ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
REQUEST FOR INFORMATION

Issue Date: June 26, 2019 Response Due Date: July 26, 2019

I. Introduction.

The Alabama Department of Economic and Community Affairs ("ADECA") is in the process of formulating processes and procedures regarding Opportunity Zones in order to comply with Alabama Act #2019-392, known as the "Alabama Incentives Modernization Act" (the "Act"). In doing so, ADECA has determined that it would benefit from the information and perspectives of State and local officials, experts in relevant areas, affected stakeholders in the private sector, and the public as a whole. Therefore, ADECA is requesting input and recommendations from any and all of the above parties in effecting the provisions of the Act relating to Opportunity Zones.

This is a Request for Information ("RFI") only. This RFI is being issued solely for information and planning purposes. It does not constitute a Request for Proposal, nor does it constitute a promise to issue a Request for Proposal in the future. This RFI does not commit ADECA or the State of Alabama to contract for any service whatsoever. Further, ADECA is not at this time seeking proposals and will not accept any unsolicited proposals. ADECA will not pay for any information or costs incurred in response to this RFI. All costs associated with responding to this RFI will be solely at the respondent's expense. ADECA is subject to Alabama Public Records law and, therefore, any information submitted to ADECA will be handled in accordance with the obligations under the law.

II. Background.

The Opportunity Zones program is an alternative development program first established by Congress in the Tax Cuts and Jobs Act of 2017 to foster private-sector investments in low-income rural and urban areas. Opportunity Zones are low income census tracts with a poverty rate of at least 20 percent and a median family income of less than 80 percent of the statewide or area median income. Under the federal Jobs Act, the Opportunity Zones program provides a federal tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds dedicated for investing in the designated Opportunity Zones. In April 2018, the U.S. Treasury Department approved 158 Opportunity Zones within the State of Alabama. There is at least one Opportunity Zone in each of the state's 67 counties.

In an effort to further promote Opportunity Zone investment on a state level, Governor Kay Ivey signed into law the Alabama Incentives Modernization Act on June 6, 2019. Section 4 and Section 6 of the Act pertain to Opportunity Zones. The sections will be codified at §§40-18-6.1 and 41-10-46.01, Code of Alabama 1975. Under the Act, ADECA can negotiate a project agreement with an approved opportunity fund so that the fund can receive impact investment tax credits against certain tax liability. The Act further provides specifications for the project agreement, including that the approved opportunity fund obtain investment from a qualified fund. Additionally, the

Act provides responsibilities tasked to ADECA, the definition of an approved opportunity fund, as well as the process a fund must undergo to become an approved opportunity fund, and a list of funds considered to be qualified funds.

III. Requested Information.

To assist in ADECA's approach to Opportunity Zones, ADECA invites ideas and information on the following:

A. Information Relating to Project Agreement, Financial Information and Certification, Fees, and Reporting

1. The Act provides that an approved opportunity fund may enter into a project agreement with ADECA to provide the fund investors impact investment tax credits against tax liability as described in the Act. What should be included in the agreements? What are the key components?

2. Under the Act, the agreement may authorize the fund to allocate the credits among some or all of the owners in any manner specified. How do you determine how and to whom the credits will be allocated? What are the different "manners" that may be specified?

3. Should ADECA be involved in the process of the approved opportunity fund obtaining investment from a qualified fund? Does the approved opportunity fund obtain the funding and then collaborate with ADECA on a project agreement?

4. How should the "fixed portion" of distributions that a qualified fund is entitled to receive under the project agreement be determined? What factors should be considered in that determination?

5. Section 4 of the Act provides: "The project agreement shall provide that ADECA shall receive regular financial performance information about the fund, and the information shall, at a minimum, include all information provided to other investors in the fund. Prior to claiming the credits provided in paragraph (1), a fund shall submit to ADECA a certification as to the financial performance of the fund or assets which are the subject of the project agreement. ADECA may choose to request other information, and the fund shall comply with such requests. Following such examination as it deems necessary, ADECA may certify the information and deliver the same to the Department of Revenue. Thereafter, the Department of Revenue shall allow the credits in the amount determined by ADECA."

   a. How often is "regular"?
   b. What constitutes "regular financial performance information"?

c. What information should be included in the funds certification to ADECA?
d. What other information should be requested and considered outside of the above?
e. What constitutes a thorough examination of the information?
f. Does the certification from ADECA to Revenue address only the additional information or all of the information provided from the fund?

6. What factors should be considered in determining the amount of credits? How should the amount of credits be determined?

7. How should "reasonable fees" be determined for negotiation of, and entry into project agreements? Upon what are the fees based?

8. How should application fees be determined? Upon what are the fees based?

9. How should fees be determined for financial and oversight audits? What should financial and oversight audits of the funds entail?

10. What qualifications, background, etc. should a consultant possess?

11. How should the amount owed to a consultant be determined?

12. How should the third-year report to the Legislature, and the annual reports thereafter, be compiled given there will most likely be a lot of unknowns in the 1st 3 years? How will the information for the report be maintained?

B. Information Relating to Funds and Applications

1. What are the consequences if a qualified fund ceases to exist or cannot cover it's investment?

2. Other than the specific items listed in the Act, what additional information should be required in the application submitted by the approved opportunity fund?

3. The Act requires that a fund must show seven specified items in the application to ADECA in order to be approved. Input is requested with respect to those items as follows:
   a. What can be shown in terms of a fund's potential to raise committed capital if the committed capital does not already exist?
   b. How in depth should the investment track record be?/What specifically should be included?
   c. What specific experience should be included and considered in terms of strength of the management team?

d. What should be included in a project pipeline and what are some examples? If there is no existing project pipeline, what should be included in the strategy?

e. What should be included in the fund structure?

f. What are the important elements of the sound legal, accounting, and compliance policies and procedures that should be included in the application?

g. What should be included in the strategy for measuring, tracking, and annual reporting to ADECA?

h. Applicants must show one or more clear and demonstrable partnerships with local and statewide public or nonprofit entities to ensure community engagement. How does the applicant show "clear and demonstrable partnerships"? What are some examples as to how they will work together to ensure community engagement?

4. One of the requirements that a fund must meet to be approved is that ADECA determine that the fund has committed to deploying a substantial portion of its capital into qualified opportunity zone property in Alabama within one or more of eight listed asset classes.

a. What is considered a "substantial" portion of capital? How is that determined?

b. What information should a fund provide to show that the capital invested falls within one of the eight listed classes? Provide examples of information that should be required or considered for each of the asset classes, which are listed below:

1. rural areas described in Section 40-18-376.1(a);
2. technology companies which meet all the criteria in Section 40-18-376.3(c), or facilities to house such companies;
3. companies or projects described in Section 40-18-372(1), or facilities to house such companies or projects;
4. workforce training;
5. affordable housing, in which case the burden shall be on the fund to demonstrate rent levels charged and why those rents are appropriate for a particular geographic area;
6. remediation of blighted or abandoned property, in which case the burden shall be on the fund to demonstrate why targeted properties qualify as blighted or abandoned;
7. revitalization of distressed urban neighborhoods, in which case the burden shall be on the fund to demonstrate why a neighborhood is distressed and why its investment strategy will revitalize the neighborhood; or
8. companies or projects that will have substantial, measurable impact on social, environmental, or economic conditions in low-income areas, or facilities to house such companies or projects, in

which case the burden shall be on the fund to demonstrate why such companies or projects will have such substantial effects.

5. The Act provides ADECA may determine that a fund meets the requirement in question #4 above if it can demonstrate that it will create substantial wealth within and for residents of Alabama's low-income and rural communities and will directly track the wealth created.
What are some examples?

6. What factors should go into the rules that will be promulgated in determining whether an investment in a corporation or partnership should be considered to be located in Alabama?

7. The Act provides a list of qualified funds. It further provides that a qualified fund may be any fund or funds representing two or more of the funds listed in the Act. What type of fund would that be? Representing two or more in what capacity?

C. General Information Requests.

1. How should ADECA use its existing structure to maximize the beneficial impact of public and private investments in Opportunity Zones?

2. What types of technical assistance should be offered through ADECA?

3. What role can ADECA play in helping to ensure that existing residents, businesses, and community organizations in Opportunity Zones benefit from the influx of investment and remain the focus of their community's growth going forward?

4. How can ADECA properly evaluate the impact of Opportunity Zones on communities?

5. How should ADECA interact with other stakeholders to maximize the success of the Opportunity Zone incentive? For example:
   a. How should ADECA interact with officials from State and local agencies, businesses, and individuals from the private sector to most effectively encourage beneficial investment in urban and economically distressed areas?
   b. How should ADECA participate in State interagency efforts to help ensure that private and public stakeholders can successfully develop strategies for economic growth and revitalization in Opportunity Zones?
   c. How should State technical assistance, planning, financing tools, and implementation strategies be coordinated across agencies to assist

communities in addressing economic problems, engaging in comprehensive planning, and advancing regional collaboration?

6. Are there other aspects of Opportunity Zones that should be considered and are not addressed in this request for information?

IV. Instructions for Submitting Information.

Information submitted should be as thorough and detailed as possible.

All information must be received no later than 5:00 p.m., July 26, 2019, at:

Alabama Department of Economic and Community Affairs
Legal Section
401 Adams Avenue
P.O. Box 5690
Montgomery, Alabama 36103-5690

Envelopes should be sealed and labeled “Response to Request for Information”.

Questions pertaining to this RFI may be submitted by email to contact@adeca.alabama.gov. Please reference the following in the subject line: “Request for Information – Opportunity Zones”.