

§ 101.403

13 CFR Ch. I (1–1–10 Edition)

§ 101.403 What are the notice and comment procedures?

(a) The Administrator provides notice to directly affected state, area-wide, regional, and local entities in a state of proposed SBA financial assistance or direct SBA development if—

(1) The state has not adopted a process under Executive Order 12372 (3 CFR, 1982 Comp., p. 197), as amended by Executive Order 12416 (3 CFR, 1983 Comp., p. 186); or

(2) The assistance or development involves a program or activity not selected for the state process.

(b) Notice may be made by publication in the FEDERAL REGISTER or other means as SBA deems appropriate.

(c) Except in unusual circumstances the Administrator gives state processes or directly affected state, area-wide, regional, and local officials and entities at least 60 days to comment on proposed SBA financial assistance or direct SBA development.

(d) In cases where SBA delegates the review, coordination, and communication authority under this subpart, this section also applies.

§ 101.404 How does the Administrator receive comments?

(a) The Administrator follows the procedures of § 101.405 if—

(1) A state office or official is designated to act as a single point of contact between a state process and all Federal agencies; and

(2) That office or official transmits a state process recommendation for a program selected under § 101.402(a).

(b)(1) The single point of contact is not obligated to transmit comments from state, area-wide, regional, or local officials and entities where there is no state process recommendation.

(2) If a state process recommendation is transmitted by a single point of contact, all comments from state, area-wide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a state has not established a process, or is unable to submit a state process recommendation, state, area-wide, regional, and local officials and entities may submit comments to SBA.

(d) If a program or activity is not selected for a state process, state, area-

wide, regional, and local officials and entities may submit comments to SBA. In addition, if a state process recommendation for a non-selected program or activity is transmitted to SBA by the single point of contact, the Administrator follows the procedures of § 101.405.

(e) The Administrator considers comments which do not constitute a state process recommendation submitted under this subpart and for which the Administrator is not required to apply the procedures of § 101.405 when such comments are provided by a single point of contact directly to SBA by a commenting party.

§ 101.405 How does the Administrator respond to comments?

(a) If a state process provides a recommendation to SBA through its single point of contact, the Administrator:

(1) Accepts the recommendation; or

(2) Reaches a mutually agreeable solution with the state process; or

(3) Provides the single point of contact with a written explanation of the decision in a form the Administrator deems appropriate. The Administrator may also supplement the written explanation by telephone or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Administrator informs the single point of contact that—

(1) SBA will not implement its decision for at least 10 days after the single point of contact receives the explanation; or

(2) Because of unusual circumstances the waiting period of at least 10 days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing.

§ 101.406 What are the Administrator's responsibilities in interstate situations?

The Administrator is responsible for—

(a) Identifying proposed SBA financial assistance and direct SBA development that have an impact on interstate areas;

(b) Notifying appropriate officials and entities in states which have adopted a process and selected an SBA program or activity;

(c) Making efforts to identify and notify the affected state, area-wide, regional, and local officials and entities in states that have not adopted a process or selected an SBA program or activity;

(d) Using the procedures of §101.405 if a recommendation of a designated area-wide agency is transmitted by a single point of contact in cases in which the review, coordination, and communication with SBA has been delegated; and

(e) Using the procedures of §101.405 if a state process provides a state recommendation to SBA through a single point of contact.

§101.407 May the Administrator waive these regulations?

The Administrator may waive any provision of §§101.400 through and including 101.406 in an emergency.

Subpart E—Small Business Energy Efficiency

§101.500 Small Business Energy Efficiency Program.

(a) The Administration has developed and coordinated a Government-wide program, which is located at <http://www.sba.gov/energy>, building on the Energy Star for Small Business Program, to assist small business concerns in becoming more energy efficient, understanding the cost savings from improved energy efficiency, and identifying financing options for energy efficiency upgrades.

(b) The Program has been developed and coordinated in consultation with the Secretary of the Department of Energy and the Administrator of the Environmental Protection Agency, and in cooperation with entities the Administrator has considered appropriate, for example, such as industry trade associations, industry members, and energy efficiency organizations. SBA's Office of Policy and Strategic Planning will

be responsible for overseeing the program but will coordinate with the Department of Energy and EPA.

(c) The Administration is distributing and making available online, the information and materials developed under the program to small business concerns, including smaller design, engineering, and construction firms, and other Federal programs for energy efficiency, such as the Energy Star for Small Business Program.

(d) The Administration will develop a strategy to educate, encourage, and assist small business concerns in adopting energy efficient building fixtures and equipment.

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PART 102—RECORD DISCLOSURE AND PRIVACY

Subpart A—Disclosure of Information

Sec.

- 102.1 General provisions.
- 102.2 Public reading rooms.
- 102.3 Requirements pertaining to the submission of requests.
- 102.4 Timing of responses to requests.
- 102.5 Responses to requests.
- 102.6 Fees.
- 102.7 Business information.
- 102.8 Appeals.
- 102.9 Public Index.
- 102.10 What happens if I subpoena records or testimony of employees in connection with a civil lawsuit, criminal proceeding or administrative proceeding to which SBA is not a party?

Subpart B—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

- 102.20 General provisions.
- 102.21 Agency employees responsible for the Privacy Act of 1974.
- 102.22 Requirements relating to systems of records.
- 102.23 Publication in the FEDERAL REGISTER—Notices of systems of records.
- 102.24 Requests for access to records.
- 102.25 Responsibility for responding to requests for access to records.
- 102.26 Responses to requests for access to records.
- 102.27 Appeals from denials of requests for access to records.
- 102.28 Requests for amendment or correction of records.
- 102.29 Requests for an accounting of record disclosures.