ECONOMIC INNOVATION GROUP

October 18, 2019

Office of the Chief Counsel
U.S. Department of Commerce
Economic Development Administration
1401 Constitution Avenue NW, Suite 72023
Washington, DC 20230

RE: Review of DOC Policy in Opportunity Zones - 84 FR 45946

Dear Assistant Secretary Fleming,

The Economic Innovation Group (EIG) is a bipartisan research and advocacy organization based in Washington, DC dedicated to advancing data-driven policies that empower entrepreneurs and investors to forge a more dynamic U.S. economy. EIG was a leading proponent of the concept behind Opportunity Zones (OZs), the community development incentive established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage private investment in low-income urban and rural communities nationwide. We are pleased to submit this response to the Department of Commerce's Request for Information (RFI) on a review of department policies in Opportunity Zones.

EIG applauds the Department of Commerce (Commerce) and specifically the Economic Development Administration (EDA) for establishing designated Opportunity Zones census tracts as a formal EDA investment priority, and for its efforts to align grants and programs with the Opportunity Zones incentive so public and private capital can work together to facilitate positive change and inclusive growth in targeted communities.

In light of diminishing business formation rates and a national slowdown in entrepreneurial activity, Commerce and EDA plays an increasingly important role in assisting and capitalizing local projects and initiatives aimed at creating a more supportive entrepreneurial ecosystem. EIG's Distressed Communities Index finds that the typical distressed zip code lost 5 percent of its business establishments from 2012 to 2016. On current trendlines, the same group of zip codes, representing one-fifth of all zip codes in the United States, will never recover the 1.3 million jobs they lost to the Great Recession. Opportunity Zones communities, with an average poverty rate nearly double the national average, face significant challenges accessing capital that is critical to creating new businesses and a more dynamic economy. According to our analysis of Community Reinvestment Act data, OZ census tracts received the fewest number of small business loans as well as the lowest average number of small business loans per tract, compared to non-OZ census tracts and other eligible but non-OZ designated low-income census tracts.

Furthermore, many of the communities that stand to benefit most from Opportunity Zones designation require additional investment into the preconditions of private sector-led economic growth. Investments that support basic infrastructure improvements, workforce training, and building remediation are all examples of the foundational "building blocks" of a strong and prosperous local economy. When investors evaluate a community for signs of long-term potential, they often look for the presence of these building blocks. Such public goods are prerequisites for attracting private capital. For this reason, the public sector's ability to deploy grants, patient debt, or high-risk capital to finance these activities is critical.

EIG frequently cites EDA's approach in aligning resources and initiatives to strengthen designated census tracts as best practices. From workforce training centers to startup incubators to wastewater treatment facilities, EDA has swiftly responded to the call to invest in the assets that will be complementary to the unlocking of private capital. We hope to see announcements of private investors coming into grantee communities thanks to EDA's leadership.

In addition, we hope EDA retains its commitment to Opportunity Zones in the years ahead. Opportunity Zones have the potential for long-term generational impact as investors are incentivized to hold eligible investments for at least 10 years, and may do so through 2047. Of course, EDA resources are needed in communities that are not designated Opportunity Zones, as well. Opportunity Zone locations should continue to be one of many criteria EDA uses to determine where resources can be most effectively targeted to support entrepreneurs and new businesses in low-income communities.

In response to the RFI's Specific Question #2, we suggest additional areas where EDA can play a vital role in shaping this new national investment ecosystem:

- Codifying and scaling models and best practices

- Solidifying Opportunity Zones as an economic development incentive; and
- Building institutional capacity

1) **Codifying and scaling best practices.** Right now there is immense appetite from local government and community based organizations across the country for new models of organizing and engaging around Opportunity Zones. EDA stands at the center of a national network of economic development organizations and is uniquely well-positioned to disseminate emerging best practices nationwide. We urge EDA to turn its initial Opportunity Zones investments into formal case studies that it publishes on its website. By making Opportunity Zones-aligned grants, EDA is itself funding a series of pilot initiatives all across the country. Some will succeed in eliciting follow-on private Opportunity Zones capital, others will succeed in different and unforeseen ways, and some may fail or need to be reformed. All of these lessons will be useful for economic development practitioners nationwide.

   In addition, EDA may wish to issue a request for proposals to identify, codify, and scale best practices in building institutional capacity around Opportunity Zones. If EDA chooses to embrace this idea, it should act quickly in order to help build local capacity in real time. Similarly, EDA could work with partners to convene workshops around Opportunity Zones models, allowing communities to share first hand what has worked, what has not, and what should inform future efforts. The flexible, decentralized framework embodied in Opportunity Zones should unleash a flurry of institutional innovation across the United States; no one is better positioned than EDA to capture it.

2) **Solidifying Opportunity Zones as an economic development incentive.** EDA can provide an invaluable service to local, state, and federal policymakers by helping localities understand the applications of the Opportunity Zones incentive beyond basic real estate transactions. The incentive itself has economic development baked in: its value to investors will be greater the larger the positive knock-on effects it has on the local community and economy. The grant EDA made to The Enterprise Center in Philadelphia -- to create a transit corridor master plan that incorporates Opportunity Zones into a holistic, long-term vision for the community -- is a terrific example of this approach. Having a local organization resourced to convene a core group of stakeholders and leverage professional services in order to coordinate a comprehensive capital plan can

further their ability to attract private investment aligned with the policy intent of Opportunity Zones.

EDA can also help the Opportunity Zone business startup and scaleup ecosystem mature. Real estate transactions under the incentive are relatively straightforward, but transformational local impact will likely be derived from starting and scaling the businesses, employers, and wealth creators of the future in Opportunity Zones. Already EDA has tried to incorporate Opportunity Zones into its i6 challenge grants and Seed Fund Support Program, both under the rubric of its Regional Innovation Strategies competition. EIG urges EDA to take Opportunity Zones startup strategies into even greater consideration in the next one to two funding rounds in order to further incubate capacity in this space, which will be determinative of Opportunity Zones' legacy as a policy. Given that key regulations pertaining to business investing through the incentive were only released in draft form in mid-2019 and still await finalization, this segment of the marketplace remains in an even earlier stage of maturation than may be commonly realized. EDA could truly help shape a national market by focusing its efforts on business startups in the years ahead.

3) **Building institutional capacity.** We would also note that EDA should consider in some instances waiving its matching grant requirements for institutional startups or for proven but budget-constrained local partners that could, with a little financial help, ensure Opportunity Zones reaches communities *without* pre-existing well-capitalized non-profits or intermediaries. Indeed, a significant swath of the country has been relegated to the sidelines of federal economic and community development programming because they do not, ex ante, have a local organization that can compete for and win national grant competitions.[1] EDA should seek avenues to make sure the advent of Opportunity Zones is used to catalyze new capacity in underserved communities, not just reward existing capacity.

In response to the RFI's Specific Question #5, EIG would first like to refer you to the letter we and a coalition of more than 60 organizations submitted in response (see appendix) to the Department of the Treasury's Request for Information on data collection and tracking in Opportunity Zones (84 FR 18648). We encourage the adoption of a reporting framework that

[1] Brett Theodos and Eric Hangen, "Expanding Community Development Financial Institutions: Growing Capacity Across the US," Urban Institute (2017).

mirrors legislation introduced in May 2019 (S. 1344, H.R. 2593) by a bipartisan group of lawmakers, including the original cosponsors of the *Investing in Opportunity Act*. The legislation requires the Secretary of the Treasury to collect data nationally and at the state level on:

1) the number of QOFs;
2) the amount of assets held;
3) the composition of investments by asset class;
4) the percentage of designated communities receiving investments;
5) other economic indicators associated with the impacts and outcomes of a census tract's Opportunity Zone designation on job creation, poverty reduction, and new business starts in the designated communities.[2]

The proposed legislation calls for Treasury to submit an annual report and impact analysis to Congress beginning five years after the date of enactment of the legislation that includes the information enumerated above.[3] Impacts and outcomes (#5 above) can be quantified by combining information collected from QOFs with other economic data collected by agencies of the federal government, such as the U.S. Census Bureau or Department of Commerce. The proposed legislation also enumerates the information Treasury should collect annually from QOFs on specific investments:

1) the total amount of the investment and the date on which such investment was made;
2) the type of investment (i.e., existing business, new business, or real property)
3) the location of such business or property;
4) the type of activity being supported by such investment (i.e., single-family or multifamily residential properties, commercial properties, or the economic sectors in which the business operates);
5) in the case of a business, the approximate number of full-time employees at the time the investment in such business was made; and
6) in the case of real property, the approximate total square footage and the approximate number of residential units, as applicable.

Section 3 of the proposed legislation makes it clear that this investment information should be made publicly available no later than one year after the date of the bill's enactment, and annually

[2] S. 1344 § 1(a), H.R. 2593 § 1(a)
[3] S. 1344 § 2, H.R. 2593 § 2.

thereafter. The proposed legislation directs the Secretary to establish appropriate procedures to ensure that:

1. Collection of such information is performed in a manner so as to prevent duplicative or redundant reporting; and
2. Any personally identifiable data included in such information is properly protected and withheld from disclosure to the public.[4]

Thus, the proposed legislation establishes a framework where investment-level information is collected from QOFs, then the Secretary or the Secretary's delegate aggregates that data and provides it to Congress and the public. These reporting provisions are substantively similar to those in the original 2017 legislation (*Investing in Opportunity Act*), which only failed to be included in the Tax Cuts and Jobs Act of 2017 as a result of procedural rules relating to reconciliation. As reflected in the legislative history, Congress has always viewed reporting as integral to the successful implementation of Opportunity Zones as a policy.

Irrespective of whatever final official data collection and reporting regime is put in place either by congressional mandate or through regulatory ruling, EDA should seek to deploy all levers at its disposal to foster maximum transparency in the Opportunity Zones marketplace. To the extent that any EDA awardee is also directly involved in Opportunity Zone investing—either as an investor or an investee—EDA should require full disclosure, as well as estimated size and uses of the OZ capital. Awardees that are engaged directly with the incentive but not as investors themselves should be required to report on known OZ activities within their remits to the best extent they can.

Eliciting information itself about how the Opportunity Zone marketplace is taking shape would provide an invaluable service and further EDA's mission to promote regional innovation, competitiveness, and economic growth. Information about how the incentive is being applied and what it is accomplishing is currently extremely scarce. This dearth inhibits the continued maturation of the market. We remain hopeful that Treasury and/or Congress will soon remedy the situation by ensuring transparency and data to the marketplace. Until then, however, entities such as EDA should use their power to elicit—and subsequently package—information about how the market is taking shape. Both "carrots" (issuing a notice of funding opportunity around

[4] S. 1344 § 1(c), H.R. 2593 § 1(c).

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OZ data collection and measurement, for example) and "sticks" (requiring public OZ disclosures of affected grantees) seem appropriate.

Given EDA's long history in place-based policy and place-based economic analysis, it may find itself well-positioned to conduct a formal evaluation of the Opportunity Zones policy in the years ahead, especially where it concerns core EDA priorities such as access to capital, entrepreneurship, and business development, and it would offer a unique perspective on multipliers and quantifying impact. We urge EDA to follow closely the data collection and tracking regime coming out of the U.S. Department of the Treasury and Congress and be ready to constructively fill any void that emerges—or to offer its own value-added perspective on top.

Thank you for the opportunity to comment on this RFI. If you have any questions about this letter, please contact Catherine Lyons, Manager of Policy and Coalitions, at catherine@eig.org.

Sincerely,

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