Portland and will work out attractive rates of purchase or lease with firm wishing to locate on this land.

5. Private Lenders

Private lenders, many of whom already participate in other joint private/City loan programs, work with PDC and/or SBA to fund 50% or more of total loan package required.

6. Impact Development Corporation

A private corporation that assists minority businesses through preparation of application, financial reports and other documents needed for loan presentations.

7. City Loan Corporation (CLC)

A private non-profit corporation, whose directors are selected by City Council, volunteer their time and expertise to review and act on loan applications.

C. Target Areas.

Areas targeted for loans are defined by Economically Lagging Areas, a State of Oregon designation. (For map, see Exhibit "G".) Minority businesses, firms that agree to hire underemployed or unemployed City residents, or businesses being relocated by a City-sponsored public improvement also qualify for loans on a City-wide basis.

III. Description of Loan Package

A. Loan Selection Criteria.

These criteria will address the goals and area problems of old and functionally obsolete buildings, areas of high unemployment and lack of adequate land supply as detailed in Part IIA - Funds Administration Planning Process.

1. Projects of eligible borrowers will be selected on the following minimum criteria:
 - a. location in an Economically Lagging Area;
 - b. a minority business (50% minority-owned);
 - c. a maximum loan amount of \$20,000 for each job created or retained with maximum of \$500,000;
 - d. indication of need, i.e., current interest rates and/or availability of commercial lending funds would prohibit the project without City participation;
 - e. commitment of bank and business to participate in funding project; and
 - f. willingness of business to sign "First Source" agreement to hire unemployed or underemployed City residents.

B. Area Financing Problems.

Major economic adjustment and deterioration needs to be addressed by the revolving loan fund include, but are not limited to the following:

1. Need for finance by business firms unable to qualify for loans because of location in central City, age of buildings, etc., for example, Superior Machines Corporation in Albina Industrial District.
2. Current high interest rates and tight credit conditions of private lenders.
3. Conservative lending practices of local banks.

C. Timing Schedule.

1. First loan was made June 1980 at \$12,100 representing less than 1% of total loan funds.
2. As of February 1, 1981, a total of 5 loans amounting to \$124,900 have been made.
3. All loan funds in initial package will be committed by September 1981.
4. Revolving phase of program should commence in September 1981.

D. Anticipated Uses.

1. Eligible applicants include:
 - a. Sole proprietorships, partnerships and corporations organized for the conduct of business; or
 - b. Public and private non-profit organizations including industrial associations organized as a local economic development corporation or incorporated to legally receive a loan.
2. Eligible project costs include land acquisition, new construction, rehabilitation, renovation, equipment and other costs as detailed below:
 - a. Land acquisition costs including engineering, legal, grading, testing, site mapping and related costs associated with the acquisition and preparation of land.

- b. Building costs including real estate, engineering, architectural, legal and related costs associated with acquisition, construction and rehabilitation.
 - c. Machinery and equipments costs including delivery, installation, engineering, architectural, legal, insurance and related costs associated with acquisition and installation of machinery and equipment (both attached and non-attached).
 - d. Other costs including closing costs.
 - e. Infrastructure costs.
 - f. relocation costs as per the Uniform Relocation Assistance Act of the United States.
3. Ineligible costs consist of:
- a. working capital (this will furnished by private capital);
 - b. speculative purposes defined as, the acquisition of land or buildings with no on-site, long-term jobs created or retained as of the time the loan is closed;
 - c. interim construction financing; and,
 - d. refinancing an existing loan or financing a project already initiated or under construction.
4. It is anticipated that up to 25 loans will be made in the initial package.
5. Loans will be related to job retention and creation with a maximum of \$20,000 loan for each job.
6. Maximum Revolving Loan Fund participation will be 50% of total loan up to a maximum of \$500,000.
7. Loan guarantees are not anticipated at this time.
8. Special provisions in program are not planned at this time.
9. Interest rate will be not less than 5%.
10. It is an objective of the program to maintain default rates at not more than 10%.

11. The program will focus on small to medium sized, locally-owned existing business in the City of Portland that need capital to expand, relocate or buy equipment to maintain present operation and increase employees and production. The program also will cover eligible costs of new businesses which contribute at least 25% equity to total project cost. Although not emphasized, public borrowers are not excluded from the program as long as they meet other eligibility criteria.
12. Proceeds of interest repayment will: 1) cover City administration costs not paid from loan fees; and, 2) be re-loaned.

IV. Loan Administration Organization

- A. The City Loan Corporation (CLC) has been formed under the provisions of Oregon law as a private non-profit corporation, and for the sole purpose of administering City loans which come under programs of the Portland Development Commission.

CLC will be composed of a 5-member Board of Directors appointed by City Council for 2 years with overlapping terms. Members represent a cross section of area community leadership, including representatives of the the business and minority community with experience in business financing. At least one member will be a minority.

The Board of Directors will select its Chairman. The Board may establish rules for loan approval such that loans may be authorized without a quorum.

The CLC is authorized to make loans under City Ordinance No. 150362. (See Exhibit "H".)

- B. Program administration will be funded by a loan origination fee of 2% of Revolving Loan portion of loan, and interest from loans. A loan packager will be hired by PDC to staff CLC and a financial consultant will review all loan applications.

V. Loan Selection and Approval Process

A copy of the approval process flow chart, a loan application checklist and standard loan condition are attached in the Administration Procedures.

- A. Program Considerations.

1. Recruitment - The program will be offered as a service to Portland business and industry through loan brochures and business assistance activities. Area lenders will be encouraged to participate in marketing to lender clients. Recruitment efforts include:

- a. Mayor's announcement and press conference.
- b. Presentations to area lenders.
- c. Presentations to area business groups.
- d. Contacts through business assistance activities.
- e. Newspaper articles.
- f. Distribution of printed brochure.

Marketing - For minority business enterprises will be through the City's business assistance activities, the City OMBE funded consultant and Portland OMBE loan packaging affiliate. For details, see Marketing Program, Section IV.

2. Loan Selection - Selection will be based upon evaluation criteria and financial feasibility of each project, as outlined in attached Policy Guidelines, and Loan Selection Criteria, Part IIIA of Administration Plan.
3. Loan Approval - As described in Administration Procedures and process flow chart.
4. Borrower Assistance

Borrower assistance includes but is not limited to:

- o information and explanation of program requirements referral to other City business assistance programs, if needed;
- o meetings and continued contact with private lender selected by the borrower to explain program, assess financial feasibility of loan and extent of participation required;
- o assistance in completing the forms and outline of information to be submitted to historic preservation officer, neighborhood associations, etc.;
- o assistance in completing the application and required documents needed to submit loan to CLC;
- o staff report and recommendation to CLC; and
- o preparation of final loan documents.

5. Manage Loans - As described in Administration Procedures and process flow chart.

B. Civil Rights.

1. One-third of the total loan funds will be prioritized for assistance to minority business enterprises, as consistent with other loan fund requirements.

"Minority" means Negroes, Orientals, American Indians, Eskimoes, Aleuts and Spanish-surnamed Americans.

"Minority Business Enterprise" means a business at least 50% (percent) of which is owned by minorities or, in the case of publicly-owned business, at least 51% (percent) of the stock of which is owned by minorities.

In the event an application is received from a non-minority firm which meets or exceeds the criteria for the granting of a loan and no funds are available for such a loan except within the one-third prioritized for minority business enterprises, the CLC will refer the matter to the Portland City Council. The CLC will report the status of minority applications, loan awards, and reasons for not achieving the adopted objective, prior to any Council redirection of loan funds. Upon receipt of such report, the Council shall review the extent of minority business involvement in the Loan Fund Program. If the Council finds that minority businesses have participated in loan fund to a degree that fulfills the loan fund goal of assisting the minority business community, the Council may direct the funds so prioritized be made available also to non-minority firms. Successful achievement of the one-third target for minority firms will not preclude subsequent minority loans under this program. In the event that a loan is approved for a majority firm, the majority firm must demonstrate to City Council either that: 1) the project undertaken with the loan will directly benefit minority firms or the minority community; or, b) that the firm has a history of activities benefitting minority businesses or the minority community.

2. The City will not award additional loans where the cumulative quarter totals exceed these quarterly targets, except where the quarterly minority loan target has also been exceeded.
3. The City will collect and tabulate the following information for minority and majority loan applicants by size and type of firm.

- a. Number of loan inquiries received by PDC.
 - b. Number of loan information forms completed.
 - c. Number of positive preliminary lender responses.
 - d. Number of applicants recommended by Commissioner-in-Charge.
 - e. Number of exceptions appealed to City Council.
 - f. Number of exception granted by City Council.
 - g. Number of lender letters of intent.
 - h. Number of CLC approved applications.
 - i. Number of loan fund disbursements.
 - j. Number of defaults on approved loans.
 - k. Reasons for rejection of applicant requests, where known.
4. The information described under #3 above will be presented to EDAC, CLC and City Council, and used to establish any findings with respect to requests to modify the one-third minority participation reserve as described in Policy Guidelines.
 5. To assist in the orderly review of loan applications and program equity in accordance with these guidelines, the Economic Development Advisory Committee may recommend and modify procedures governing the PDC or CLC of review of applications. Two minority representatives currently serve on the CLC board.
 6. Initially, loan applications will be reviewed at least monthly, and prioritized within adopted Policy Guidelines. Those applications recommended to CLC will receive loan funds, in priority order, as the applicant is financially qualified, and as funds become available in the quarterly allotment process.
 7. See Section IV - Marketing Program for special marketing efforts directed to minorities.
 8. The applicant shall not discriminate upon the basis of race, color, sex, marital status, handicap, religion or national origin in the sale, lease rental, use or occupancy of the property to be included in project.

9. Each approved borrower completes the following forms and assurances of compliance before loan closing. See Exhibit "D" for forms and information packet.
 - a. Assurance of Compliance, Economic Development Loan Fund Recipients.
 - b. Form ED-503.
 - c. Form ED-612
10. Borrower will sign, at the time of closing, an agreement to enter into arbitration if found in non-compliance with Civil Rights requirements. The grantee will set up a monitoring system to insure compliance that includes the following.
 - a. PDC staff will monitor businesses by personal contacts and annual questionnaire.
 - b. If a business is in non-compliance a warning will be given with a deadline for compliance.
 - c. If borrower does not meet deadline, borrower will enter into arbitration with the City.

All borrowers will be advised of the penalties attached to noncompliance at the time of application.

C. Environmental Considerations.

1. Applicants will be required to assess any environmental impacts by filing environmental checklist Form SN-352. See Exhibit E for forms.
2. All loans must be reviewed and approved by State Historic Preservation Office prior to approval. (See Exhibit "F" for form.)

D. Financial Consideration.

All loans will be reviewed by a financial consultant retained by PDC, private lender and Loan Review Committee. Standards used to qualify loans are based on three years of past financial statements, and projections of future profits and financial condition.

Low interest rates and flexible terms are structured on a case by case basis so that required debt service falls within standard lending guidelines, thus reducing risk. In addition, lender and business participation is maximized so that RLF funds go to those most in need.

Considerations that offset the somewhat higher risk of these loans and justify below market terms include: 1) projects that create new jobs particularly blue collar positions; 2) firms that agree to hire underemployed or unemployed City residents; 3) projects that bolster Economically Lagging Areas by expanding or relocating in designated City areas; and, 4) minority business.

E. Other Requirements.

The City of Portland Development Commission and the City Loan Corporation assures that the following requirements will be met.

1. Loans will be made to borrowers located in targeted areas or in the City when qualifying as an eligible applicant. A loan made to a borrower that moves or otherwise changes his/her eligibility status will become immediately due and payable unless new location or status fits Policy Guidelines.
2. Loans will be made to eligible borrowers, i.e., sole proprietorships, partnerships, corporations. Loans will be made primarily to private profit making entities although non-profit and/or public bodies are not excluded, if they meet other eligibility criteria.
3. Loans will be made to in-City businesses or SMSA that constitute the same labor area.
4. Borrower will obtain flood hazard insurance as required by Federal agencies as a condition of receiving a loan.
5. The minimum interest rate charged will be 5%.
6. If construction is financed by all or part of the loan, the borrower will design according to the handicapped access standards 41 CFR subpart 101-19.6.

VI. Reporting.

A semi-annual report will be submitted to EDA and will include the following data:

1. A list of loans made which show the name of borrowers, the amount of the original loan, and the outstanding balance as of report date.
2. Administrative costs and source of funding.
3. Degree to which activities have achieved stated goals.
4. A general evaluation of effectiveness of the use of Title IX assistance.

HOW TO APPLY FOR A CITY OF
PORTLAND ECONOMIC DEVELOPMENT LOAN

Purpose

The Portland Economic Development Loan Fund is a business assistance program of the City of Portland. Its purpose is to provide financial incentives for businesses to expand and create new employment opportunities within the City. The City hopes that through this, and related programs, to prevent the physical deterioration and high unemployment that has become prevalent in many eastern cities. This program is funded through a grant from the U.S. Economic Development Administration in the amount of \$1.625 million. One-third of this amount has been targeted for minority-owned businesses. The program is carried out in conjunction with private lenders and their participation is required in all loans.

Other financial programs are available for businesses that create new employment. If your business does not qualify for this program, the City will be able to advise you about these other programs.

Procedure

- Step One: Review proposed loan and project with the Portland Development Commission (PDC) and receive preliminary approval of eligibility. Applicants must make last 3 years financial statements available. Such information will remain confidential. If eligible, obtain application materials.
- Step Two: Submit completed application to PDC with letter from private lender indicating willingness to participate in at least 50% of total loan.
- Step Three: PDC private lender, and applicant complete final packaging loan, including commitment letter from private lender.
- Step Four: Decision by City Loan Corporation.
- Step Five: Closing and loan disbursement.

Generally, PDC will take no more than 15 working days between completion of (Step 2) and a decision by the City Loan Corporation (Step 4).

Contact Portland Development Commission, 248-4916, for more information.

ELIGIBILITY CRITERIA

1. Location. The business must be located within the Portland Economically Lagging Area unless it is:
 - a. a minority-owned business; or
 - b. a business being relocated by a City-sponsored public improvement; or
 - c. a business that signs a "First Source" employment agreement with the City, in which they agree to hire Portland residents referred by the City first.

Businesses that qualify under paragraph a, b, or c above can be located any where in the City.

2. More than 50% of the jobs created or retained must be non-professional and non-managerial jobs.
3. The maximum City loan amount is the lesser of:
 - a. 50% of the loan.
 - b. 90% of the equity that remains in the subject property after other indebtedness secured by the property is subtracted from the appraised value of the property.
 - c. The amount supportable by the business net cash flow.
 - d. \$500,000 with not more than \$20,000 in City funds per job created or retained.

The City participation will be for the least amount and shortest term consistent with project feasibility. In no event, shall term exceed 30 years.

4. Eligible Project Cost include:
 - a. Land acquisition costs, including engineering, legal, grading, testing, site mapping and related costs associated with the acquisition and preparation of land.
 - b. Building costs, including real estate, engineering, architectural, legal and related costs associated with acquisition, construction and rehabilitation of building.
 - c. Machinery and equipment costs, including delivery, installation, engineering, architectural, legal, insurance and related costs associated with acquisition and installation of machinery and equipment (both attached and non-attached).

- d. Other costs including closing costs and interest on interim construction financing.
- e. Infrastructure costs.
- f. Relocation costs as per the Uniform Relocation Assistance Act of the United States.

Working capital is not an eligible business cost for the City portion of any loan. Working capital will be the sole responsibility of the participating private lender.

- 5. The Loan Fund may not be used for: (1) speculative purposes defined as, the acquisition of land or buildings with no on-site, long-term jobs created or retained as of the time the loan is closed; (2) interim construction financing; or, (3) refinancing an existing loan or financing a project already initiated or under construction.
- 6. The applicant must demonstrate that the project cannot be fully financed by private means.
- 7. Project must show sufficient cash flow to support debt in order to be found financially feasible.
- 8. Start up companies (in business less than one year) must have at least 25% equity contribution to the company.

LOAN CONDITIONS:

Rate

Interest on City share of loan shall be no less than 5%.

Security

City shall be secured by a lien on subject property, supported by a promissory note. City security may be subordinated to that of the commercial loan.

Fees

An origination fee of 2% of City portion of loan will be charged.

Conflict of Interest

The applicant shall not allow any member of the governing body of the City of Portland, any member of the City Loan Corporation Board, or any employee of the City of Portland to have any interest, direct or

indirect, in the proceeds of any loan, or in any contract entered into by the applicant for the performance of work financed, in whole or in part, with the proceeds of the loan.

Uses of Proceeds

Loan proceeds shall be used only for purposes stated in application and to the extent necessary to carry out the work.

Compliance with Applicable City, State and Federal Regulations

At time of closing, applicant shall meet all applicable government regulations and conditions.

APPLICATION CHECKLIST
PORTLAND ECONOMIC DEVELOPMENT LOAN FUND

Please provide information as described in the following outline on each item or indicate "not applicable" where appropriate. The information so provided constitutes formal application for a loan from the fund.

I. Company Information

- A. Name of business, address and phone.
- B. Type of business organization (attach copy of articles of corporation or partnership, agreement).
- C. Describe product and/or services of business.
- D. Years in business.
- E. Affiliated company(s) and functions.
- F. If minority-owned, so indicate and describe minority percentage of ownership.
- G. Resumes of principals including name, position, percent of ownership, background and experience.
- H. Brief narrative of the company's background, intentions for the future and organizational succession.
- I. Attach financial statement (balance sheets and income statements) for the past three years, and current statements within 90 days of application date. If applicant's company has been in existence less than three years, attach a personal financial statement in addition to latest available statements for the company. (Tax statements may be substituted for personal financial statements.)
- J. List companies and lenders with whom you carry accounts.
- K. Contact person for loan application: name, title and phone number.

II. Project Information

- A. Describe existing facility:
 - 1. Land occupied, acres or square feet.

2. Building occupied, square feet.
 3. If owned:
 - a. purchase price
 - b. existing mortgage
 - c. recent appraised value
 - d. annual mortgage payment
 4. If leased:
 - a. annual rent
 - b. term and expiration of lease
- B. Describe expansion project as follows:
1. Location, if other than listed above.
 2. Purpose, such as "new product line", "increasing productivity", etc.
 3. If owned:
 - a. purchase price
 - b. existing mortgage
 - c. recent appraised value
 - d. annual mortgage payment
 4. If leased:
 - a. annual rent
 - b. term and expiration of lease
- B. Describe expansion project as follows:
1. Location, if other than listed above.
 2. Purpose, such as "new product line", "increasing productivity", etc.
 3. Dates of start-up and completion.
 4. Source and use of financing. Complete attach table. Attach project site plan.
 5. Attach cash flow projections on monthly basis for first year, and proforma profit and loss statements for two succeeding years. (Total of three years' projections.)
 6. State reasons why this project is not feasible without City loan participation.

III. Employment Information

- A. List total current employment by occupation: 1) professional, technical and managerial; 2) sales; 3) clerical; 4) services; 5) craftsman; 6) operative; 7) laborer; and, 8) other.
- B. List new jobs, by occupation, to be created as a result of the expansion project. Note period of time projection includes.
- C. Indicate interest in entering into a training program or providing preferential hiring to unemployed or underemployed City residents.

IV. Neighborhood Notification

Provide written notification to neighborhood, industrial district and other organizations who may be directly affected by your proposed project. Attached is a form letter to be sent to the appropriate and allowed organization. Such organizations 15 days to provide written or oral comments to the City from the date of notification. The City will not disclose the amount of the loan, except when a request is submitted to the City for information that is required by law to publicly available.

V. Signature

Please sign and date the application.

VI. Release of Information

Your signature on the application authorizes the City Loan Corporation to discuss the loan application with your creditors and the lender of your choice.

B.4. Application of Funds

<u>Uses of Funds</u>	<u>Estimated Cost</u>
Purchase Land (acres or sq. ft.)	\$
Purchase Building (sq. ft.)	\$
New Construction (sq. ft.)	\$
Renovation/Leasehold Improvements (describe)	\$
Machinery & Equipment (type)	\$
Working Capital	\$
Other (specify)	\$
Total Project Cost	\$

Sources of Funds

<u>Source</u>	<u>Term</u>	<u>Rate</u>	<u>Lien Position</u>	<u>Amount</u>	<u>Annual Payment</u>
Private Lender(s) (name)				\$	\$
City Loan				\$	\$
Other (specify)				\$	\$
Equity (company funds)				\$	
Total Funds \$					
				Total Amount Payment \$	

INSTRUCTIONS FOR NOTIFYING NEIGHBORHOOD ASSOCIATIONS

1. Send the following letter, completed as instructed, to the Neighborhood Association covering the project area.
2. Letter is to be sent by "certified, return receipt requested" mail. Upon receipt from the post office of the return card, please send copy of card to the Business Assistance Office, Bureau of Economic Development, 620 S.W. 5th, Room 610, Portland, Oregon 97204.

Name of Neighborhood Association
 Address
 City, State, Zip Code

Dear _____:

This letter serves as formal notification that _____ (Company's Name)
 located at _____ (Address)
 is applying for a City of Portland Economic Development Loan.

Pursuant to the provisions of this Loan Fund Program, affected neighborhood associations, industrial and commercial district organizations have 15 days from date of notification within which to comment to the Business Assistance Office, Bureau of Economic Development (248-4293) regarding the following proposed project:

- * Present Business Activity: (Describe in terms of manufacturing, wholesale/distribution, commercial, etc., and type of product sold.)
- * Nature of Proposed Project: (Identify whether project is an expansion, relocation, new industry, or rehabilitation.)
- * Impact of Proposed Project on Present Business Activity: (Describe reason for project, such as, new product, increased market, main competitive, etc.)
- * Neighborhood Impact: (Describe benefit, such as, local jobs and negative aspects, for example, increased traffic and parking.)

If you wish further information about the project, please contact
 _____ (Name) at _____ (Phone No.).

Sincerely,

(Company Name)

*Be sure to provide this information about your project.

FINANCIAL ANALYSIS

Category	Year __	Year __	Year __	Current	Projected
Sales					
Less COGS					
Equals Gross Profit					
Cash Flow Components					
Earnings Before Tax (EBT)					
Less Income Taxes					
Equals Profit After Taxes (PAT)					
Depreciation					
Rent To Be Save (if any)					
Officers Salary					
Existing Debt Service					
Interest Expense					
Plus CLTD					
Existing Debt Service					
Balance Sheet					
Current Assets					
Less Current Liability					
Working Capital					
Total Liabilities					
Less Sub. Officer Debt					
= Adjusted Liabilities					
Total Net Worth					
+ Sub. Officer Debt					
= Adjusted Equity					
E/EQ Rati					
Line 31 ÷ 34					

PAYBACK ABILITYEXISTING CASH FLOWProfit After
Taxes (PAT) _____+Depreciation
_____+Excess Officer
Salaries _____

+Rent Savings _____

+Other _____

=ADJUSTED EXISTING _____

CASH FLOW _____

PROPOSED TOTAL DEBT SERVICECurrent Portion of Long Term
Debt (CLTD) _____+Proposed New Debt Service
(p+i) _____-Saved Debt Service
(calculate) _____

+Other _____

=PROPOSED TOTAL _____

DEBT SERVICE _____

PROJECTED CASH FLOWProfit After
Taxes _____+Depreciation
_____+Excess Officer
Salaries _____

+Rent Savings _____

+Other _____

Projected Adjusted
Cash Flow _____Proposed Total
Debt Service _____C.F. Available For
Working Capital _____PROJECTED ADJUSTED
CASH FLOW _____

ASSURANCE OF COMPLIANCE WITH THE
DEPARTMENT OF COMMERCE
AND EDA CIVIL RIGHTS REQUIREMENTS
BY CITY OF PORTLAND ECONOMIC DEVELOPMENT
LOAN FUND RECIPIENTS

Please answer questions and complete forms as indicated.

- Item 1. Have you been the subject of any unresolved issues, or negative determinations issued within the past two years, arising from civil rights compliance reviews, complaints, lawsuits or other allegations of discrimination on the basis of race, color, national origin, sex, handicap or age?

Yes

No

If yes, attach a detailed account

- Item 2. Describe any other Federal financial assistance being received or pending approval at the time of the application.

Not Applicable

- Item 3. Complete Form ED-612 "Current & Projected Permanent Employee and Payroll Data", and attach.

- Item 4. If you will save or create more than 50 jobs, please request assistance in preparing an affirmative action plan.

Not Applicable

- Item 5. Complete Form ED-503 "Assurances of Compliance with the Department of Commerce and the Economic Development Administration Regulations under Title VI of the Civil Rights Act of 1964 and Public Law 92-65", and attach.

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Recipient

Date:

By: _____

U. S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION

OMB Approval Not Required

Name of Project
City and State
Project No.

ASSURANCES OF COMPLIANCE WITH THE DEPARTMENT OF COMMERCE AND THE ECONOMIC DEVELOPMENT ADMINISTRATION REGULATIONS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND PUBLIC LAW 92-65

This form applies to: A. all Recipients receiving Federal financial assistance from the Economic Development Administration including: 1. applicants; 2. recipients of Federal financial assistance received from another recipient; 3. subgrantees; 4. leasees of or operators for a recipient; 5. successors, assignees or transferees, but not ultimate beneficiaries; and B. Other Parties to include any governmental, public or private agency, institution, organization or other entity, or any individual who has a direct or substantial participation in the program or project receiving Federal financial assistance from EDA, such as contractors, subcontractors, providers of employment, or users of the facilities or services.

Name of Recipient or Other Party

(hereinafter called the "Recipient or Other Party") assures that as a Recipient or Other Party receiving Federal financial assistance from the Economic Development Administration, it will comply with Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d), the requirements imposed by or pursuant to Regulations, issued for the Department of Commerce and designated as 15 CFR Subtitle A Part 8, and any amendments thereto.

The Recipient or Other Party further agrees to comply with the provisions of Section 112 of Public Law 92-65 (42 USC 3123), the requirements imposed by or pursuant to the Regulations of the Economic Development Administration promulgated in 13 CFR Part 311 and any amendments thereto. In addition, Recipient agrees to secure the compliance or to cooperate actively with EDA to secure the compliance by others with the acts and the regulations.

Such requirements hold that no person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity for which Federal financial assistance has been extended.

In accord with these assurances and without limiting the above, the Recipient or Other Party agrees that these assurances shall be binding upon them, their grantees, assignees, transferees, leasees, and successors in interest. These assurances shall also be binding through every modification or amendment to this project.

The Recipient or Other Party acknowledges that it has received and read the Department and EDA regulations, and that it is aware that if there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law.

Total number of present employees _____
This assurance is made and accepted this _____ day of _____
_____, 19 _____, for _____
Recipient or Other Party

By _____ (Type Name) _____ (Address)

(Title) (Telephone Number)

(Signature)

I, _____, as Secretary of _____,

Inc., a corporation organized and existing by virtue of the laws of the

State of _____; or as _____
Authorized State Official

of the State of _____; or as _____
Authorized Official

of the county or municipality of _____ in the State of _____,

do hereby certify that the foregoing officer who executed this assurance has full authority to bind the Recipient or Other Party. In witness whereof I set my hand and affix the corporate, state, or municipal seal this _____ day of _____, 19 _____.

(Secretary or other Official)

APPENDIX "A"

13 CFR 311 CIVIL RIGHTS REQUIREMENTS ON EDA ASSISTED PROJECTS

311.1 Introduction

- (a) (1) Section 601, of Title VI, of the Civil Rights Act of 1964 provides that,

"No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

- (2) The Department of Commerce has provided regulations at 15 C.F.R, Subtitle A, Part 8, in accordance with this provision.
- (3) In addition, EDA in its programs enforces provisions, similar to §601, forbidding discrimination on the ground of sex (42 U.S.C. §3123) and handicap (26 U.S.C. §794).
- (b) In order to enforce the above nondiscrimination provisions, EDA imposes certain requirements, described below, on applicants, borrowers, grantees, and certain beneficiaries of its programs which are called "other parties." Title 15 C.F.R §8.3 defines "other parties" as those who enjoy "direct or substantial participation in any program such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program." While construction contractors and subcontractors are technically "other parties" under the Title VI jurisdiction of EDA, these regulations do not apply to them since civil rights review, monitoring, and enforcement for them are, under Executive Order 11246, responsibilities of the Department of Labor.
- (c) Failure of a grantee, borrower, or "other party" to comply with requirements of this Part may result in sanctions or other legal action.

311.2 EDA Guidelines

- (a) EDA has written Civil Rights Guidelines that elaborate the requirements listed below for applicants, borrowers, grantees, and "other parties" other than those involved in construction contracting. The Guidelines also describe EDA's policy and procedures for complaint processing, compliance reviews, and enforcement.
- (b) These Guidelines are given to all applicants and to those "other parties" subject to §311.3(c)(2) below. They are also available upon request from any of the Regional Offices whose addresses are provided in §301.31.

311.3 Requirements for Applicants, Grantees, Borrowers and "Other Parties"

- (a) Applicants for EDA financial assistance must submit for approval:
- (1) an assurance that they will comply with the Department of Commerce and EDA regulations designed to prevent discrimination;
 - (2) information on their civil rights status and involvement in charges of discrimination;
 - (3) information about the distribution of project service benefits, when appropriate;
 - (4) employment information; and
 - (5) an Affirmative Action Plan, if they will create or save 50 or more permanent jobs as the result of EDA assistance.
- (b) Grantees and Borrowers receiving EDA financial assistance must:
- (1) disseminate project civil rights information to the public;
 - (2) retain employment records;
 - (3) submit compliance reports, if they will create or save 15 or more permanent jobs as a result of EDA assistance;

- (4) allow on-site compliance reviews and provide access to information if necessary to ascertain compliance; and
- (5) if they received assistance for construction or improvement to real property: obtain from each lessee, buyer or other transferee of the real property (such as industrial park space) an assurance or covenant, as applicable, that it will comply with EDA civil rights requirements.

(c) "Other Parties"

- (1) All "other parties" on EDA-assisted projects must, if necessary to ascertain compliance, submit to on-site compliance reviews and provide access to information.
- (2) In addition, certain "other parties" must comply with the requirements for applicants stated above in §311.3(a)(1), (2), (4), and (5) and the requirements for grantees in §311.3(b)(1), (2), and (3). These "other parties" are those who create or save 15 or more permanent jobs as the result of EDA assistance; and either
 - (i) are specifically cited in the application for funds as a project beneficiary; or
 - (ii) locate or are located in an assisted industrial park before EDA has made its final disbursement for the park.

311.4 Public Planning Organizations

- (a) Minorities must be represented on the governing boards and executive committees of public planning organizations receiving EDA assistance. Specific numerical requirements are stated in the Guidelines. Planning organizations are required to provide minorities with the opportunity to select their own representatives.
- (b) Each planning organization must develop a written Affirmative Action Plan for its employees.

- (4) allow on-site compliance reviews and provide access to information if necessary to ascertain compliance; and
- (5) if they received assistance for construction or improvement to real property: obtain from each lessee, buyer or other transferee of the real property (such as industrial park space) an assurance or covenant, as applicable, that it will comply with EDA civil rights requirements.

(c) "Other Parties"

- (1) All "other parties" on EDA-assisted projects must, if necessary to ascertain compliance, submit to on-site compliance reviews and provide access to information.
- (2) In addition, certain "other parties" must comply with the requirements for applicants stated above in §311.3(a)(1), (2), (4), and (5) and the requirements for grantees in §311.3(b)(1), (2), and (3). These "other parties" are those who create or save 15 or more permanent jobs as the result of EDA assistance; and either
 - (i) are specifically cited in the application for funds as a project beneficiary; or
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APPENDIX "B"

RULES AND REGULATIONS

Reprinted from the Federal Register

Thursday, July 5, 1973
(38 F.R. 120)with corrections of
Tuesday, September 4,
1973 (38 F.R. 170)

provision (§ 8.4(b)(6)); and changing the time from 90 to 180 days for the filing of discrimination complaints (§ 8.8). The Department of Commerce agrees that all the changes are appropriate.

In consideration of the foregoing, Part 8 of Subtitle A of Title 15 of the Code of Federal Regulations is revised and such revision will become effective on July 5, 1973.

Subpart A—General Provisions; Prohibition; Nondiscrimination Clause; Applicability to Programs

- Sec.
- 8.1 Purpose.
- 8.2 Application of this part.
- 8.3 Definitions.
- 8.4 Discrimination prohibited.
- 8.5 Nondiscrimination clause.
- 8.6 Applicability of this part to Department-assisted programs.

Subpart B—General Enforcement

- 8.7 Cooperation; compliance reports and reviews; access to records.
- 8.8 Complaints.
- 8.9 Intimidatory or retaliatory acts prohibited.
- 8.10 Investigations.
- 8.11 Procedures for effecting compliance.
- 8.12 Hearings.
- 8.13 Decisions and notices.
- 8.14 Judicial review.
- 8.15 Effect on other laws; supplementary instructions; coordination.

Appendix A—Federal Financial Assistance to Which This Part Applies.

AUTHORITY: Section 602, Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

Subpart A—General Provisions; Prohibitions; Nondiscrimination Clause; Applicability to Programs

§ 8.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department of Commerce. This part is consistent with achievement of the objectives of the statutes authorizing the financial assistance given by the Department of Commerce as provided in section 602 of the Act.

§ 8.2 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the federally assisted programs listed in Appendix A to this part and as said Appendix may be amended. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after January 9, 1965, pursuant to an application approved prior to such effective date.

(b) This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before January 9, 1965, except where such assistance was subject to the title VI regulations of this De-

partment or of any other agency whose responsibilities are now exercised by this Department, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization except to the extent described in § 8.4(c). The fact that a program is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to the list by notice published in the Federal Register.

§ 8.3 Definitions.

(a) "Department" means the Department of Commerce, and includes each and all of its operating and equivalent other units.

(b) "Secretary" means the Secretary of Commerce.

(c) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(d) "Person" means an individual in the United States who is or is eligible to be a participant in or an ultimate beneficiary of any program which receives Federal financial assistance, and includes an individual who is an owner or member of a firm, corporation, or other business or organization which is or is eligible to be a participant in or an ultimate beneficiary of such a program. Where a primary objective of the Federal financial assistance to a program is to provide employment, "person" includes employees or applicants for employment of a recipient or other party subject to this part under such program.

(e) "Responsible department official" with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department who by law or by delegation has the principal authority within the Department for the administration of a law extending such assistance. It also means any officials so designated by due delegation of authority within the Department to act in such capacity with regard to any program under this part.

(f) "Federal financial assistance" includes (1) grants, loans, or agreements for participation in loans, of Federal funds, (2) the grant or donation of Federal property or interests in property, (3) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or in property in which the Federal Government has an interest, without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient, (4) waiver of charges which would normally be made for the furnishing of Government services, (5) the detail of

U.S. DEPARTMENT OF COMMERCE

Title 15—Commerce and Foreign Trade
SUBTITLE A—OFFICE OF THE SECRETARY
OF COMMERCE

PART 8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Department of Commerce, in 1965, adopted regulations implementing Title VI. Thereafter a number of amendments were approved and the regulations, as amended, were published in the Federal Register of December 9, 1971, at page 23456.

Since that time, several additional amendments and language changes have been recommended by the Department of Justice which, by Executive Order, has authority to coordinate the Federal agencies in their execution of Title VI. These include: A provision ensuring nondiscrimination in the selection of members for planning and advisory bodies, which differs slightly from the one Commerce originally proposed (§ 8.4(b)(1)(viii)); reference to a recipient's responsibility to collect data on the race of beneficiaries (§ 8.7(b)); modification of the language of the affirmative action

RULES AND REGULATIONS

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deral personnel, (6) technical assistance, and (7) any Federal agreement, arrangement, contract, or other instrument which has as one of its purposes the provision of assistance.

(g) "Program" includes any program, project, or activity for the planning or provision of services, financial aid, property, other benefits, or facilities for furnishing services, financial aid, property, or other benefits, whether provided by the recipient or by others through contracts or other arrangements with the recipient, with the aid of Federal financial assistance, or with the aid of any non-Federal funds, property, facilities or other resources which are provided to meet the conditions under which Federal financial assistance is extended or which utilizes federally assisted property, facilities or resources.

(h) "Facility" includes all or any portion of structures, equipment, vessels, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, contract for use, or acquisition of facilities.

(i) "Recipient" means any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which is an applicant for Federal financial assistance, or to whom Federal financial assistance is extended directly or through another recipient for or in connection with any program. Recipient further includes a subgrantee, an entity which leases or operates a facility for or on behalf of a recipient, and any successors, assignees, or transferees of any kind of the recipient, but does not include any person who is an ultimate beneficiary under any program.

(j) "Primary recipient" means any recipient which is authorized or required to extend or distribute Federal financial assistance to another recipient for the purpose of carrying out a program.

(k) "Applicant" means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

(l) "Other parties subject to this part" includes any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which, like a recipient, is not to engage in discriminatory acts with respect to applicable persons covered by this part, because of his or its direct or substantial participation in any program, such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program.

§ 8.4 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) *Specific discriminatory acts prohibited.* (1) A recipient of Federal financial assistance, or other party subject to this part under any program to which this part applies, shall not participate, directly or through contractual or other arrangements, in any act or course of conduct which, on the ground of race, color, or national origin:

(i) Denies to a person any service, financial aid, or other benefit provided under the program;

(ii) Provides any service, financial aid, or other benefit, to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subjects a person to segregation or separate or other discriminatory treatment in any matter related to his receipt (or nonreceipt) of any such service, financial aid, property, or other benefit under the program.

(iv) Restricts a person in any way in the enjoyment of services, facilities, or any other advantage, privilege, property, or benefit provided to others under the program;

(v) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Denies a person an opportunity to participate in the program through the provision of property or services or otherwise, or affords him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section);

(vii) Denies a person the same opportunity or consideration given others to be selected or retained or otherwise to participate as a contractor, subcontractor, or subgrantee when a program is applicable thereto;

(viii) Denies a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient, or other party subject to this part under any program, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program, shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect any persons of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or other party subject to this part may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided or made available in or through or utilizing a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) (i) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color or national origin.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to or other party subject to this part shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipients and other parties subject to this part shall take affirmative action to ensure that applicants are employed, and employees are treated during employment without regard to their race, color, or national origin. Such recipients and other parties subject to this part shall, as may be required by supplemental regulations, develop a written affirmative action program. The requirements applicable to construction employment under any such program shall be in addition to those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it. Federal financial assistance to programs under laws funded or administered by the Department which has as a primary objective the providing of employment include those set forth in Appendix A II of this part.

(2) Where a primary objective of the Federal financial assistance to a program to which this part applies is not to provide employment, but discrimination on the grounds of race, color, or national origin, in the employment practices of the recipient or other party subject to this part, tends, on the grounds of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under any such program, the provisions of subparagraph (1) of this paragraph shall apply to the employment practices of the recipient or other party subject to this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of such persons.

§ 8.5 Nondiscrimination clause.

(a) *Applicability.* Every application for, and every grant, loan, or contract authorizing approval of, Federal financial assistance to carry out a program and to provide a facility subject to this part, and every modification or amendment thereof, shall, as a condition to its approval and to the extension of any Federal financial assistance pursuant thereto, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by or pursuant to this part. The assurances shall be set forth in a nondiscrimination clause. The responsible Department official shall specify the form and contents of the nondiscrimination clause for each program as appropriate.

(b) *Contents.* Without limiting its scope or language in any way, a nondiscrimination clause shall contain, where determined to be appropriate, and in an appropriate form, reference to the following assurances, undertakings, and other provisions:

(1) That the recipient or other party subject to this part will not participate directly or indirectly in the discrimination prohibited by § 8.4, including employment practices when a program covering such is involved.

(2) That when employment practices are covered, the recipient or other party subject to this part will (i) in all solicitations or advertisements for employees placed by or for the recipient, state that qualified applicants will receive consideration for employment without regard to race, color, or national origin; (ii) notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding of the recipient's commitments under this section; (iii) post the nondiscrimination clause and the notice to labor unions in conspicuous places available to employees and applicants for employment; and (iv) otherwise comply with the requirements of § 8.4(c).

(3) That in a program involving continuing Federal financial assistance, the recipient thereunder (i) will state that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (ii) will

provide for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that all recipients of Federal financial assistance under such program and any other parties connected therewith subject to this part will comply with all requirements imposed by or pursuant to this part.

(4) That the recipient agrees to secure the compliance or to cooperate actively with the Department to secure the compliance by others with this part and the nondiscrimination clause as may be directed under an applicable program. For instance, the recipient may be requested by the responsible Department official to undertake and agree (i) to obtain or enforce or to assist and cooperate actively with the responsible Department official in obtaining or enforcing, the compliance of other recipients or of other parties subject to this part with the nondiscrimination required by this part; (ii) to insert appropriate nondiscrimination clauses in the respective contracts with or grants to such parties; (iii) to obtain and to furnish to the responsible Department official such information as he may require for the supervision or securing of such compliance; (iv) to carry out sanctions for noncompliance with the obligations imposed upon recipients and other parties subject to this part; and (v) to comply with such additional provisions as the responsible Department official deems appropriate to establish and protect the interests of the United States in the enforcement of these obligations. In the event that the cooperating recipient becomes involved in litigation with a non-complying party as a result of such departmental direction, the cooperating recipient may request the Department to enter into such litigation to protect the interests of the United States.

(5) In the case of real property, structures or improvements thereon, or interests therein, which are acquired for a program receiving Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a

condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(6) In programs receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

(7) That a recipient shall not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly.

(8) Provisions specifying the extent to which like assurances will be required of subgrantees, contractors and subcontractors, lessees, transferees, successors in interest, and other participants in the program.

(9) Provisions which give the United States a right to seek judicial enforcement of the assurances.

(10) In the case where any assurances are required from an academic, a medical care, detention or correctional, or any other institution or facility, insofar as the assurances relate to the institution's practices with respect to the admission, care, or other treatment of persons by the institution or with respect to the opportunity of persons to participate in the receiving or providing of services, treatment, or benefits, such assurances shall be applicable to the entire institution or facility. That requirement may be waived by the responsible Department official if the party furnishing the assurances establishes to the satisfaction of the responsible Department official that the practices in designated parts or programs of the institution or facility will in no way affect its practices in the program of the institution or facility for which Federal financial assistance is or is sought to be provided, or affect the beneficiaries of or participants in such program. If in any such case the assistance is or is sought for the construction of a facility or part of a facility, the assurances shall in any event extend to the entire facility and to facilities operated in connection therewith.

(11) In the case where the Federal financial assistance is in the form of or to aid in the acquisition of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipients, or, in the case of a subsequent transfer, the

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transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient or transferee retains ownership or possession of the property, whichever is longer. In the case of any other type or form of assistance, the assurances shall be in effect for the duration of the period during which Federal financial assistance is extended to the program.

§ 8.6 Applicability of this part to Department-assisted programs.

The following examples illustrate the applicability of this part to programs which receive or may receive Federal financial assistance administered by the Department. The fact that a particular program is not listed does not indicate that it is not covered by this part. The discrimination referred to is that described in § 8.4 against persons on the ground of race, color, or national origin.

(a) *Assistance to support economic development programs.* Discrimination in which recipients and other parties subject to this part shall not engage, directly or indirectly, includes discrimination in (1) the letting of contracts or other arrangements for the planning, designing, engineering, acquisition, construction, rehabilitation, conversion, enlargement, installation, occupancy, use, maintenance, leasing, subleasing, sales, or other utilization or disposition of property or facilities purchased or financed in whole or in part with the aid of Federal financial assistance; (2) the acquisition of goods or services, or the production, preparation, manufacture, marketing, transportation, or distribution of goods or services in connection with a program or its operations; (3) the onsite operation of the project or facilities; (4) services or accommodations offered to the public in connection with the program; and (5) in employment practices in connection with or which affect the program (as defined in § 8.4(c)); in the following programs:

(i) Any program receiving Federal financial assistance for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage.

(ii) Any program receiving Federal financial assistance in the form of loans or direct or supplementary grants for the acquisition or development of land and improvements for public works, public service or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment.

(iii) In any program receiving any form of technical assistance designed to alleviate or prevent conditions of excessive employment or underemployment.

(iv) In any program receiving Federal financial assistance in the form of administrative expense grants.

(b) *Assistance to support the training of students.* A current example of such assistance is that received by State mari-

time academies or colleges, by contract, of facilities (vessels), related equipment and funds to train merchant marine officers. In this and other student training programs, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in the selection of persons to be trained and in their treatment by the recipients in any aspect of the educational process and discipline during their training, or in the availability or use of any academic, housing, eating, recreational, or other facilities and services, or in financial assistance to students furnished or controlled by the recipients or incidental to the program. In any case where selection of trainees is made from a predetermined group, such as the students in an institution or area, the group must be selected without discrimination.

(c) *Assistance to support mobile or other trade fairs.* In programs in which operators of mobile trade fairs using U.S. flag vessels and aircraft and designed to exhibit and sell U.S. products abroad, or in which other trade fairs or exhibitions, receive technical and financial assistance, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in the selection or retention of any actual or potential exhibitors, or in access to or use of the services or accommodations by, or otherwise with respect to treatment of, exhibitors or their owners, officers, employees, or agents.

(d) *Assistance to support business entities eligible for trade adjustment assistance.* In programs in which eligible business entities receive any measure or kind of technical, financial or tax adjustment assistance because of or in connection with the impact of U.S. international trade upon such business, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in their employment practices as defined in § 8.4(c).

(e) *Assistance to support research and development and related activities.* In programs in which individuals, educational or other institutions, public governmental or business entities receive Federal financial assistance in order to encourage or foster research or development activities as such, or to obtain, promote, develop, or protect thereby technical, scientific, environmental, or other information, products, facilities, resources, or services which are to be made available to or used by others; but where such programs do not constitute Government procurement of property or services, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination with respect to (1) the choice, retention or treatment of contractors, subcontractors, subgrantees or of any other person; (2) the provision of services, facilities, or financial aid; (3) the participation of any party in the research activities; (4) the dissemination to or use by any person of the results or benefits of the research or development, whether in the form of

information, product services, facilities, resources, or otherwise. If research is performed within an educational institution under which it is expected that students or others will participate in the research as a part of their experience or training, on a compensated or uncompensated basis, there shall be no discrimination in admission of students to, or in their treatment by, that part of the school from which such students are drawn or in the selection otherwise of trainees or participants. The recipient educational institutions will be required to give the assurances provided in § 8.5 (b) (10).

(f) *Assistance to aid in the operations of vessels engaged in U.S. foreign commerce.* In programs in which the operators of American-flag vessels used to furnish shipping services in the foreign commerce of the United States receive Federal financial assistance in the form of operating differential subsidies, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in soliciting, accepting or serving in any way passengers or shippers of cargo entitled to protection in the United States under the Act.

Subpart B—General Compliance

§ 8.7 Cooperation, compliance reports and reviews and access to records.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients and other parties subject to this part in obtaining compliance with this part and shall provide assistance and guidance to recipients and other parties to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient and other party subject to this part shall keep such records and submit to the responsible Department official timely, complete, and accurate compliance reports at such times and in such form and containing such information as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient or such other party has complied or is complying with this part. In general, recipients should have available for the department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, or under which a recipient is obligated to obtain or to cooperate in obtaining the compliance of other parties subject to this part, such other recipients or other parties shall also submit such compliance reports to the primary recipient or recipients as may be necessary to enable them to carry out their obligations under this part.

(c) *Access to sources of information.* Each recipient or other party subject to this part shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascer-

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tain compliance with this part. Where any information required of a recipient or other party is in the exclusive possession of another who fails or refuses to furnish this information, the recipient or other party shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient or other party subject to this part shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner as this part and the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

(e) *Compliance review.* The responsible Department official or his designee shall from time to time review the practices of recipients and other parties subject to this part to determine whether they are complying with this part.

§ 8.8 Complaints.

(a) *Filing complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official a written complaint. A complaint shall be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official.

§ 8.9 Intimidatory or retaliatory acts prohibited.

(a) No recipient or other party subject to this part shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

(b) The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial or other proceeding arising thereunder.

§ 8.10 Investigations.

(a) *Making the investigation.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient or other party subject to this part, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether there has been a failure to comply with this part.

(b) *Resolution of matters.* (1) If an

investigation pursuant to paragraph (a) of this section indicates a failure to comply with this part, the responsible Department official will so inform the recipient or other party subject to this part and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 8.11.

(2) If an investigation does not warrant action pursuant to paragraph (b) (1) of this section, the responsible Department official will so inform the recipient or other party subject to this part and the complainant, if any, in writing.

§ 8.11 Procedures for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 8.5.* If a recipient or other party subject to this part fails or refuses to furnish an assurance required under § 8.5 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under said paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application or contract therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the recipient or other party subject to this part of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by such recipient or other party to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary pursuant to § 8.13(e), and (4) the expiration of 30 days after the Secretary has filed with the committee of the

House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient or other party as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other party has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other party. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other party to comply with this part and to take such corrective action as may be appropriate.

§ 8.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 8.11(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient or other party subject to this part. This notice shall advise the recipient or other party of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the recipient or other party may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the recipient or other party that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. A recipient or other party may waive a hearing and submit written information and argument for the record. The failure of a recipient or other party to request a hearing under this paragraph of this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 8.11(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official or hearing officer unless he determines that the convenience of the recipient or other party or of the Department requires that another place be selected. Hearings shall be held before the

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responsible Department official, or at his discretion, before a hearing officer.

(c) *Right to counsel.* In all proceedings under this section, the recipient or other party and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.*

(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedures Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the recipient or other party shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 8.12.

§ 8.13 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing officer such hearing officer shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such ini-

tial decision or certification shall be mailed to the recipient or other party subject to this part. Where the initial decision is made by the hearing officer, the recipient or other party may within 30 days of the mailing of such notice of initial decision file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the recipient or other party a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing officer pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the recipient or other party shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the recipient or other party and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 8.12(a) a decision shall be made by the responsible departmental official on the record and a copy of such decision shall be given in writing to the recipient or other party, and to the complainant, if any.

(d) *Ruling required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the recipient or other party has failed to comply.

(e) *Approval by Secretary.* Any final decision of a responsible Department official (other than the Secretary) which provides for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance, or the imposition of any other sanction available under this part of the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no

Federal financial assistance will thereafter be extended under such program to the recipient or other party determined by such decision to be in default in its performance of an assurance given by it pursuant to this part or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) Any recipient or other party which is adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any recipient or other party adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the recipient or other party has met the requirements of paragraph (g) (1) of this section. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the recipient or other party may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with rules of procedure issued by the responsible Department official. The recipient or other party will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (g) (1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 8.14 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 8.15 Effect on other laws: supplementary instructions; coordination.

(a) *Effect on other laws.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorizes the suspension or termination of or refusal to grant or to continue Federal financial assistance to any recipient or other party subject to this part of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that

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RULES AND REGULATIONS

Nothing in this part shall be deemed to relieve any one of any obligations assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to January 9, 1965. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Department official shall issue and promptly make available to interested parties forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 8.13), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

Dated: July 14, 1972.

PETER G. PETERSON,
Secretary of Commerce.

FORM ED-612
(REV. 10-78)

U.S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION

Name and Address of Organization
(OMM)

I. Check Appropriate Box

- (PTY-1) Applicant
 (PTY-2) Other Party
 Other Party (IRS No.)
 (IR#) _____

II. EDA Project Number

(PRJ)

III. Project Completion Date

(CED)

X. EMPLOYEES
WHEN FULLY (FOD)
OPERATIONAL
DATE:

**CURRENT AND PROJECTED PERMANENT EMPLOYEE
AND PAYROLL DATA**

IV. JOB CATEGORIES	V. SEX	VI. PRESENT EMPLOYEES						VII. JOBS TO BE SAVED		VIII. NEW JOBS TO BE CREATED						IX. EMPLOYEES END OF 1ST YEAR		X. EMPLOYEES WHEN FULLY (FOD) OPERATIONAL DATE:	
		A. TOTAL EMPLOYEES	B. BLACK	C. HISPANIC	D. ASIAN OR PACIFIC ISLANDER	E. AMERICAN INDIAN OR ALASKAN NAT	F. TOTAL EMPLOYEES	G. TOTAL MINORITIES	H. TOTAL EMPLOYEES	I. BLACK	J. HISPANIC	K. ASIAN OR PACIFIC ISLANDER	L. AMERICAN INDIAN OR ALASKAN NAT	M. TOTAL EMPLOYEES	N. TOTAL MINORITIES	O. TOTAL EMPLOYEES	P. TOTAL MINORITIES		
Officials and Managers	MF	F																	
	MM	M																	
Professionals	PF	F																	
	PM	M																	
Technicians	TF	F																	
	TM	M																	
Sales Workers	SF	F																	
	SM	M																	
Office and Clerical	OF	F																	
	OM	M																	
Craftsperson (skilled)	CF	F																	
	CM	M																	
Operatives (semi-skilled)	XF	F																	
	XM	M																	
Laborers (unskilled)	LF	F																	
	LM	M																	
Service Work and others	WF	F																	
	WM	M																	
TOTAL	AF	F																	
	AM	M																	

XI. Present annual total payroll
 (OAP) \$ _____ (PPM) \$ _____ (PPF) \$ _____
 TOTAL MINORITIES FEMALE

XIII. Present temporary and part time employees
 (TMT) _____ (TMM) _____ (TMF) _____ (TMS) \$ _____
 TOTAL NO. OF MINORITIES NO. OF FEMALES ANNUAL PAYROLL

XII. Expected annual total payroll when fully operational
 (FOS) \$ _____ (OPM) \$ _____ (OPF) \$ _____
 TOTAL MINORITIES FEMALES

XIV. Expected temporary and part time employees when fully operational
 (PTT) _____ (PTM) _____ (PTF) _____ (PTS) \$ _____
 TOTAL NO. NO. OF MINORITIES NO. OF FEMALES ANNUAL PAYROLL

XV. This form prepared by:

 (TYPE NAME AND POSITION) (SIGNATURE) (DATE) (TELEPHONE NO.)

XVI. Authorized company official:

 (TYPE TITLE OF OFFICER) (SIGNATURE) (DATE)

No further monies or other benefits may be authorized under this program unless this report is completed and filed as required by existing law and regulations -42 U.S.C. 20000-1-3123-6709. E.O. 11246. 15 C.F.R. part 8. 28 C.F.R. part 42.

GENERAL INFORMATION

GENERAL INFORMATION - Continued

1. This form is for use by applicants and/or "Other Parties" who apply or will benefit from EDA assistance.

2. This form will be completed by Applicants and "Other Parties" under the provisions of and in accordance with Section 17 of the EDA Civil Rights Guidelines:

(a) All Applicants must submit current employment and payroll data.

(b) All Applicants who create or save fifteen or more permanent jobs must submit current and projected employment and payroll data.

(c) All "Other Parties" who create or save fifteen or more permanent jobs and are identified in the application must submit current and projected employment and payroll data.

(d) All "Other Parties" who create or save fifteen or more permanent jobs and who locate in an EDA assisted industrial park before EDA's final disbursement is made must submit current and projected employment and payroll data.

3. If there is no information to be reported leave the space blank.

4. Race/Ethnic identification designations, Sections VI, VIII, IX, and X, as used by EDA do not denote scientific definitions of anthropological origins. Employees should be included in the group with which they identify, or to which they are regarded as belonging by the community. No person shall be counted in more than one race/ethnic group. The categories used for this report are:

White—(Not of Hispanic origin) - All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black—(Not of Hispanic origin) - All persons having origins in any of the Black racial groups of Africa.

Hispanic—All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian or Pacific Islanders—All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes, for example, China, Japan, India, Korea, the Philippine Islands, and Samoa.

American Indian or Alaska Native - All persons having origins in any of original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

5. Employment data for Items IV thru X must include ONLY full time permanent employees. Employees must be counted by sex, race/ethnic categories for each of the nine occupational categories and for the total. Job categories (Section IV for the purpose of this report are:

Officials and Managers—Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: Officials, executives, middle management, plant managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.

Professional—Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.

Technicians—Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

Sales—Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, salesworkers, demonstrators, retail salesworkers, and sales clerks, grocery clerks and cashier checkers, and kindred workers.

Office and Clerical—Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, and kindred workers.

Craft Worker (skilled)—Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionist, pattern and model makers, stationary engineers, tailors and tailresses, and kindred workers.

Operatives (semi-skilled)—Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tender, truck and tractor drivers, weavers (textile), welders, and flamecutters and kindred workers.

Laborers (unskilled)—Workers in manual occupations which generally require no special trainings perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and groundkeepers, stevedores, wood choopers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

Service Workers—Workers in both protective and nonprotective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.

INSTRUCTIONS

Item I—Check appropriate Block. Check the box that describes the user's category. All "other parties" must fill in their Internal Revenue Service assigned identification number in the space provided.

Item II—Self-explanatory.

Item III—Enter the expected date of project completion. The "date entry" should be made according to the following example: If the project will be complete on August 1, 1980 the entry should be written as 08/01/80.

Item IV—Self explanatory.

Item V—F=Female; M=Male

Item VI—For applicants and "other parties" identified at the time of application, enter the number of PERMANENT employees at the time the application is submitted.

Item VII—For all applicants and "other parties", enter the number of PERMANENT jobs that are expected to be lost if EDA assistance or benefits are not received for the requested project(s).

Item VIII—Enter the expected number of PERMANENT new jobs that will be created as a result of EDA assistance or benefits received. Personnel counted in Sections VI and VII MUST not be counted in this section. Temporary and Part-Time jobs MUST NOT be counted in this section.

Item IX—Project the number of PERMANENT employees expected one year after the date given in Section III, "Project Completion Date".

Item X—Enter the date the entity expects to be fully operational.

Item XI, XII—Include Permanent, Temporary and Part-Time Payrolls.

Items XIII, XIV—"Annual Payroll" is for Total Temporary and Part-time Employees (also included in Annual Total Payroll).

Item XV—Self-explanatory.

Item XVI—Applicants are required to sign the Form ED-612 except when it is an integral part of an EDA application.

The Form ED-612 MUST BE signed by an authorized company official when it is submitted by "other parties".

Item XVII—Self explanatory.

ANNUAL REPORTS

In accordance with the EDA Civil Rights Guidelines, Part III, "Post-Approval Compliance", the Form ED-612 will be submitted annually to the appropriate EDA Regional Office for a period of five years by all "applicants" and "other parties", who create or save fifteen or more permanent jobs. Data will be required as of the first, second, third, fourth, and fifth anniversaries of the date on which EDA makes its final disbursement for the project. The report is due fifteen days after the anniversaries. The recipient shall notify any "Other parties" of the date these reports are due. ONLY Items I, II, VI, XI, XIII, XV, and XVI are required to be completed for the annual report. The Form ED-612 will be signed by an authorized company official by all entities when submitted as an annual report.

PARITY FIGURES FOR SETTING AFFIRMATIVE ACTION GOALS

"Executive Order 11246 (30 FR 12319) (September 28, 1965) prohibits employment discrimination on the basis of race, color, religion, and national origin by federal contractors, subcontractors, and federally assisted construction contractors and sub-contractors. In addition, the Executive Order requires affirmative action regardless of whether discrimination has ever occurred to ensure that applicants and employees are treated without regard to race, color, religion or national origin."

Executive Order 11375 (32 FR 14303) (October 17, 1967) added sex as a basis for non-discrimination and affirmative action.

Affirmative Action, those results-oriented actions ensuring equal employment opportunity, requires that hiring goals be set according to the availability of protected groups (i.e. women, minorities) within the relevant labor force.

In order to set reasonable goals, parity figures are used. Parity figures are the desired percent representation of protected groups. This should be a reflection of their percent make-up in the population as a whole.

Arriving at proper parity figures is the cornerstone of an affirmative action plan. The City of Portland sets parity figures in eight federal job categories for women and minorities.

The parity percentages incorporated were developed by the National Planning Data Corporation of Ithaca, New York. NPDC, a Summary Tape Processing Center recognized by the Bureau of Census, compiled parity percentages for each federal job category. Their figures include a cross-tabulation of more than 500 occupations by sex and ethnic status. These cross-tabulations have as their universe the employed civilian labor-force (taken from the 1970 census).

The City of Portland's Affirmative Action Office reviewed NPDC's list of occupations, and selected those which would provide relevant experience for positions with the City of Portland. We also issued instructions specifying which occupations to consider in developing parity for each federal job category.

Below are parity figures for the City of Portland and the SMSA (Standard Metropolitan Statistical Area).

	PARITY FIGURES: <u>WOMEN</u>		PARITY FIGURES: <u>MINORITIES</u>	
	<u>PORTLAND</u>	<u>SMSA</u>	<u>PORTLAND</u>	<u>SMSA</u>
OFFICIALS/ADMINISTRATORS	23.7	15.7	4.3	1.8
PROFESSIONALS	22.5	17.8	5.0	3.1
PROTECTIVE SERVICE	9.0	11.4	3.1	2.5
PARA-PROFESSIONALS	34.4	28.4	9.6	5.3
TECHNICIANS	23.4	16.9	7.3	3.7
SERVICE/MAINTENANCE	13.4	11.1	9.4	4.6
OFFICE/CLERICAL	78.7	79.8	6.1	3.9
SKILLED CRAFT	4.6	4.2	6.0	3.1

ENVIRONMENTAL INFORMATION
(Omit if previously submitted)

EXHIBIT E

151064

- Item a(1) Has a Federal, State or Local Environmental Impact Statement or Analysis been prepared for this project? Yes No
 Copy attached as EXHIBIT II-A-8(a) (1)
- (2) If "NO", provide the information requested in Instructions as EXHIBIT II-A-8(a) (2)
 EXHIBIT II-A-8(a) (2) attached

Item b. The State Historic Preservation Officer (SHPO) has been provided a detailed project description and has been requested to submit comments to the appropriate EDA Regional Office. Yes No
 Date description submitted to SHPO _____

Item c. Are any of the following land uses or environmental resources either to be affected by the proposal or located within or adjacent to the project site(s)? Check appropriate box for every item of the following checklist:

YES	NO	UNKNOWN		YES	NO	UNKNOWN	
1. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Industrial	16. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wildlife Refuge
2. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Commercial	17. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shoreline
3. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Residential	18. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Beaches
4. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Agricultural	19. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dunes
5. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Grazing	20. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Estuary
6. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mining, Quarring	21. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wetlands
7. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Forests	22. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Floodplain
8. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Recreational	23. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wilderness (designated or proposed under the Wilderness Act)
9. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Transportation	24. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wild or Scenic river (proposed or designated under the Wild and Scenic Rivers Act)
10. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Parks	25. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Historical, Archeological Sites (Listed on the National Register of Historic Places or which may be eligible for listing)
11. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hospitals	26. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Critical Habitats endangered/threatened species
12. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Schools	27. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wildlife
13. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Open Spaces	28. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Air Quality
14. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Aquifer Recharge Area	29. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Solid Waste Management
15. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Steep Slopes	30. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Energy Supplies

Item d. Are any facilities under your ownership, lease, or supervision to be utilized in the accomplishment of this project, either listed or under consideration for listing on the Environmental Protection Agency's List of Violating Facilities. Yes No

INSTRUCTIONS

Federal Agencies are required by law to independently assess the expected environmental impacts associated with proposed Federal actions. It is extremely important that the information provided be in sufficient detail to permit EDA to perform its evaluation. The information requested must be submitted with the preapplication. Failure to provide sufficient data will delay agency review and a decision to formally authorize an application. If not previously submitted, include now!

This information request is designed to obtain an understanding of the area's present environmental condition and the project's elements that will affect the environment. Should you believe that an item does not apply to the project, consult with EDA's Economic Development Representative (EDR) before responding. In all cases when it is believed that an item is not applicable, explain the reasons for this belief.

It is important to understand the comprehensive nature of the information requested. Information must be provided for a) the site(s) where the project facilities will be constructed and the surrounding areas to be affected by its operation and b) the areas affected by any primary beneficiaries of the project. The amount of detail should be commensurate with the complexity and size of the project, and the magnitude of the expected impact. Some examples are:

- A small community center project may not require detailed information on air emissions, meteorological conditions and solid waste management.
- A water resource or industrial development project will require detailed information.

Item a(1) - Compare the Environmental Impact Statement or Analysis with the information requested in the instructions for Item a(2) below to be sure that every point is covered. Reference the location of that information in the Statement for each item covered. Correct any deficiencies/omissions in the information supplied and attach to the document.

Item a(2) - Provide responses to the following items in the order listed and attach as EXHIBIT-II-A-8(1) (b):

(a) Primary Beneficiaries

Identify any existing businesses or major developments that will benefit from the proposal, and those which will expand or locate in the area because of the project. These businesses or major developments hereafter will be referred to as primary beneficiaries.

(b) Area Description

- i Describe the size, terrain, and present land uses as well as the adjacent land uses of the areas to be affected. These areas include the site(s) of construction activities, adjacent areas, and areas affected by the primary beneficiaries.
- ii For each box checked "Yes" in Item c, describe the nature of the effect on the resource. If one or more of Boxes 17 through 21 is checked "Yes" or "unknown", contact the EDR for instructions relating to the requirements imposed by the Floodplain Management and Wetlands Protection Executive Orders.

- iii Attach as Exhibit II-A-8a(2) (b) iii, the following: 1) a U.S. Geological Survey "15 minute" ("7 1/2 minute" if available) topographic map which clearly delineates the area and the location of the project elements; 2) the Department of Housing and Urban Development's floodplain map(s) for the project area; 3) site photos; and 4) if available, an aerial photograph of the site. If a floodplain map is not available, contact the EDR for additional instructions relating to the requirements imposed by the Floodplain Management Executive Order.

(c) Air Quality

- i Provide available air quality data from the monitoring station(s) either within the project area or, if none exists, nearest the project area.
- ii Indicate the types and quantities of air emissions to be produced by the project facilities and its primary beneficiaries. If odors will occur, indicate who will be affected.
- iii Indicate if topographical or meteorological conditions hinder the dispersal of air emissions.
- iiii Indicate the measures to be taken to control air emissions.

(d) Water Quality

- i Provide available data on the water quality of surface or underground water in or near the project area.
- ii Indicate the source, quality, and available supply of raw water and the amount of water which the project is designed to utilize.
- iii Describe all of the effluents of discharges associated with the project facilities and its primary beneficiaries. Indicate the expected composition and quantities of these discharges prior to any treatment processes that they undergo and also prior to their release into the environment.
- iiii Describe any treatment systems which will be used for these effluents and indicate their capacities and their adequacy in terms of the degree and type of treatment provided. Indicate all discharges which will not be treated. Describe the receiving waters and their uses (e.g., recreational) for any source of treated and untreated discharge.
- iiiii If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates.
- iiiiii Describe how surface runoff will be handled if not discussed in iii above.

(e) Solid Waste Management

- i Indicate the types and quantities of solid wastes to be produced by the project facilities and its primary beneficiaries.

INSTRUCTIONS - Continued

(e) Solid Waste Management - Continued

- ii Describe the methods for disposing of these solid wastes plus the useful life of such methods.
- iii Indicate if recycling or resource recovery programs are or will be used.

(f) Transportation

- i Briefly describe the available transportation facilities serving the project area.
- ii Describe any new transportation patterns which will arise because of the project.
- iii Indicate if any land uses, such as residential, hospitals, schools or recreational, will be affected by these new patterns.
- iiii Indicate if any existing capacities of these transportation facilities will be exceeded. If so, indicate the increased loads which the project will place upon these facilities, particularly in terms of car and truck traffic.

(g) Noise

- i Indicate the major source of noise associated with the project facilities and its primary beneficiaries.
- ii Indicate the land uses to be affected by this noise.

(h) Historic/Archeological Properties

- i Identify any known historic/archeological resources within the project area that are either listed on the National Register of Historic Places or considered to be of local and State significance and perhaps eligible for listing in the National Register.
- ii Attach as EXHIBIT 11-A-8a(2)(h)ii any historic/archeological survey that has been conducted for the project area.

(i) Wildlife and Endangered Species

- i Identify wildlife resources located in the project area or its immediate vicinity.
- ii Indicate whether any endangered or threatened species have been identified in the project area or its immediate vicinity.

(j) Energy

- i Describe the energy supplies available to the project facilities and the primary beneficiaries.
- ii Indicate what portion of the remaining capacities of these supplies will be utilized.

(k) Construction

Describe the methods which will be employed to reduce adverse impacts from construction, such as noise, soil erosion and siltation.

(l) Toxic Substances

- i Describe any toxic, hazardous, or radioactive substances which will be utilized or produced by the project facilities and its primary beneficiaries.
- ii Describe the manner in which these substances will be stored, used, and disposed.

(m) Public Reaction

- i Describe any objections which have been made to the project.
- ii If a public hearing has been held, attach a copy of the transcript as EXHIBIT 11-A-8a(2)(m)ii. If not, certify that a hearing was not held.
- iii Indicate any other evidence of the community's awareness of the project such as newspaper articles or public notification.

(n) Alternatives to the Proposed Project

Provide a description of any of the following types of alternatives which were considered:

- i Alternative locations.
- ii Alternative designs.
- iii Alternative projects having similar benefits.

(o) Mitigation Measures

Design any measures which will be taken to avoid or mitigate any adverse environmental impacts associated with the project.

(p) Permits

- i Identify any permits of an environmental nature which are needed for the project.
- ii Indicate the status of obtaining each such permit and attach as EXHIBIT 11-A-8a(2)(p)ii any that have been received.

Item b - Applicants are required to provide the State Historic Preservation Officer (SHPO) with a) a narrative description of the Project's elements and its location, b) a map of the area surrounding the project which identifies the project site, adjacent streets and other identifiable objects, c) line drawings or sketches of the project and, d) photographs of the affected properties if building demolition or renovation is involved. This material must be submitted to the SHPO no later than the date of the preapplication. Additionally, the SHPO must be requested to submit comments on the proposed project to the appropriate EDA Regional Office.

Item c - Self explanatory.

Item d - Self explanatory.

TO: Historics Preservation
State Parks
Salem, Oregon 97310

FROM: Business Assistance Office
Bureau of Economic Development
620 S.W. 5th, Rm. 610
Portland, Oregon 97204
Attention: Carol Kirchner

ATTN: Dave Powers

DUE DATE: _____

Purusant to the provisions of the Portland Economic Development Loan Fund Program, each loan must be approved as to historical significance by the State Historical Preservation Officer.

_____ has applied for an economic
(Name of Company)
development loan. The project is located at _____
(Address)
_____, _____, _____
(Town) (Township & Section if known) (County)

A photograph (or copy) of the existing facility is enclosed.

Applicant proposes to: (Describe: expansion, new construction, demolition or renovation)

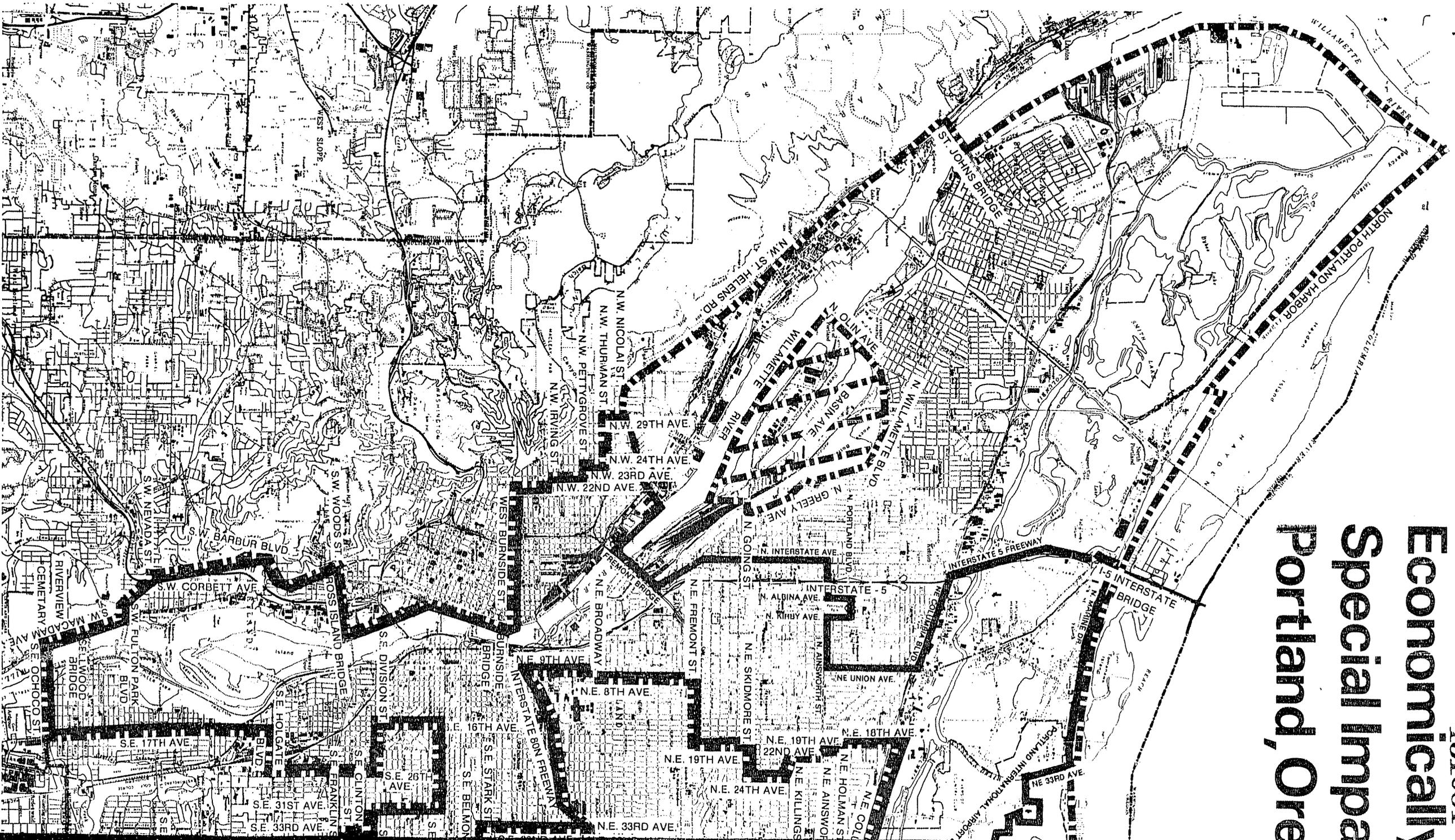
Please indicate below your comments and return to sender:

- () It has no adverse effect.
- () We have no comment.
- () Effects, although measurable, would be acceptable.
- () It has adverse effects.
- () We are interested but require more information to evaluate the proposal.
- () Please coordinate the implementation of the proposal with us.
- () Additional comments for project improvement. (Attach if necessary)

(Signature)

(Date)

Economically Special Impacts Portland, Ore



Lagging And ct Areas gon

■ Economically Lagging Area
■ Special Impact Area (S.I.A.)



ORDINANCE NO. **150362**

An Ordinance authorizing the adoption of a new Management and Administration Plan for the Portland Economic Development Loan Fund, which includes the establishment of a non-profit corporation; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to Ordinance No. 146319, the Council authorized and application to the U.S. Economic Development Administration for a grant in the amount of \$1,625,000 to create an Economic Development Loan Fund. This grant was awarded to the City.
2. EDA stipulated that the City submit a Management and Administration Plan prior to EDA authorizing the City to make loans under this program. Ordinance No. 148258 authorized the adoption of a Management and Administration Plan and the submission of the Plan to EDA. EDA has approved the Management and Administration Plan.
3. Pursuant to Resolution No. 32751, the Council directed the Bureau of Economic Development to prepare a revised Management and Administration Plan, incorporating the report and recommendations adopted in the above-mentioned resolution.
4. The revised Management and Administration Plan, attached as Exhibit "A," centralizes the administration of the Economic Development Loan Fund in the Bureau of Economic Development, establishes a non-profit corporation and modifies eligibility criteria.
5. This loan program is an integral part of the Portland Comprehensive Economic Development Strategy and will Assist Portland businesses and industry, minority firms, businesses displaced by City-sponsored public improvement projects and business development in areas with adopted economic revitalization plans.
6. The new Management and Administration Plan, if approved by Council, will be submitted for EDA approval.

NOW, THEREFORE, the Council directs:

- a. That the Portland Economic Development Loan Fund Management and Administration Plan, which includes the establishment of a non-profit corporation, as per Exhibit "A," is hereby adopted.

ORDINANCE No.

Section 2. The Council declares that an emergency exists because delay in approval may result in the loss of opportunity to provide necessary financial assistance; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council,

SEP 10 1980

Mayor Connie McCreedy
12 August 1980
J.M. Wight

Attest:



Auditor of the City of Portland

ORDINANCE No. 151064

An Ordinance authorizing the adoption of a new Management and Administrative Plan for the Portland Economic Development Loan Fund, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to Ordinance No. 146319, the Council authorized an application to the U. S. Economic Development Administration for a grant in the amount of \$1,625,000 to create an Economic Development Loan Fund. This grant was awarded to the City.
2. EDA stipulated that the City submit a Management and Administrative Plan prior to EDA authorizing the City to make loans under this program. Ordinance No. 148258 authorized the adoption of a Management and Administrative Plan and the submission of the Plan to EDA. EDA has approved the Management and Administrative Plan.
3. Pursuant to Ordinance No. 150362, the Council approved a revised Management and Administrative Plan which included the creation of a non-profit corporation and centralization of the Program with the Bureau of Economic Development.
4. Pursuant to Ordinance No. 150813, the Council abolished the Bureau of Economic Development which had responsibility for assisting the City Loan Corporation in administering the Program.
5. Pursuant to Ordinance No. 151011, the Council authorized an agreement between the City, the City Loan Corporation and the Portland Development Commission for administration of the Program.
6. As a result of these above stated program administrative changes, the EDA requires that a new revised Management and Administrative Plan, attached as Exhibit A, be submitted and approved.
7. The revised Management and Administrative Plan, if approved by Council, will be submitted to EDA for approval.

NOW, THEREFORE, the Council directs:

- a. That the Portland Economic Development Loan Fund Management and Administrative Plan, as per Exhibit A, is hereby adopted.

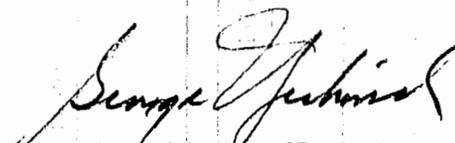
Section 2. The Council declares that an emergency exists because delay in approval may result in the loss of opportunity to provide necessary financial assistance; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **FEB 12 1981**

Mayor Frank Ivancie
Fred Milton
February 12, 1981

Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Handwritten notes:
 10/1/81
 10/1/81

Calendar No. 385-1

ORDINANCE No. 151064

Title

An Ordinance authorizing the adoption of a new Management and Administrative Plan for the Portland Economic Development Loan Fund, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Jordan		
Lindberg		
Schwab		
Ivancie		

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
 Mayor Ivancie

NOTED BY THE COMMISSIONER

Affairs

Finance and Administration *[Signature]* FJL

Safety

Utilities

Works

BUREAU APPROVAL

Bureau: *Office of the Mayor*

Prepared By: *[Signature]* Date: 2/12/81

Fred Milton

Budget Impact Review:
 Completed Not required

Bureau Head:

NOTED BY

City Attorney

City Auditor

City Engineer

Filed **FEB 12 1981**

GEORGE YERKOVICH
 Auditor of the CITY OF PORTLAND

By *Edna Cowser*
 Deputy