

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>§ 306.1 Purpose and scope.</p> <p>The primary objective of planning assistance is to provide funding for administrative expenses to support the formulation and implementation of economic development planning programs and for the conduct of planning activities designed to create and retain permanent jobs and increase incomes, particularly for the unemployed and underemployed in the nation's most economically distressed areas. EDA's planning assistance is for partnership planning grants with Districts, Indian Tribes and other eligible applicants, as well as for short term grants to eligible grantees. Planning activities supported by these funds must be part of a continuous process involving the active participation of public officials and private citizens, and include the following:</p> <ul style="list-style-type: none"> (a) Analyzing local economies; (b) Defining economic development goals; (c) Determining project opportunities; and (d) Formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes. 	<p>§ 303.1 Purpose and scope.</p> <p>The purpose of EDA Planning Investments is to provide support to Planning Organizations for the development, implementation, revision or replacement of Comprehensive Economic Development Strategies (CEDS), related to short-term Planning Investments and State plans designed to create and retain higher-skill, higher wage jobs, particularly for the unemployed and underemployed in the nation's most economically distressed Regions. EDA's Planning Investments support partnerships with Economic Development Districts, Indian Tribes, community development corporations, non-profit regional planning organizations and other Eligible Recipients. Planning activities supported by these Investments must be part of a continuous process involving the active participation of Private Sector Representatives, public officials and private citizens, and include:</p> <ul style="list-style-type: none"> (a) Analyzing local economies; (b) Defining economic development goals; (c) Determining Project opportunities; and (d) Formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes. 	<p>Interim Final Rules Part 303 (Planning Investment and Comprehensive Economic Development Strategies) consolidates and makes significant revisions to existing sections 303 (Planning Process and Strategies for District and Other Planning Organizations Supported by EDA) and 306 (Planning Assistance).</p> <p>Interim final rule redefines the purpose of the planning program from funding administrative expenses that support the development and implementation of planning activities to a sole focus on CEDS-related activities.</p> <p>The interim-final rule modifies the list of eligible planning partners to include community development corporations and non-profit regional planning organizations, along with the existing inclusion of Economic Development Districts and Indian tribes.</p> <p>Without any changes to existing statute and against the stated intent of Congress, the new rules fundamentally alter the focus of the EDA planning process by eliminating local government control of EDDs and activities related to the CEDS. New rules place majority control of CEDS, Regional Planning Organizations and EDDs with unnamed private sector representatives.</p>

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COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
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<p>§ 303.1 Definitions, purpose and scope.</p> <p>(a) As used in this part 303. (1) <i>Planning organization</i> means an Economic Development District organization, Indian tribe, or other recipient of an EDA grant under part 306 of this chapter which grant is awarded in whole or in part to develop, update, or replace a CEDS, and</p> <p>(2) <i>Strategy committee</i> means that committee or other entity identified by the planning organization as responsible for developing, updating, or replacing a strategy.</p> <p>(b) This part describes the planning process of and requirements for strategies developed and implemented by planning organizations supported by EDA. Though the strategy requirements are the same under all EDA programs which call for a strategy, the planning process and reporting and updating requirements for EDA supported planning organizations are more stringent</p>	<p>§ 303.2 Definitions.</p> <p>In addition to the defined terms set forth in § 300.3 of this chapter, the following terms used in this part shall have the following meanings: <i>Planning Investment</i> means the award of EDA Investment Assistance under Section 203 of PWEDA and this part. <i>Planning Organization</i> means a Recipient whose purpose is to develop a CEDS for a specific EDA-approved Region under Section 203 of PWEDA.</p> <p><i>Strategy Committee</i> means the committee or other entity identified by the Planning Organization as responsible for the development, implementation, revision or replacement of the CEDS for the Planning Organization.</p>	<p>The new rule deletes the specific reference to Economic Development Districts and Indian tribes in the definition of Planning Organization. This reflects the stated intent of the new section 303.1 that opens the planning program to new organizations. The new definition of Planning Organization also significantly changes the missions of these entities from providing planning, programmatic and technical assistance within their regions to only focusing on activities directly related to the CEDS.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>§ 306.2 Application evaluation criteria.</p> <p>(a) EDA uses the application evaluation criteria set forth in part 304 of this chapter. In addition, EDA evaluates applications on the following: (1) Quality of the proposed work program; (2) Management and staff capacity and qualifications of the applicant organization; and (3) Extent of broad-based representation including for example, involvement of the local civic, business, leadership, labor, minority, and other community interests in the applicant's economic development activities.</p> <p>(b) Previously funded grantees, in addition to the requirements of paragraph (a) of this section, will also be evaluated on the basis of the quality of their past performance.</p>	<p>§ 303.3 Application requirements.</p> <p>(a) For Planning Investment awards, EDA uses the general application evaluation criteria set forth in § 301.8 of this chapter. In addition, EDA evaluates Planning Investment applications based on the following criteria:</p> <p>(1) Quality of the proposed scope of work for the development, implementation, revision or replacement of the CEDS, or the relation of the CEDS to the proposed short-term planning activities or the State plan;</p> <p>(2) Qualifications of the Eligible Applicant to implement the goals and objectives resulting from the CEDS, short-term planning activities or the State plan;</p> <p>(3) The involvement of the Region's business leadership at each stage of the preparation of the CEDS, short-term planning activities or State plan;</p> <p>(4) Extent of broad-based representation and involvement of the Region's civic, business, labor, minority and other interests in the Eligible Applicant's economic development activities; and</p> <p>(5) Feasibility of the proposed scope of work to create and retain higher-skill, higher-wage jobs during implementation of the CEDS.</p>	<p>Interim final rules expand the criteria for evaluating planning grant applications:</p> <p>Scope of work is limited to only to the development, implementation and revision of the CEDS.</p> <p>Adds provision on organization's qualifications to implement the CEDS.</p> <p>Adds language requiring the involvement of business participation in the preparation of CEDS.</p> <p>Adds feasibility of scope of work provision.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>(b) In addition to the requirements of paragraph (a) of this section, funded Recipients are evaluated on the basis of the extent of continuing economic distress within the Region, their past performance, and the overall effectiveness of their CEDS.</p> <p>(c) For Planning Investment awards to a State, the Assistant Secretary shall also consider the extent to which the State will integrate and coordinate its CEDS with local and Economic Development District plans.</p> <p>(d) The Investment Rate for Planning Investments will be determined in accordance with § 301.4 of this chapter.</p>	<p>Adds criteria for evaluating funded planning grant recipients to stress efforts to relieve distress rather than focus on quality of work product.</p> <p>Adds requirement regarding integration of state plans with local and EDD plans, as required by the 2004 reauthorization act.</p> <p>New rules tie the federal share of investment to the distress eligibility chart under new Section 301.4.</p>
<p>§ 306.3 Award requirements.</p> <p>(a) Planning assistance shall be used in conjunction with any other available Federal planning assistance to ensure adequate and effective planning and economical use of funds.</p> <p>(b) Grant rate:</p> <p>(1) The maximum Federal grant rate for a project under this part for recipients other than Economic Development Districts is 50 percent, except as supplemented as provided in § 301.4(b) of this chapter.</p> <p>(2) The maximum Federal grant rate for a project under this part for a district is:</p> <p>(i) 50 percent, or</p>	<p>§ 303.4 Award requirements.</p> <p>(a) Planning Investments shall function in conjunction with any other available federal, State or local planning assistance to ensure adequate and effective planning and economical use of funds.</p> <p>(b) Except in compelling circumstances as determined by the Assistant Secretary, EDA will not provide Planning Investments for multiple CEDS that address the needs of an identical or substantially similar Region.</p> <p>(c) EDA will provide Planning Investments for the period of time required to develop, revise, or replace, and implement a CEDS, generally not to exceed thirty-six (36) months.</p>	<p>EDA will not fund multiple CEDS within the same area. State planning requirements now contained in Interim Final Rule Sec. 303.8</p> <p>Unclear how this provision will be implemented for areas that are currently covered by EDD CEDS, if agency plans to make investments to new planning partners such as non-profits or chambers of commerce.</p> <p>Planning assistance is limited to a maximum of three year investment, rather than long-term approach of annual EDD planning grants. Rules are unclear on the start date and impact on current EDD grants.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>(ii) 75 percent, if the project meets the criteria of paragraph (b)(3) of this section. (3) A district project is eligible for a supplemental grant increasing the Federal share up to and including 75 percent when the applicant is able to demonstrate that: (i) The project is intended to address problems arising from actual or threatened high unemployment, low per capita income, or a special need that qualifies an area for eligibility under § 301.2(b) of this chapter, (ii) The project is in significant part devoted to activities addressing the needs of the most economically distressed parts of the total area served by the applicant, (iii) The applicant is uniquely qualified to address the major causes of actual or threatened economic distress in the area served by the applicant, and (iv) The applicant cannot provide the non-Federal share otherwise required because in the overall economic situation there is a lack of available non-Federal share due, for instance, to the pressing demand for its use elsewhere. (4) A project receiving a supplemental grant increasing the Federal share under paragraph (b)(3) of this section is not eligible for additional Federal grant assistance under § 301.4(d) of this chapter, i.e., the 10 percent incentive increase for certain projects in districts.</p>		

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COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>(c) As a condition of the receipt of assistance by a State under this part 306:</p> <p>(1) The State must have or develop a CEDS;</p> <p>(2) Any State plan developed with such assistance must be developed cooperatively by the State, political subdivisions of the State, and the economic development districts located wholly or partially within the State;</p> <p>(3) Any overall State economic development planning assisted under this section shall be a part of a comprehensive planning process that shall consider the provision of public works to:</p> <p>(i) Promote economic development and opportunity;</p> <p>(ii) Foster effective transportation access;</p> <p>(iii) Enhance and protect the environment; and</p> <p>(iv) Balance resources through the sound management of physical development;</p> <p>(4) Upon completion of the State plan, the State must,</p> <p>(i) Certify to EDA that, in the development of the State plan, local and economic development district plans were considered and, to the maximum extent practicable, the State plan is consistent with the local and economic development district plans; and</p> <p>(ii) Identify any inconsistencies between the State plan and the local and economic development district plans and provide a justification for each inconsistency; and</p> <p>(5) The State must submit to EDA an annual report on the planning process so assisted.</p>		

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COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>§ 303.5 Eligible administrative expenses.</p> <p>(a) <i>General.</i> In accordance with applicable federal cost principles and as set forth in this section, EDA Planning Investments may be used to pay the direct and indirect costs incurred by a Planning Organization in the development and implementation of a CEDS.</p> <p>(b) <i>Direct costs.</i> For purposes of this part, EDA Planning Investments may be used to pay costs of those activities directly attributable to a scope of work, as approved by EDA, for the purpose of developing and implementing a CEDS.</p> <p>(c) <i>Indirect costs.</i> Costs of the Planning Organization's operation, including utilities, rent, technical assistance to customers and clients (e.g., grant writing, planning assistance, other economic development assistance, training, travel expenses), and miscellaneous expenses (e.g., supplies, insurance, overhead), may be eligible for reimbursement, but only to the extent that such costs relate to the development and implementation of a CEDS, involving a proactive continuous planning process that addresses the economic opportunities and constraints of a Region.</p>	<p>Under new rules, EDA would only allow direct and indirect costs directly attributable to the development and implementation of the CEDS. This provision is contrary to the agency's emphasis on leveraging resources, building regional partnerships and taking a holistic approach to economic development. For example, if an EDD is housed within a regional council of governments that staffs the local Metropolitan Planning Organization for transportation, administers the Workforce Investment Board and develops federally-mandated all-hazards mitigation plans, are these programs considered part of a holistic and comprehensive economic development strategy. The proposed restrictions on indirect costs are unnecessary and punitive and demonstrate a lack of understanding of the generally accepted administrative and financial management practices of diverse and complex organizations.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>§ 303.2 Planning process.</p> <p>(a) The strategy committee must be inclusive and representative of the main economic interests of the area covered by the strategy. Such interests include public officials, community leaders, private individuals, business leaders, labor groups, minorities, and others who can contribute to and benefit from improved economic development in the area covered.</p> <p>(b) The planning organization must support the strategy committee with a staff skilled in economic planning or related fields.</p> <p>(c) The planning organization must conduct an initial and continuous study and analysis of the opportunities for economic development and of problems contributing to economic and related distress in the area covered, such as, for example, unemployment, underemployment, outmigration, or low per capita income, and possible solutions to such problems.</p> <p>(d) Planning organizations covered by this part 303 must submit an initial strategy to EDA in compliance with the requirements of § 303.3, as determined by EDA. Each year thereafter, the planning organization must submit an annual strategy report, acceptable to EDA.</p> <p>(e) A new or revised strategy is required at least every five years, or sooner if EDA or the planning organization determines that the strategy is inadequate due to changed circumstances. Each strategy must be available for review and comment by</p>	<p>§ 303.6 EDA-funded CEDS process.</p> <p>If EDA awards Investment Assistance to a Planning Organization to develop, revise or replace a CEDS, the Planning Organization must follow the procedures set forth in this section:</p> <p>(a) The Planning Organization must appoint a Strategy Committee. The Strategy Committee must represent the main economic interests of the Region and must include Private Sector Representatives as a majority of its membership. In addition, the Planning Organization should ensure that the Strategy Committee includes public officials, community leaders, representatives of workforce development boards, institutions of higher education, minority and labor groups, and private individuals. The Strategy Committee representing Indian Tribes or States may vary.</p> <p>(b) The Planning Organization must develop and submit to EDA a CEDS that:</p> <p>(1) Complies with the requirements of § 303.7; and</p> <p>(2) Was made available for review and comment by the public for a period of at least thirty (30) days prior to submission to EDA.</p> <p>(c)(1) After obtaining EDA approval of the CEDS, the Planning Organization must submit annually an updated CEDS performance report to EDA.</p>	<p>Interim final rules mandate that <i>Strategy Committees</i> focus primarily on the interests of private sector representatives, instead of the current partnership approach of public and private sector representatives. It is important to note that local governments currently pay the required 50% local match for EDD planning grants, which is excepted since local government officials currently retain majority control of the EDD organizations. However, it is unclear if private sector companies would now be responsible for providing the local matching share of EDA planning investments since they would have majority control of the CEDS <i>Strategy Committee, Regional Planning Organizations</i> and <i>EDDs</i>.</p> <p>New rules state that Strategy Committee for Indian Tribes and States may vary, but the new rules do not provide any specific guidance.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>appropriate government bodies and interest groups in the area covered. Strategies submitted by Districts require a 30-day opportunity for review and comment by the Governor or Governors, or designee(s), of the State or States in which they are located, prior to EDA approval.</p> <p>(f) If EDA identifies any deficiencies, it will notify the organization in writing and provide the organization a reasonable opportunity to remedy such deficiencies.</p> <p>(g) If any part of a district is in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)) the district shall ensure that a copy of the district's CEDS is provided to the Appalachian Regional Commission.</p>	<p>(2) The Planning Organization must submit a new or revised CEDS to EDA at least every five (5) years, unless EDA or the Planning Organization determines that a new or revised CEDS is required earlier due to changed circumstances.</p> <p>(3) Any updated CEDS performance report that results in a change of the requirements set forth in § 303.7(b)(3) of the EDA-accepted CEDS or any new or revised CEDS, must be available for review and comment by the public in accordance with paragraph (b)(2) of this section.</p> <p>(d) If EDA determines that implementation of the CEDS is inadequate, it will notify the Planning Organization in writing and the Planning Organization shall submit to EDA a new or revised CEDS.</p> <p>(e) If any part of a Region is covered by one or more of the Regional Commissions as set forth in Section 404 of PWEDA, the Planning Organization shall ensure that a copy of the CEDS is provided to the Regional Commission(s).</p>	<p>New language recognizes the creation of new federal-state regional commissions.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>§ 303.3 Requirements for a strategy.</p> <p>A strategy must be the result of a continuing economic development planning process, developed with broad-based and diverse community participation, and contain the following:</p> <p>(a) An analysis of economic and community development problems and opportunities including incorporation of any relevant material or suggestions from other government sponsored or supported plans;</p> <p>(b) Background and history of the economic development situation of the area covered, with a discussion of the economy, including as appropriate, geography, population, labor force, resources, infrastructure, transportation systems, and the environment;</p> <p>(c) A discussion of community participation in the planning efforts;</p> <p>(d) A section setting forth goals and objectives for taking advantage of the opportunities of and solving the economic development problems of the area serviced;</p> <p>(e) A plan of action, including suggested projects to implement objectives and goals set forth in the strategy; and</p> <p>(f) Performance measures that will be used to evaluate whether and to what extent goals and objectives have been or are being met.</p>	<p>§ 303.7 Requirements for Comprehensive Economic Development Strategies.</p> <p>(a) General. CEDS are designed to bring together the public and private sectors in the creation of an economic roadmap to diversify and strengthen Regional economies. The CEDS should analyze the Regional economy and serve as a guide for establishing Regional goals and objectives, developing and implementing a Regional plan of action, identifying investment priorities and funding sources, and assigning lead organizations responsibilities for execution of the CEDS. Public and private sector partnerships are critical to the implementation of the integral elements of a CEDS set forth in paragraph (b) of this section. As a performance-based plan, the CEDS will serve a critical role in a Region’s efforts to defend against economic dislocations due to global trade, competition and other events resulting in the loss of jobs and private investment.</p> <p>(b) Technical requirements. A CEDS must be the result of a continuing economic development planning process, developed with broad-based and diverse public and private sector participation, and shall contain the following:</p> <p>(1) A background of the economic development situation of the Region with a discussion of the economy, population, geography, workforce development and use,</p>	<p>Section contains significant number of new technical requirements related to the CEDS, despite no major changes contained in the 2004 reauthorization act. A CEDS must now include:</p> <ul style="list-style-type: none"> • a discussion of private sector representation in the development and implementation of the CEDS • a specific list of performance measures that will guide the planning organization • a comprehensive list of past and future economic development projects with funding sources • the inclusion of workforce development and advanced technology elements, per reauthorization legislation • identification of economic clusters • a list that identifies and prioritizes vital projects within the region • inclusion of “relevant” material from other government-supported plans. <p>Non-EDA funded CEDS need to follow requirements to be considered a valid CEDS by the agency.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>transportation access, resources, environment and other pertinent information;</p> <p>(2) An in-depth analysis of economic and community development problems and opportunities, including:</p> <p>(i) Incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State and local workforce investment strategies; and</p> <p>(ii) An identification of past, present and projected future economic development investments in the Region covered;</p> <p>(3) A section setting forth goals and objectives necessary to solve the economic development problems of the Region;</p> <p>(4) A discussion of community and private sector participation in the CEDS effort;</p> <p>(5) A section listing all suggested Projects and the projected numbers of jobs to be created as a result thereof;</p> <p>(6) A section identifying and prioritizing vital Projects, programs and activities that address the Region's greatest needs or that will best enhance the Region's competitiveness, including sources of funding for past and potential future Investments;</p> <p>(7) A section identifying economic clusters that are growing or in decline within the Region;</p> <p>(8) A plan of action to implement the goals and objectives of the CEDS, including:</p> <p>(i) Promoting economic development and opportunity;</p>	

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>(ii) Fostering effective transportation access;</p> <p>(iii) Enhancing and protecting the environment;</p> <p>(iv) Maximizing effective development and use of the workforce consistent with any applicable State or local workforce investment strategy;</p> <p>(v) Promoting the use of technology in economic development, including access to high-speed telecommunications;</p> <p>(vi) Balancing resources through sound management of physical development; and</p> <p>(vii) Obtaining and utilizing adequate funds and other resources; and</p> <p>(9) A list of performance measures used to evaluate the Planning Organization's successful development and implementation of the CEDS, including but not limited to the following:</p> <p>(i) Number of jobs created after implementation of the CEDS;</p> <p>(ii) Number and types of investments undertaken in the Region;</p> <p>(iii) Number of jobs retained in the Region;</p> <p>(iv) Amount of private sector investment in the Region after implementation of the CEDS; and</p> <p>(v) Changes in the economic environment of the Region; and</p> <p>(10) A section outlining the methodology for cooperating and integrating the CEDS with a State's economic priorities.</p>	

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>(c) Consideration of non-EDA funded CEDS. (1) In determining the acceptability of a CEDS prepared independently of EDA Investment Assistance or oversight for Projects under parts 305 and 307 of this chapter, EDA may in its discretion determine that the CEDS is acceptable without fulfilling all the requirements of paragraph (b) of this section. In doing so, EDA shall consider the circumstances surrounding the application for Investment Assistance, including emergencies or natural disasters and the fulfillment of the requirements of Section 302 of PWEDA. (2) If the CEDS for a Project under parts 305 and 307 of this chapter is developed under another federally supported program, it must include acceptable performance measures similar to those set forth in paragraph (b) of this section and information on the state of the Regional economy. To the maximum extent practicable, the CEDS shall be consistent and coordinated with any existing economic development plan for the Region.</p>	

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>§ 303.8 Requirements for State plans.</p> <p>(a) As a condition of a State receiving a Planning Investment:</p> <p>(1) The State must have or develop a CEDS that meets the requirements of § 303.7;</p> <p>(2) Any State plan developed with Planning Investment Assistance must, to the maximum extent practicable, be developed cooperatively by the State, political subdivisions of the State, and the Economic Development Districts located wholly or partially in the State; and</p> <p>(3) The State must submit to EDA an annual report on any State plan receiving Planning Investment Assistance.</p> <p>(b) Before awarding a Planning Investment to a State, EDA shall consider the extent to which the State will take into account local and District economic development plans.</p>	<p>Provisions for state plans are updated, as required by the 2004 reauthorization law.</p>

**EDA REGULATIONS: PART 303 PLANNING INVESTMENT AND
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
	<p>§ 303.9 Requirements for short-term Planning Investments.</p> <p>(a) In addition to providing support for CEDS and State plans, EDA may also provide Investment Assistance to support short-term planning activities. EDA may provide such Investment Assistance to:</p> <p>(1) Develop the economic development planning capacity of States, cities and other Eligible Applicants experiencing economic distress;</p> <p>(2) Assist in institutional capacity building;</p> <p>or</p> <p>(3) Undertake innovative approaches to economic development.</p> <p>(b) Eligible activities may include but are not limited to updating a portion of a CEDS, economic analysis, development of economic development policies and procedures, and development of economic development goals.</p> <p>(c) Applicants for short-term Planning Investments must provide performance measures acceptable to EDA that can be used to evaluate the success of the program and provide EDA with program reports during the term of the Planning Investment, as set forth in the Investment agreement.</p>	<p>New provision addresses short-term planning investment requirements.</p>