

TO: Russell Vought, Director, Office of Management and Budget

FROM: Wendell Davis, General Counsel, Small Business Administration

SUBJECT: Justification for Emergency Processing: Certification as to State and Local Compliance

The Small Business Administration (“SBA”) requests emergency processing under 5 CFR 1320.13 for a new Information Collection Request (“ICR”). SBA seeks approval by **January 28, 2026**, to enable immediate collection of a document from SBA Disaster Loan borrowers that includes a certification from their builder(s). This information is essential to the mission of the SBA to ensure the timely and effective delivery of assistance under the Disaster Loan Program authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) (“Disaster Loan Program”) following a Presidentially declared disaster. 5 CFR 1320.13(a)(1)(ii).

SBA published an interim final rule on January 29, 2026. This rule preempts certain state and local requirements impacting the repair, rehabilitation, or replacement of damaged or destroyed property and associated activities financed by the Disaster Loan Program when such requirements cause delay in the use of SBA Disaster Loan Program proceeds. The rule is necessary to reconcile non-federal requirements that undermine Congress’s objective of rapid housing and business recovery, public health and safety restoration, and economic stabilization after disasters.

The rule creates a new information collection to allow for certification of compliance with state and local requirements. Because the rule is effective on January 29, 2026, the use of normal clearance procedures is extremely likely to prevent or disrupt the collection of information required under the regulation. As a result, this information must be collected prior to the expiration of the ordinary time periods for notice and comment. 5 CFR 1320.13(a)(1)(i).

Delaying implementation until completion of normal Paperwork Reduction Act clearance procedures would prohibit the rule from becoming effective and prevent SBA from properly implementing the regulation. 5 CFR 1320.13(a)(2)(iii). It is critical the regulation is implemented now, because any delay would be impracticable and contrary to the public interest. Specifically, delaying implementation to allow for advance notice and comment and delaying the effective date would be impracticable and contrary to the public interest because:

1. Disaster recovery efforts are ongoing and currently being impeded;
2. Borrowers are currently experiencing undue delays in the repair, rehabilitation, and replacement of their homes and businesses, frustrating the effectiveness of SBA loans in promptly providing needed federal assistance following a Presidentially-declared disaster; by way of example, in the last year, SBA has authorized over \$3 billion with respect to the January 2025 wildfires in California (\$2 billion of which was approved within the first 75 days of the disaster declaration), yet approximately only \$600 million has been disbursed;

3. Continued delay of assistance would exacerbate housing and business instability, economic harm, and public safety and health risks in current and future disaster areas;
4. Continued delay preventing the use of assistance proceeds will further harm victims – many of whom will soon begin accruing interest and payment obligations on disbursed loans—despite not being able to commence repair, rehabilitation, or replacement of the destroyed or damaged home or building;
5. The immediate problems faced by borrowers, if not addressed, will be repeated by inevitable and unpredictable future disasters;
6. The ongoing delay of assistance to many borrowers poses a threat of rendering the Disaster Loan Program ineffective in a time of crisis; and
7. Immediate regulatory clarity is necessary to ensure uniform administration of the SBA Disaster Loan Program nationwide.

Further, delaying implementation in order to satisfy notice and comment for Paperwork Reduction Act purposes would frustrate the goal of the interim final rule and, ultimately, SBA’s disaster loan program. Without the certification, SBA disaster loan borrowers and their agents would be unable to move forward with the repair, rehabilitation, or replacement of their properties, leaving them in the same situation they would be in without the interim final rule.

The information collection involves minimal burden and privacy risk. Only a borrower who relies on preemption under § 123.803 will be required to provide a builder’s self-certification that the builder has complied with all substantive requirements. In addition, the anticipated certification is only expected to take approximately 30 minutes and contains limited personally identifiable information – only that which is required to ensure it can be matched to the relevant loan.

SBA respectfully requests OIRA’s expedited six-month approval under 5 CFR 1320.13, with waiver of the Federal Register notice, to enable immediate implementation and support SBA’s leadership in ensuring the timely and effective delivery of assistance under the Disaster Loan Program.