

Recapitalization grants are additional grant funds awarded to increase the capital base of an RLF.

RLF capital includes the funds which capitalized the RLF plus such earnings and fees generated by RLF activities as may be added to the RLF capital base to be used for lending. The original sources of capital for EDA RLFs are normally comprised of EDA grant funds and local cash matching share.

RLF income means interest earned on outstanding loan principal, interest earned on accounts holding RLF funds not needed for immediate lending, all loan fees and loan-related charges received from RLF borrowers, and other income generated from RLF operations. The RLF recipient may use RLF income only to capitalize the RLF and/or to cover eligible and reasonable costs necessary to administer the RLF, unless otherwise provided for in the grant agreement or approved in writing by EDA. RLF income excludes principal repayments.

Secondary market includes those entities that purchase an interest in a loan from an original lender.

Securitization refers to the technique of securing an investment of new capital with the stream of income generated by one or more (usually a large group of) existing loans. EDA broadly defines securitization transactions to include techniques such as the sale of loans, pledging the future income stream of a loan, and similar activities, to access investor capital to increase available funds for lending.

§ 308.9 Revolving Loan Fund Plan.

All RLF recipients must manage RLFs in accordance with an RLF Plan (Plan) as described in this part. For all RLF recipients, the Plan must be submitted to and approved by EDA prior to the grant award. For RLF recipients other than states, the RLF Plan must have been approved by resolution of the organizations' governing board and such resolution must be submitted to EDA along with the Plan prior to the grant award; with EDA's approval, political subdivisions of states may be exempted from the resolution requirement.

(a) *Format and content.* (1) The title page of the Plan should show the RLF

recipient organization's name and the date the Plan was adopted.

(2) Part I of the Plan, titled Revolving Loan Fund Strategy, summarizes the area CEDS and business development objectives, and describes the RLF's financing strategy, policy and portfolio standards. Organization of the material and the level of detail provided in the subsections of Part I may be varied to improve the narrative flow, provided the substantive content is adequately covered.

(3) Part II of the Plan, titled Operational Procedures, serves as the internal operating manual for the RLF.

(b) *Evaluation of Plans.* EDA will use the following criteria in evaluating Plans:

(1) The Plan must flow from and be consistent with the EDA-approved CEDS for the area.

(2) The Plan must be an internally consistent, coherent statement of the strategic purpose of the particular RLF and the various considerations influencing the selection of its financing strategy, policies, and loan selection criteria encompassing:

(i) A financing strategy that demonstrates a knowledgeable analysis of the local capital market and the financing needs of the targeted businesses; and

(ii) Financing policies and portfolio standards that are consistent with EDA policies and requirements.

(3) The strategic objectives defined must be sufficiently meaningful, though not necessarily quantified, so that progress toward them can be assessed over time.

(4) The administrative procedures for operating the RLF must be consistent with generally accepted prudent lending practices for public lending institutions.

[65 FR 2532, Jan. 18, 2000, as amended at 65 FR 71025, Nov. 28, 2000]

§ 308.10 Pre-loan requirements.

(a) RLF recipients must adopt procedures to review the impacts of prospective loan proposals on the physical environment. The Plan must provide for the disapproval of any loan project that adversely (without mitigation) impacts flood plains, wetlands, significant historic or cultural properties,

drinking water resources, or nonrenewable natural resources. In administering the RLF, the RLF recipient must adopt procedures to comply, and ensure that potential borrowers comply, with applicable laws and regulations including, but not limited to §§ 316.1, 316.3, 316.7, 316.8, 316.15, and 317 of this chapter.

(b) RLF recipients are responsible for ensuring compliance with the applicable requirements of this chapter prior to providing any loan assistance under the RLF. RLF recipients are responsible for ensuring that prospective borrowers, consultants, or contractors are aware of and comply with the Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. RLF recipients must develop loan agreements that include applicable Federal requirements to ensure compliance. RLF recipients must adopt procedures to diligently correct instances of non-compliance, including the calling of loans, if necessary. RLF recipient loan documents and procedures must protect and hold the Government harmless from and against all liabilities that the Government may incur as a result of providing an award to assist (directly or indirectly) in site preparation or construction as well as the renovation or repair of any facility or site. This applies to the extent that such liabilities are incurred because of ground water, surface, soil or other conditions caused by operations of the RLF recipient or any of its predecessors on the property.

§ 308.11 Lending areas and modification of lending areas.

(a) The economic activity and benefits of RLF loans must be located within the eligible areas identified in the grant award. For a determination of eligibility for new RLF lending areas, such areas must be included in or added to a CEDS in accordance with requirements under § 301.3 of this chapter.

(1) Where such RLFs have a grant condition that permits new areas that subsequently become eligible to be added to the lending area, RLFs that were awarded assistance (RLF capitalization or recapitalization) before February 11, 1999, whether fully disbursed

or not, and fully disbursed RLFs that were awarded assistance (RLF capitalization or recapitalization) on or after February 11, 1999, may add such areas with EDA approval.

(2) In the case of existing RLFs that are not fully disbursed that were awarded assistance (RLF capitalization or recapitalization) on or after February 11, 1999, the area proposed to be added must also be eligible to receive an EDA grant rate equal to or greater than that of the original grant.

(b) Whenever an area is added, modification to the RLF Plan incorporating the new area and outlining the RLF lending strategy is required. Once approved, area eligibility is retained indefinitely.

[65 FR 2532, Jan. 18, 2000, as amended at 65 FR 71025, Nov. 28, 2000]

§ 308.12 Revolving Loan Fund income.

(a) RLF income can be used to pay for eligible and reasonable administrative costs for the project. RLF recipients are expected to add RLF income to the RLF capital base where practicable. To determine the appropriate amount of RLF income to return to the RLF capital base, RLF operators must consider the costs necessary to operate an RLF program, the availability of other monetary resources, the portfolio risk level and projected capital erosions from loan losses and inflation, the community's (or area's) commitment to the RLF, and the anticipated demand for RLF loans.

(b) RLF income that is not used for administrative costs during the selected twelve-month reporting period in which it is earned, must be added to the RLF capital base for lending purposes at the end of the twelve-month reporting period. Only RLF income earned during a current period may be used for current administrative expenses. RLF income may not be withdrawn from an RLF in a subsequent period for any uses, other than lending, without the written consent of EDA.

(c) In accounting for RLF income, any net proceeds from the sale, collection, or liquidation of a defaulted loan, up to the amount of the unpaid principal, will be treated as repayments of RLF principal and placed in the RLF