

poverty. Similarly, HUD believes that each of the two factors presented in § 597.103(b) adequately exemplifies an area of unemployment. However, these comments will certainly be considered if another round of designations is authorized by the Congress.

Comments on Poverty Rate

Comment. Sixteen commenters stated that the definition of low or zero population industrial or commercial census tracts should be extended to include zero population census blocks which meet the same criteria. Two other commenters stated that the requirement for a non-contiguous area to separately meet the poverty rate criteria makes no sense where the non-contiguous area consists of a single census tract.

Response. Poverty rate is addressed in § 597.103 of the rule. The existing EZ/EC legislation provides no flexibility to adopt the comments suggested by the commenters.

Comment. Other commenters asked that HUD take into consideration the unique poverty rates of their own States or communities due to the high cost of living.

Response. HUD believes that the poverty rate factors in the rule are sufficiently broad to encompass the unique poverty and high cost of living characteristics of any individual State or community.

Comments on the Strategic Plan

Comment. Three commenters stated that the strategic plan principle concerning employment should emphasize job creation for low-income persons. Another commenter stated that the strategic plan principle concerning employment should emphasize job creation for minority businesses.

Response. HUD agrees with the commenters and such emphasis will be considered in future rulemaking that may be necessary for any additional rounds of designations that may be authorized.

Comment. Two commenters stated that the rule should require an explanation of how participants in the planning process are representative of the "affected" community.

Response. This requirement was included in the application, and HUD will consider including this requirement in the text of the regulation in any future rulemaking that may be needed.

Comment. Two commenters stated that the rule should emphasize that public funds cannot be used to encourage plant relocations or pirating of jobs from one place to another.

Response. This issue was addressed in § 597.200(3) of the rule, and the EZ/

EC application included a certification to this effect.

Comment. Two commenters stated that the rule should allow designated communities to use funds and other resources identified in the strategic plan for properties directly adjacent to the boundaries of the designated census tracts.

Response. HUD provides flexibility on this issue. Businesses and enterprise communities do not receive tax incentives and the only funding that flows from EZ/EC designation is title 20 funding. The latter can be used outside of the EC if the use of the funds benefits the EC residents directly.

Comment. Two commenters stated that the rule did not discuss the applicability of existing plans (e.g., CHAS) to the strategic planning process.

Response. Although the rule does not specifically reference the CHAS, the rule contains reference to other local planning efforts and to consolidated planning efforts (See §§ 597.200(d)(15) and 597.201(b).) Once the Consolidated Plan final rule is published, it will bring all plans into conformance.

Comment. One commenter stated that the rule should require jurisdictions to disclose areas considered for nomination, but not selected, and to explain why they were not selected.

Response. This issue is addressed to some extent in § 597.201(c) of the rule, but HUD will consider expanding on this issue in any future rulemaking that may be needed.

Comment. One commenter, in response to the requirements of § 597.200(d)(14), (15), and (16), stated that the rule should require applicants to explain which existing resources (including the amounts) will be shifted from other geographic locations to the EZ/EC area to fulfill the applicant's commitment to resources to the EZ/EC area.

Response. HUD believes that such a requirement would be an unwarranted intrusion in local government processes.

Comment. Two commenters stated that the rule should identify specific regulatory and other impediments to implementing the strategic plan, and indicate whether waivers can be accomplished administratively or through statutory changes.

Response. HUD cannot identify specific regulatory barriers for each applicant. The applicant is in a better position to advise HUD where there are barriers and other impediments to implementation of the plan, and HUD asks applicants to identify such barriers in § 597.200(d)(17) and (18).

Comment. Other commenters made several other suggestions for the

strategic plan, including: requiring the same standards for citizen participation for strategic plan revisions as required for initial development of the plan, requiring benchmarks that identify benefits to low-income persons and long-term unemployed persons, and encouraging activities that specifically meet the needs of low-income persons.

Response. All these suggestions have merit and HUD will consider these in any future rulemaking that may be needed.

Comments on Evaluation of the Strategic Plan

Comment. Several commenters made suggestions for changes to § 597.201 which describes how the strategic plan will be evaluated. The suggestions included evaluating the plan based on the number of *quality* jobs provided to low-income persons; allowing community-based partnerships to include labor unions; allowing community-based partnerships to include low-income persons, long-term unemployed persons, and residents of the area to be designated; providing minimum standards for participation in the development of the plan; and providing for low-income persons to monitor the implementation of the plan.

Response. All of these suggestions will be taken into consideration in any future EZ/EC rulemaking.

Comment. One commenter stated that the rule must promote affordable housing and without affordable housing in proposed zones, the EZ/EC program will fail.

Response. Affordable housing was promoted through the rule. See §§ 597.200(d)(12)(ii)(B)(3) and (g)(3), and 597.201(b)(8).

Comment. One commenter stated that a city's compliance with the affordable housing requirement may make the city ineligible for EZ/EC designation. The commenter stated that as a result of compliance with this requirement, some cities do not have concentration of poverty described in the threshold requirements for EZ/EC designation. Another commenter stated that the evaluation of a plan should have included a review of whether a jurisdiction is affirmatively furthering fair housing, and also required applicants to submit a certification that they are in compliance with fair housing laws. The commenter also stated that the rule should provide for revocation of designation as a zone or community if the jurisdiction fails to comply with these laws.

Response. With respect to the first commenter's concern, the poverty rates set forth in the interim rule are based on