

## **Statement of Purpose and Need and Section-by-Section Analysis**

The Economic Development Administration Reauthorization Act of 2008 proposes to extend the authorization for appropriations under the Public Works and Economic Development Act through fiscal year 2013. Under current law, the authorization expires September 30, 2008. In addition, the legislative proposal would make a number of technical changes:

- **Amendments Related to Increased Recipient Flexibility over Project Assets.**

Since 1981, EDA has funded more than 7,000 construction projects valued in excess of \$6.4 billion. In addition, EDA has funded 584 Revolving Loan Fund (RLF) projects during three decades of the RLF program. EDA retains fiduciary responsibilities regarding the project property that was supported by the investment assistance. For some of the older public works investments, the estimated useful life of the project is as much as 40 years. Revolving loan funds exist in theoretic perpetuity as long as borrowers repay the loans and the RLF operator makes new loans from the proceeds of those repayments.

EDA seeks to increase recipient flexibility, control and autonomy to deal with project assets in light of current economic development needs, while at the same time streamlining EDA's management of the portfolio of approved projects. One way to deal with the RLF program is to give current operators an incentive to put a time limit on the perpetual nature of the RLF operations by allowing them to "convert" RLF assets to other uses consistent with the Act that have finite project periods. Another way to address the issue with respect to the portfolio of construction project investments is to authorize the Secretary to establish a reasonable time period for the expected "economic development" life of investment assistance. EDA would be authorized to extinguish the reversionary federal interest in project property at the end of the designated period provided that a recipient maintains its effort to carry out the economic development purposes of the project to the end of that period. Under current requirements, if a recipient determines that a piece of property used in connection with EDA financial assistance could be better put to a different use in light of current community needs, the recipient must first repay EDA in full for the fair market value of the EDA investment. Full repayment is required even if there is only a small portion of time remaining on the original estimated useful life of the project (for example, two years remaining on an estimated useful life of 20 years). This legislative proposal would increase recipient flexibility in such situations by allowing EDA to approve a recipient's request to convert the use of the project to a different purpose for the remaining two years of the estimated useful life provided that such use is also consistent with the purposes of the Act. In the alternative, the proposal would allow the recipient to pay the "amortized" value of the remaining useful life to extinguish the remaining federal interest. For example, if the estimated useful life of a structure is 20 years and a recipient seeks to extinguish the federal interest in the property in year 15 to allow the property to be used in a way not consistent with the intent of the original investment, this new authority would enable EDA to value its interest in light of

the age of its investment—if five years remain on a 20-year useful life, the “amortized” value of the EDA interest would be 25%). The proposal would authorize use of this authority only after 10 years of successful operation in order to ensure that project property is devoted to the purposes of the investment (EDA measures program performance at the third, sixth and ninth anniversary of a project).

- **Excellence in Economic Development Assistance Awards.**

The proposal provides an express statutory basis for the Excellence in Economic Development Assistance Awards program.

### **Sectional Analysis**

**Section 1. Short Title.** This section specifies that the Act may be cited as the “Economic Development Administration Reauthorization Act of 2008.”

**Section 2. Extension of Authorization of Appropriations.** This section provides a five-year extension of the authorization for appropriations for the economic development assistance programs. The authorization for FY 2009 is consistent with the President’s budget request and the authorization for FYs 2010-2013 is at the “such sums as necessary” level to provide flexibility to meet future needs.

**Section 3. Enhancement of Recipient Flexibility to Deal with Project Assets.** Subsection (a) of this section provides additional authority to EDA under section 209 of the Public Works and Economic Development Act to approve a recipient’s request to convert project assets held in connection with a revolving loan fund (RLF) project to a different use when the recipient determines project assets could be better used elsewhere. Such conversion could be accomplished by either selling loan paper held by the RLF operator to a third party or by accumulating capital over time by retaining loan repayment proceeds as a set aside. In each case, the recipient would need to identify another use for the proceeds that is consistent with the purposes of the Act. Inasmuch as the assets being converted are already under the recipient’s control, the provision relating to distress criteria under section 301 would not apply. The Secretary would be authorized to establish such terms and conditions as necessary, including terms and conditions needed to ensure that any such proceeds are used in an expeditious manner. In addition, the legislative proposal includes a new paragraph (d)(6) to section 209 of the Act to specify that up to two percent of amounts appropriated annually for section 209 may be used to support program management. This proposal provides a designated source of funding to administer the RLF program for the first time. As the RLF program portfolio consists of 584 reporting units with assets valued at almost \$850 million, it is important that EDA have access to funds that are dedicated to RLF program administration.

Subsection (b) of this section expands recipient flexibility with respect to project assets under EDA’s construction programs under sections 201 and 209 of the Act by

adding a new section 613 to the Act. Subsection (a) of new section 613 specifies that the purpose behind EDA's retention of a reversionary interest in project property is to ensure that the recipient maintains its effort for an appropriate period of time to carry out the project as intended in order to create the higher skill, higher wage jobs that EDA's investment assistance is designed to foster. At the conclusion of that period, EDA can then terminate its interest and the recipient is then free to make use of the property in accord with its current needs.

Subsection 613(b) provides new flexibility for EDA to approve a recipient's request to extinguish the federal reversionary interest by repaying EDA for its share of the project. This new flexibility would allow EDA to take into account the "age" of a project in determining what the fair market value of the federal share when a recipient wants to remove the federal interest in order to use the project property for some other purpose that would not otherwise be consistent with the intent of the original EDA investment (for example, conversion from bio-technology parks to general educational facilities). Under the terms of the new authority, the recipient would be required to repay the entire pro rata federal share during the first ten years of the project, but thereafter, the federal interest would be amortized in accord with the remaining estimated useful life of the project. This provision is an offshoot of authority provided to the Department of Housing and Urban Development under its supportive housing program under the McKinney-Vento Homeless Assistance Act (*see* section 423(c)(1), 42 U.S.C. § 11383(c)(1)).

Subsection 613(c) provides that the authority provided under this section is in addition to any other authority the Secretary has under current law and empowers the Secretary to attach such terms and conditions as appropriate in exercising the authority, including extending the period of federal interest in the event a recipient fails to maintain its effort in connection with a project.

Subsection 613(d) clarifies that the new authority of this section also extends to projects previously assisted under the Act.

**Section 4. Economic Development Partnerships.** Section 5 provides express authority under section 101 of the Act for the conduct of EDA's Excellence in Economic Development Awards program that recognizes innovative economic development strategies of national significance. Eligible nominees for the awards include nonprofit organizations, local, state, and regional governments, and universities and colleges. In addition, new subsection (e) of section 101 would enable EDA to use up to \$2,000 per fiscal year to purchase suitable plaques or bowls to commemorate the organizations' achievements.