

**EDA REGULATIONS: PART 305 PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS
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<p>§ 305.1 Purpose and scope.</p> <p>The purpose of Public Works and Development Facilities grants is to help the Nation's distressed communities revitalize and expand their physical and economic infrastructure and thereby provide support for the creation or retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of distressed areas. The primary focus is on the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by high unemployment, low income, or a special need arising from actual or threatened severe unemployment or severe changes in local economic conditions. These grants are intended to help communities achieve sustainable economic development by developing and expanding new and existing public works and other infrastructure facilities that will help generate long-term jobs and economic growth, improve economic conditions or otherwise enhance and promote the economic recovery of the area.</p>	<p>§ 305.1 Purpose and scope.</p> <p>Public Works and Economic Development Investments ("Public Works Investments") intend to help the nation's most distressed communities revitalize, expand and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies and generate or retain long-term private sector jobs and investments. The primary goal of these Investments is the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by chronic high unemployment, underemployment, low per capita income, outmigration, or a Special Need. These Investments also intend to assist communities in attracting private capital investment and higher-skill, higher-wage job opportunities and to promote the successful long-term economic recovery of a Region.</p>	<p>Provision is substantively unchanged.</p>
<p>§ 305.2 Criteria.</p> <p>(a) A grant may be made under part 305 for the following purposes: (1) For the acquisition or development of land and improvements for use for a public works, public service or other type of development facility; or</p>	<p>§ 305.2 Award requirements.</p> <p>(a) <i>Project scope.</i> Public Works Investments may fund the following activities: (1) Acquisition or development of land and improvements for use in a public works, public service or other type of development facility; or</p>	<p>Provision is substantively unchanged.</p>

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<p>(2) For the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment.</p> <p>(b) A grant may be made under part 305 only when:</p> <p>(1) The project for which the grant is applied for will, directly or indirectly—</p> <p>(i) Improve the opportunities, in the area where the project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;</p> <p>(ii) Assist in the creation of additional long-term employment opportunities in the area; or</p> <p>(iii) Primarily benefit the long-term unemployed and members of low-income families;</p> <p>(2) The project for which the grant is applied for will fulfill a pressing need of the area, or a part of the area, in which the project is or will be located; and</p> <p>(3) The area for which the project is to be carried out has a strategy and the project is consistent with the strategy.</p> <p>(c) Maximum assistance for each State. Not more than 15 percent of the annual appropriations available to carry out this part may be expended in any one State</p>	<p>(2) Acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment.</p> <p>(b) <i>Requirements.</i> A Public Works Investment may be made if EDA determines that:</p> <p>(1) The Project will, directly or indirectly:</p> <p>(i) Improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities in the Region where the Project is located;</p> <p>(ii) Assist in the creation of additional long-term employment opportunities in the Region; or</p> <p>(iii) Primarily benefit the long-term unemployed and members of low income families in the Region;</p> <p>(2) The Project will fulfill a pressing need of the Region, or a part of the Region, in which the Project is located; and</p> <p>(3) The Region in which the Project is located has a CEDS and the Project is consistent with the CEDS.</p> <p>(c) Not more than fifteen (15) percent of the annual appropriations made available to EDA to fund Public Works Investments may be made in any one (1) State.</p>	

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<p>§ 305.3 Application requirements.</p> <p>Each application for a grant under part 305 must:</p> <p>(a) Include evidence of area and applicant eligibility;</p> <p>(b) Include, or incorporate by reference, a strategy, as provided in § 301.3;</p> <p>(c) Identify the sources of the other funds, both eligible Federal and non-Federal, that will make up the balance of the proposed project's financing, including any private sources of financing. The application must show that such other funds are committed to the project and will be available as needed. The local share must not be encumbered in any way that would preclude its use consistent with the requirements of the grant; and</p> <p>(d) Explain how the proposed project meets the criteria of § 305.2.</p> <p>§ 305.4 Selection and evaluation.</p> <p>(a) Projects will be selected in accordance with the application evaluation criteria set forth in § 304.2 of this chapter.</p> <p>(b) In addition to the evaluation criteria set forth in part 304 of this chapter, project selection and evaluation will be made on the basis of whether, and to what extent, the proposed project will:</p> <p>(1) Assist in creating new or retaining existing private sector jobs and assist in the creation of additional long-term employment opportunities rather than merely transferring jobs from one area of the country to another;</p> <p>(2) Be supported by significant private sector</p>	<p>§ 305.3 Application requirements.</p> <p>(a) Each application for Public Work Investment Assistance must:</p> <p>(1) Include evidence of eligibility, as provided in part 301 of this chapter;</p> <p>(2) Include, or incorporate by reference, a CEDS (as provided in § 303.7 of this chapter);</p> <p>(3) Demonstrate how the proposed Project meets the criteria of § 305.2; and</p> <p>(4) Demonstrate how the proposed Project meets the proposal evaluation criteria set forth in § 301.8 of this chapter.</p> <p>(b) The Investment Rate for Public Works Investments will be determined in accordance with § 301.4 of this chapter.</p>	<p>New rules eliminates existing requirement that a public works project application identify funds that will make up the balance of a proposed project's financing. However, applicant must still demonstrate how project will meet proposal evaluation criteria in Section 301.8, which includes criteria for: market-based and results driven; strong organizational leadership; advances in productivity, innovation and entrepreneurship; looks beyond immediate economic horizon; or demonstrates high degree of local commitment. New section also contains provision stating that investment rate of project will be determined by new Section 301.4.</p> <p>New rules eliminate current regulation Section 305.4 Selection and evaluation. Provisions are now addressed under definitions in Section 300 and Eligibility under Section 301.</p>

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<p>investment;</p> <p>(3) Leverage or be a catalyst for the effective use of private, local government, State or other Federal funding that is available;</p> <p>(4) Likely be started and completed in a timely fashion; and</p> <p>(5) If the project is located in an area with a stable economy and low distress, provide employment opportunities for residents of nearby areas of high distress.</p>		
<p>§ 305.23 Public Works projects for design and engineering work.</p> <p>In general, EDA prefers to award a Public Works grant that includes all of the costs required for the successful completion of a project, including the design and engineering work.</p> <p>(a) When the purpose of the Public Works project is to accomplish only the design and engineering work for a proposed future construction project, EDA may award a grant for the design and engineering work with the understanding that EDA cannot make a commitment against a future fiscal year appropriation to fund the proposed construction project.</p> <p>(b) The purpose of the EDA assisted project for design and engineering work is to produce all of the documents required for the construction of the proposed future project in a format and in sufficient quantity to permit a construction contract to be advertised and</p>	<p>§ 305.4 Projects for design and engineering work.</p> <p>In the case of Public Works Investment Assistance awarded solely for design and engineering work, the following additional application requirements and terms shall apply:</p> <p>(a) EDA may determine that a separate Investment for design and engineering is warranted due to the technical complexity or environmental sensitivity of the construction Project;</p> <p>(b) The purpose of the Investment may be limited to the development and production of all documents required for the construction of the proposed construction Project in a format and in sufficient quantity to permit advertisement and award of a construction contract soon after securing construction financing for the Project;</p> <p>(c) EDA will not disburse any portion of the Investment Assistance until it receives and</p>	<p>Section has been reworded, but is substantively similar to existing regulation.</p>

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<p>awarded soon after the project's construction financing has been arranged. The EDA document, <i>Requirements for Approved Construction Projects</i>, should be used to ensure that the proposed construction project meets all applicable Federal requirements.</p> <p>(c) Design and engineering projects will not generally be considered unless the nature of the proposed project to be considered is complex or environmentally sensitive and EDA makes a determination that it is in the best interest of the Government to award a separate grant for design and engineering.</p> <p>(d) EDA requires the design/engineering contract to be submitted to and approved by EDA before any EDA grant funds can be disbursed.</p>	<p>certifies compliance with the Investment award of all design and engineering contracts; and (d) EDA's funding of the Project for design and engineering work does not in any way commit EDA to fund construction of the Project.</p>	
<p>§ 305.5 Pilot program.</p> <p>(a) EDA's Regional Offices may, upon approval of the Deputy Assistant Secretary for Program Operations, institute pilot programs for post-approval construction monitoring, thereby continuing EDA's efforts to streamline and simplify procedures for monitoring approved EDA construction projects. The knowledge and efficiencies gained from the pilot programs will be evaluated and used to improve and revise EDA's post-approval project management requirements and procedures.</p>		<p>Section for pilot program in 1999 has been eliminated.</p>

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<p>(b) As part of a pilot program, the procedures developed by a Regional Office may vary from those listed in this subpart B. No additional requirements are imposed by pilot program procedures. A Regional Office will provide guidelines, in its version of the "Requirements for Approved Projects," to all recipients of grants for construction projects monitored by the Office. The recipient may not be required to submit to EDA certain documentation at any set time, but will be required to maintain all documentation supporting any and all certifications submitted to the Regional Office, for the period of time provided in 15 CFR part 14 or 24, as appropriate.</p>		
<p>§ 305.6 Project management conference.</p> <p>After the EDA financial assistance award has been accepted by the recipient, EDA may schedule a planning conference with the recipient's representatives to explain the post-approval requirements for administration of the EDA assisted project.</p>		<p>Section is eliminated and will be included in a revised edition of <i>Guidance for Approved Construction Projects</i>.</p>
<p>§ 305.7 Selection of the Architect/Engineer.</p> <p>Guidelines for the selection of the Architect/Engineer (A/E), services to be performed by the A/E, contract provisions for those services and eligible fees for the A/E are as follows:</p>		<p>Section is eliminated and will be included in a revised edition of <i>Guidance for Approved Construction Projects</i></p>

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<p>(a) Selection of the A/E may be by sealed bids using formal advertising or by competitive proposal procedures subject to negotiation of fair and reasonable compensation. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.</p> <p>(b) The A/E agreement shall provide for all services required by the recipient for the engineering feasibility, design and contract administration of the proposed project. Appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council, American Society of Civil Engineers, National Society of Professional Engineers, and/or the American Institute of Architects may be used where the grantee does not have standard procurement/ contract documents.</p> <p>(c) Exhibit A-1, Checklist for Architect / Engineer Services, in the EDA publication, <i>Requirements for Approved Construction Projects</i>, displayed at EDA's Web Site, http://www.doc.gov/eda (a copy of this publication is available from EDA and a copy will be furnished to an award recipient with the Offer of Financial Assistance), lists the contract provisions which EDA recommends for the A/E contract. The A/E agreement must be furnished to EDA in order for the allowability of the costs of A/E services to be determined.</p> <p>(d) Eligible project costs may include, but not be limited to, costs for A/E fees, resident inspection, test borings, and the testing of materials provided under an agreement or contract with the recipient. The A/E fees should be in conformity with similar costs and projects in the area.</p>		

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	<p>§ 305.5 Project administration by District Organization.</p> <p>(a) When a District Organization is not the Recipient or co-Recipient of Investment Assistance, the District Organization may administer the Project for the Recipient if EDA determines fulfillment of the following conditions:</p> <p>(1) The Recipient has requested (either in the application or by separate written request) that the District Organization for the Region in which the Project is located administer the Project;</p> <p>(2) The Recipient certifies and EDA finds that:</p> <p>(i) Administration of the Project is beyond the capacity of the Recipient’s current staff and would require hiring additional staff or contracting for such services;</p> <p>(ii) No local organization or business exists that could administer the Project in a more efficient or cost-effective manner than the staff of the District Organization; and</p> <p>(iii) The staff of the District Organization would administer the Project without sub-contracting the work; and</p> <p>(3) The allowable costs for the administration of the Project by the District Organization’s staff will not exceed the amount that would be allowable to the Recipient.</p> <p>(b) EDA must approve the request either by approving the application in which the request is made or by separate specific written approval.</p>	<p>New rules change the section reference for these provisions formerly covered in Section 316.19. District organizations can still serve as project administrators if certain qualifications are met.</p>

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<p>§ 305.10 Construction Management services.</p> <p>Construction Management is defined as the services of a firm with competent and experienced staff to act as the recipient's agent to perform all or part of project administration. EDA will not normally approve the use of a Construction Management firm for projects costing less than \$5 million. EDA will participate in such cost only if EDA approves the contract for such services.</p>		
<p>§ 305.11 Design/Build method of construction.</p> <p>EDA discourages the use of the same entity to both design and to build EDA assisted facilities. If the recipient desires to use such a method, its use must be justified and EDA must approve the contract. The procurement of, and the compensation to, the designer/builder will be subject to the same rules as for the procurement of construction services.</p>	<p>§ 305.6 Allowable methods of procurement for construction services.</p> <p>(a) Recipients may use alternate construction procurement methods to the traditional design/bid/build procedures (including lump sum or unit price-type construction contracts). These methods include but are not limited to design-build, construction management at risk and force account. If an alternate method is used, the Recipient shall submit to EDA for approval a construction services procurement plan and the Recipient must use a design professional to oversee the process. The Recipient shall submit the plan to EDA prior to advertisement for bids and shall include the following, as applicable:</p> <p>(1) Justification for the proposed method for procurement of construction services;</p>	<p>Section combines and redrafts current Sections 305.10 and 305.11.</p>

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	<p>(2) The scope of work with cost estimates and schedules; (3) A copy of the proposed construction contract; (4) The name and qualifications of the selected design professional; and (5) Procedures to be used to ensure full and open competition, including the selection criteria. (b) For all procurement methods, the Recipient must comply with the procurement standards set forth in 15 CFR parts 14 or 24, as applicable.</p>	
<p>§ 305.22 Services performed by the recipient’s own forces.</p> <p>The recipient may wish to have a portion or all of the design, construction, inspection, legal services or other work and/or services in connection with the project performed by personnel who are employed by the recipient either full or part time (in-house). Due to the difficulty in monitoring inhouse construction and the limited EDA staff available to perform the monitoring, in-house construction is discouraged. (a) If EDA approves the use of the recipient’s in-house forces to construct all or part of the EDA assisted project and the in-house forces are to be augmented by personnel hired specifically for the EDA assisted project, the hourly wages to be paid to such personnel shall be the same as the hourly wages paid to full time personnel of the recipient doing the same or similar work. If the nature of</p>	<p>§ 305.7 Services performed by the Recipient’s own forces.</p> <p>In certain circumstances, the Recipient may wish to consider having a portion or all of the design, construction, inspection, legal services or other work and/or services in connection with the Project performed by personnel who are employed by the Recipient either full-time or part-time. EDA may approve the use of such “in house forces” if: (a) The services are routinely performed by the Recipient for all construction Projects performed by the Recipient (for example, inspection or legal); or (b) The Recipient has a special skill required for the construction of the Project (for example, construction of unique Indian structures); or (c) The Recipient has made all reasonable efforts to obtain a contractor but has failed to do so because of uncontrollable factors such as the remoteness of the Project site or an</p>	<p>Regulations regarding the use of in-house staff to perform certain construction and design services are revised and streamlined. They appear less prescriptive than 1999 rules.</p>

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<p>the work is not similar and/or there is not an established wage scale, the prevailing state or county hourly wage for public employees shall be obtained from the appropriate state or county agency and used for the newly established position. However, non-profit recipients must pay all personnel employed for the construction of the EDA assisted project the prevailing hourly wages for the area as established by the U.S. Department of Labor.</p> <p>(b) The use of in-house forces for construction may be approved by EDA if:</p> <p>(1) The recipient has a special skill required for the construction of the project, <i>e.g.</i>, construction of unique Indian structures, or</p> <p>(2) The recipient has made all reasonable efforts to obtain a contractor but has failed to do so because of uncontrollable factors such as the remoteness of the project site or an overabundance of construction work in the project area, or</p> <p>(3) Substantial cost savings can be demonstrated.</p>	<p>overabundance of construction work in the Region; or</p> <p>(d) The Recipient demonstrates substantial cost savings.</p>	
<p>§ 305.9 Recipient furnished equipment and materials.</p> <p>The recipient may wish to incorporate into the project equipment and/or materials which it will secure through its own efforts.</p> <p>(a) It is the responsibility of the recipient to assure that such equipment and/or materials are adequate for the proposed use.</p> <p>(b) The use of such equipment and materials must be approved by EDA to be eligible for EDA financial participation. The recipient shall</p>	<p>§ 305.8 Recipient-furnished equipment and materials.</p> <p>The Recipient may wish to incorporate into the Project equipment or materials that it will secure through its own efforts, subject to the following requirements:</p> <p>(a) EDA must approve any use of Recipient-furnished equipment and materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding</p>	

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<p>be required to submit with its request for approval either a paid invoice or current quotes from not less than three suppliers who normally distribute such equipment and/or materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding expected useful life and salvage value.</p> <p>(c) The recipient must be prepared to show that the cost claimed for such equipment and/or materials is competitive with local market costs.</p> <p>(d) Acquisitions of recipient furnished equipment and/or materials under this section is subject to the requirements of 15 CFR part 24 or 15 CFR part 14.</p>	<p>expected useful life and salvage value of such equipment;</p> <p>(b) EDA may require the Recipient to establish that the expense claimed for such equipment or materials is competitive with current local market costs; and</p> <p>(c) Acquisition of Recipient-furnished equipment and/or materials under this section is also subject to the requirements of 15 CFR parts 14 or 24, as applicable.</p>	
<p>§ 305.8 Project phasing.</p> <p>The recipient is strongly urged to award all contracts for construction at one time.</p> <p>(a) Where compelling reasons justify phasing the project, the recipient must secure the approval of EDA for phasing prior to advertising any portion for bid.</p> <p>(b) The recipient's request for approval of phasing must include valid reasons justifying the request and a statement from the recipient that it can, and will, fund any overrun that arises in the later phases.</p> <p>(c) Normally, EDA will not disburse funds until all construction contracts have been awarded, (an exception is the development of an underground source of water when required to determine the availability of an adequate</p>	<p>§ 305.9 Project phasing and Investment disbursement.</p> <p>(a) EDA may authorize in advance the award of construction contracts in phases, provided the Recipient submits a request that includes each of the following:</p> <p>(1) Valid reasons justifying why the Project must be phased;</p> <p>(2) Description of the specific elements to be completed in each phase;</p> <p>(3) Detailed construction cost estimates for each phase;</p> <p>(4) Time schedules for completing all phases of the Project;</p> <p>(5) Certification that the Recipient can and will fund any overrun(s); and</p>	<p>Section is redrafted with same basic intent. New section streamlines and consolidates language.</p>

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<p>source of water supply in terms of both quality and quantity as described in the grant application).</p> <p>(d) Disbursement of grant funds by phases must be approved by EDA. Such approvals will be given only if the recipient can demonstrate that a severe hardship will result if such approval is not given and there are compelling reasons why all phases cannot be contracted for at the same time.</p> <p>(e) The recipient must be capable of paying incurred costs prior to the first disbursement of EDA grant funds.</p>	<p>(6) Certification that the Recipient is capable of paying incurred costs prior to the first disbursement of EDA funds.</p> <p>(b) EDA will begin disbursement of funds after receipt of evidence sufficient to EDA of compliance with all Investment award conditions. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the Recipient can demonstrate to EDA's satisfaction that a severe financial hardship will result without such approval.</p>	
<p>§ 305.14 Bid underrun.</p> <p>If at the construction contract bid opening, the lowest responsive bid is less than the funds available for construction, EDA must be notified immediately to determine whether any unneeded grant funds should be deobligated.</p>	<p>§ 305.10 Bid underrun.</p> <p>If at the construction contract bid opening, the lowest responsive bid is less than the total Project cost, the Recipient will notify EDA to determine whether Investment funds should be deobligated from the Project.</p>	<p>Section is substantively unchanged.</p>

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<p>§ 305.15 Contract award.</p> <p>EDA must concur in the award of all necessary contracts for design and construction of the EDA assisted facility in order for the cost to be eligible for EDA reimbursement. Pending EDA approval of the construction contract(s), the recipient may issue the notice to proceed permitting the work to go forward. If the work does go forward prior to EDA approval, the recipient will be proceeding at its own risk pending EDA review and concurrence. The EDA regional office will advise the recipient of the documents that are required to obtain EDA approval.</p>	<p>§ 305.11 Contract awards; Early construction start.</p> <p>EDA must determine that the award of all contracts necessary for design and construction of the Project facilities is in compliance with the terms and conditions of the Investment award in order for the costs to be eligible for EDA reimbursement. Pending this determination, the Recipient may issue a notice permitting construction under the contract to commence. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA review and concurrence. The EDA regional office will advise the Recipient of the requirements necessary to obtain EDA's determination.</p>	<p>Section is substantively unchanged.</p>
<p>§ 305.16 Construction progress schedule.</p> <p>If requested by EDA, the recipient will secure from the contractor or A/E and furnish a copy to EDA of the estimated construction progress chart and a schedule of amounts for contract payments. The construction progress chart should be updated monthly by the recipient, the A/E or the contractor, and an up-to-date copy furnished to EDA quarterly throughout the construction of the project.</p>		<p>Section is eliminated.</p>

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<p>§ 305.17 Project sign.</p> <p>The recipient shall be responsible for the construction, erection, and maintenance in good condition throughout the construction period, of a sign or signs, (recommended specifications for the sign are included as an exhibit to the EDA publication, <i>Requirements for Approved Construction Projects</i>) at the project site in a conspicuous place indicating that the Federal government is participating in the project. EDA may require more than one sign if the project's location so warrants. The recipient should confer with the EDA regional office for suggestions on where the sign(s) should be located.</p>	<p>§ 305.12 Project sign.</p> <p>The Recipient shall be responsible for the construction, erection and maintenance in good condition throughout the construction period of a sign or signs at a conspicuous place at the Project site indicating that the Federal government is participating in the Project. The EDA regional office will provide mandatory specifications for the signage.</p>	<p>Section is substantively unchanged, however signage will now have to conform to mandatory, as opposed to recommended, specifications determined by EDA regional office.</p>
<p>§ 305.19 Contract change orders.</p> <p>After construction contracts have been executed, it may become necessary to alter them. This requires a formal contract change order, issued by the recipient and accepted by the contractor.</p> <p>(a) All contract change orders must be concurred in by EDA even if the recipient is to pay for all additional costs resulting from the change or the contract price is to be reduced.</p> <p>(b) The work on the project may continue pending EDA review and concurrence in the change order but the recipient should be aware that all such work will be at the recipient's risk as to whether the cost for the work will be an eligible project cost for EDA participation until EDA concurrence is received.</p>	<p>§ 305.13 Contract change orders.</p> <p>(a) If it becomes necessary to alter the construction contracts post-execution, the Recipient and contractor shall agree to a formal contract change order.</p> <p>(b) All contract change orders must receive EDA review for compliance with the terms and conditions of the Investment award, even if the Recipient is to pay for all additional costs resulting from the change or the change order reduces the contract price.</p> <p>(c) Work on the Project may continue pending EDA review of the contract change order, but all such work will be at the Recipient's risk until EDA completes its review.</p>	<p>New rules change language to require grantee and contractor to agree to a formal contract change order, rather than be issued by grantee and accepted by the contractor. New rules also change wording on the agency's treatment of and responsibilities for accepting change orders.</p>

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<p>(c) EDA will not approve financial participation in change orders that are solely for the purpose of using excess funds resulting from an underrun of one or more of the items in the approved project budget.</p> <p>(d) When a change order is for a project funded with one-year funds, EDA approval of such change order must be based on a finding by EDA that the work called for in the change order is within the project scope and is required for satisfactory operation or functioning of the project.</p>		
<p>§ 305.18 Occupancy prior to completion.</p> <p>If the project or any part of it is to be occupied or used prior to the project's acceptance from the contractor, the recipient must notify EDA of the intent to occupy or use the facility and the effective date of the occupancy or use, secure the written consent of the contractor; secure an endorsement from the insurance carrier and consent of the surety company permitting occupancy or use during the period of construction; secure permanent fire and extended coverage insurance and, when required, secure a permit to occupy the facility from the appropriate authority, e.g. the local building inspector.</p>	<p>§ 305.14 Occupancy prior to completion.</p> <p>Occupancy 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.</p>	<p>Section is redrafted to be more general in nature, without specifications.</p>

**EDA REGULATIONS: PART 305 PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>§ 305.20 Project development time schedule.</p> <p>The recipient is responsible for expeditiously prosecuting the implementation of the project in accordance with the project development time schedule contained in the EDA grant award. As soon as the recipient becomes aware that it will not be possible to meet the time schedule, it must notify the EDA Regional Office.</p>		<p>Section has been eliminated</p>
<p>305.21 Controlling budget.</p> <p>The tabulation of estimated project costs contained in the EDA grant award is the controlling budget for the project.</p> <p>(a) Budget line item revisions, including the addition of a new line item, which do not involve a change of scope may be approved by EDA if no new EDA funds are involved; another budget line item (preferably the contingency line item, although this is not mandatory) has funds which can be used without significantly adversely affecting the object of that line item; and unless the line item that is proposed to be supplemented is supplemented, the activity associated with that line item cannot be completed.</p> <p>(b) The recipient shall notify EDA of any proposed transfer of funds from one budget line item to another. The recipient's attention is called to the fact that the addition of a new line item to the approved budget may involve an impermissible change of scope and, therefore, may result in such costs being excluded from EDA's participation.</p>		<p>Section has been eliminated</p>

**EDA REGULATIONS: PART 305 PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>Accordingly, the recipient is advised to discuss the need to add a new line item to the approved budget with EDA regional office staff before any costs are incurred under such new line item.</p>		
<p>§ 305.24 Disbursements of funds for grants.</p> <p>(a) Disbursements of funds for construction grants are generally made on a reimbursable basis on request of the recipient for reimbursement. Disbursements may be made only:</p> <p>(1) After execution of all contracts required for the completion of the project. This condition may be waived by EDA if the grantee can demonstrate that enforcement of the condition would place an undue burden on it;</p> <p>(2) For itemized and certified eligible costs incurred, as substantiated by such documentary evidence as EDA may require;</p> <p>(3) On the basis of the work accomplished and the percentage of EDA participation, but in no event for more than the total sum stated in the financial assistance award accepted by the grantee;</p> <p>(4) Upon such evidence as EDA may require that grantee's proportionate share of funds not yet expended is on deposit;</p> <p>(5) After a determination by EDA that all applicable terms and conditions of the grant have been met; and</p> <p>(6) After meeting such other requirements as EDA may establish in accordance with other Federal laws, rules and regulations.</p>		<p>Section is eliminated.</p>

**EDA REGULATIONS: PART 305 PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS
COMPARISON OF 1999 EXISTING RULES VS 2005 INTERIM-FINAL RULES**

CURRENT FEDERAL REGULATIONS (1999)	INTERIM FINAL RULES (2005)	ANALYSIS / COMMENTS
<p>(b) Disbursements are generally made in installments, based upon grantee's actual rate of disbursement in accordance with the grant rate.</p> <p>(c) Advances of funds are allowable when disbursement on a reimbursable basis would impose an undue burden, as determined by EDA, upon the recipient.</p>		
<p>§ 305.25 Final inspection.</p> <p>A final inspection will be scheduled by the recipient and appropriate notification given to EDA, when the project has been completed and all deficiencies have been corrected. EDA personnel may attend and participate in the final inspection and, in any event, EDA must be advised of the outcome of such final inspection and the recipient's acceptance of the work.</p>		<p>Section has been eliminated</p>
<p>§ 305.26 Reports.</p> <p>Financial and performance reports requirements will be specified in the Special Award Conditions of the grant. Construction progress schedule reports will be required in § 305.16.</p>		<p>Section has been eliminated</p>