



DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 305

[Docket No. 260311-0080]

RIN 0610-AA75

Streamlining the Requirements for Approved Projects for Public Works and Economic Development Investments

AGENCY: Economic Development Administration (EDA), Department of Commerce (Department).

ACTION: Final rule.

SUMMARY: By this rule, EDA amends its regulations governing public works and economic development investments by removing certain unnecessary language. Specifically, this action removes unnecessary language related to bid overrun, project signs, and occupancy prior to final acceptance. This action is intended to streamline EDA's regulations without diminishing any substantive rights or obligations in connection with public works and economic development investments.

DATES: The rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jeffrey Roberson, Chief Counsel, Economic Development Administration, at (202) 779-0563.

SUPPLEMENTARY INFORMATION: By this rule, the Department amends the regulations at 13 CFR part 305, subpart B, which establish the requirements for approved projects for EDA's public works and economic development investments. The Department amends those regulations in the following ways.

First, the Department is removing unnecessary language from the regulatory section governing bid overrun. Specifically, § 305.10(b)(2) establishes that, in the event of bid overrun, recipients may request additional funding, and it expressly states that “[t]he award of additional Investment Assistance is at EDA’s sole discretion and will be considered in accord with EDA’s competitive process requirements.” 13 CFR 305.10(b)(2). Section 305.10(b)(2) goes on to also state that “EDA’s consideration of a request for additional Investment Assistance does not indicate approval.” *Id.* Upon review, the Department has determined that this final statement is unnecessary, because consideration is not ordinarily understood to necessarily indicate approval, and because the preceding sentence of § 305.10(b)(2) already sufficiently establishes that the consideration of a request for additional funding, which will be done in accord with EDA’s competitive process requirements, is distinct from the actual approval and award of additional funding, which is up to EDA’s sole discretion.

Second, the Department is removing § 305.12, the section pertaining to project signs. That section states that recipients are responsible for the construction, erection, and maintenance of signs indicating that the Federal government is participating in the project, in accordance with EDA’s specifications. 13 CFR 305.12. As this section alludes to, EDA provides recipients with clear signage specifications and requirements through its regional offices and award documents, as appropriate. Accordingly, EDA has determined that this general reference to those signage specifications is unwarranted and appropriate for removal, for the sake of simplifying and streamlining part 305.

Third, the Department is removing § 305.14, the section pertaining to occupancy prior to final acceptance. Specifically, § 305.14 states that “[o]ccupancy of any part of the Project prior to final acceptance is entirely at the Recipient’s risk and must follow the requirements of local and State law.” 13 CFR 305.14. The Department is satisfied, however, that both of these basic points are sufficiently well-established independent of § 305.14; risk and liability allocation is adequately established by both the government-wide regulations at 2 CFR part 200 and common

law principles, and the default understanding that State and local laws apply independent of Federal law is adequately established under our constitutional structure and system of laws. The Department has therefore determined that the removal of § 305.14 is warranted to simplify and streamline part 305.

Overall, the Department has determined that these amendments to part 305 will reduce the unnecessary complexity of part 305 and promote administrative efficiency, without diminishing any substantive rights or obligations related to EDA's public works and economic development investments.

CLASSIFICATIONS

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department considers this rule to be uncontroversial, and has determined that prior notice and opportunity for public participation is unwarranted, because this rule only removes language that provides unnecessary clarification, reiteration, and/or elaboration. None of the language being removed by this rule is statutorily required, and public participation could not justify the continued maintenance of any of the language at issue under the Department's broader regulatory policies. For the same reasons, the Department has determined that delaying the effectiveness of these amendments would be contrary to the public interest. The language being removed by this rule adds complexity and clutter to part 305, poses some risk of confusion and distraction, and impedes administrative efficiency; the removal of this language will immediately streamline part 305 and benefit the public at little to no cost. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (“E.O.”) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects for 13 CFR Part 305

Public works, Economic development, Award and application requirements, Requirements for approved projects.

Dated: March 13, 2026

Benjamin Page
Deputy Assistant Secretary and Chief Operating Officer

For the reasons set forth in the preamble, EDA amends 13 CFR part 305 as follows:

PART 305 – PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 3211; 42 U.S.C. 3141; Department of Commerce Organization Order 10-4.

Subpart B – Requirements for Approved Projects

2. Amend § 305.10 by revising paragraph (b)(2) to read as follows:

§ 305.10 Bid underrun and overrun.

* * * * *

(b) * * *

(2) If the Recipient demonstrates to EDA’s satisfaction that the options listed in paragraph (b)(1) of this section are not feasible and the Project cannot be completed otherwise, the Recipient may submit a written request to EDA for additional funding in accordance with applicable EDA guidance. The award of additional Investment Assistance is at EDA’s sole discretion and will be considered in accord with EDA’s competitive process requirements.

§ 305.12 [Removed and Reserved]

3. Remove and reserve § 305.12.

§ 305.14 [Removed and Reserved]

4. Remove and reserve § 305.14.

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