

recommends or otherwise participates in decisions concerning loans or the use of RLF grant funds, or person related to the officer, another employee, or any member of the Board by immediate family, law, or business arrangement, may receive any benefits resulting from the use of the RLF loan or grant funds. In addition, the RLF recipient may not lend RLF funds to an employee of the RLF recipient or any member of the RLF recipient's Board of Directors, or a member of any other Board. Immediate family is defined as parents, grandparents, siblings, children and grandchildren, but does not include more distant relatives, including cousins, unless they live in the same household. Exception: A benefit or loan may be conferred if the officer, employee, or Board member affected first discloses to the RLF recipient on the public record the proposed or potential benefit and receives the RLF recipient's written determination that the benefit involved is not so substantial as to reflect adversely upon or affect the integrity of the RLF recipient's decision process or the services of the officer, employee or board member.

(2) An officer, employee or board member of the RLF recipient will not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or any other thing of monetary value, for himself or for another person, from any person or organization seeking to obtain a loan or any portion of the grant funds.

(3) Former board members and/or officers are ineligible to apply for or receive an RLF loan for a period of one year from the date of termination of his/her services. Exception: A benefit or loan may be conferred if the officer, or Board member affected first discloses to the RLF recipient on the public record the proposed or potential benefit and receives the RLF recipient's written determination that the benefit involved is not so substantial as to reflect adversely upon the integrity of the RLF recipient's decision process.

§ 308.16 Disbursement of funds to Relieving Loan Funds.

(a) *Timing of request for disbursement.* A RLF recipient must request disburse-

ments from EDA only at the time and in the amount immediately needed to close a loan or disburse funds to a borrower. Grant funds must be requested only for immediate use, *i.e.*, when the intent is to disburse the funds within 14 days of receipt.

(b) *Amount of disbursement.* As each new loan is made, the grant RLF recipient may request a disbursement of grant funds only for the difference, if any, between the amount of funds available for relending (from repayments of loan principal and RLF income) and the amount of the new loan, less an amount for local matching funds as may be required to be disbursed concurrent with the grant. However, RLF income received during the grant period may be held to cover eligible administrative expenses and need not be disbursed in order to draw additional grant funds.

(c) *Interest-bearing accounts.* All RLF grant funds disbursed by EDA to reimburse RLF recipients for loan obligations already incurred must be held in interest bearing accounts by RLF recipients until disbursed to the borrower.

(d) *Pre-disbursement requirements.* RLF recipients are required to provide:

(1) Evidence to EDA that they have fidelity bond coverage for persons authorized to handle funds under the grant award in an amount sufficient to protect the interests of EDA and the RLF. Note that such insurance coverage must exist at all times during the life of the RLF; and

(2) Certification in accordance with § 308.15(b)(1) of this part.

(e) *Delays.* (1) If grant funds are requested and the loan disbursement is subsequently delayed, a RLF recipient may hold the funds up to 30 days from the date of receipt. In the event that a loan disbursement is delayed beyond 30 days from the date of receipt of the Federal disbursement, the undisbursed funds must be returned to the Government for credit to the RLF recipient's account. Returned funds will be available to the RLF recipient for future draw down. When returning prematurely drawn funds, checks should identify on their face the name of the grantor agency—"EDA" followed by

the grant award number and the words "Premature Draw."

(2) The interest earned on prematurely withdrawn funds must be returned to the Government (with the exception of \$100 per year which may be retained for administrative expenses by states, local governments and Indian tribes in accordance with 15 CFR Part 24, and \$250 for those subject to 15 CFR Part 14 as appropriate) and should be remitted promptly, but no less frequently than quarterly. All checks submitted should state "EDA" on their face and the award number followed by the word "INTEREST" in order to identify the check in question as remittance of interest income.

(f) *Local share.* (1) When some portion of the local share of the RLF project is cash, it may only be used for lending. If the RLF project has an all-cash matching share, EDA's funds will be disbursed as needed for loan closing. The cash matching funds must be used either in proportion to the EDA funds, or at a faster rate than EDA funds.

(2) When an RLF project has a combination of in-kind and cash matching share, the non-federal cash together with the Federal cash constitute the funds available for making loans and will be disbursed proportionately as needed for loan closing, provided that the last 20 percent of the Federal funds may not be disbursed until all local in-kind match has been expended. The full amount of the local cash matching share will be expected to remain for use in the RLF.

(3) Upon repayment, local cash share funds are treated the same as EDA funds. Repayments of principal must be placed in the RLF for relending and interest payments must be used either for relending or for eligible RLF administrative costs. The local cash matching share must be available when needed for lending and must be under the control of the RLF recipient for the duration of the RLF for use in accordance with the terms of the grant.

§ 308.17 Effective utilization of Revolving Loan Funds.

(a) *Loan closing and disbursement schedule.* (1) RLF loan activity must be sufficient to draw down grant funds in accordance with the time schedule for

loan closings and disbursements to eligible RLF borrowers as prescribed in the award conditions. The time schedule requires that the initial round of lending (*i.e.*, the grant disbursement phase) be completed within three years of the grant award.

(2) If a RLF recipient substantially fails to meet the prescribed time schedules for loan closings and disbursements, EDA may terminate the undisbursed balance of the award. Exceptions may be granted where:

(i) Funds are needed to close and disburse funds on loans approved prior to the deadline and will be disbursed within 45 days of the deadline,

(ii) Funds are needed to meet continuing disbursement obligations on loans closed prior to the deadline, or

(iii) EDA has approved a time schedule extension.

(b) *Time schedule extension.* (1) RLF recipients are responsible for contacting EDA as soon as conditions become known that may materially affect their ability to meet the approved time schedules. RLF recipients must submit a written request to EDA for continued use of grant funds beyond a missed deadline. Extension requests must provide good reason for the delay and demonstrate that:

(i) The delay was unforeseen or generally beyond the control of the RLF recipient;

(ii) The need for the RLF still exists;

(iii) The current and planned use and the anticipated benefits of the RLF will remain consistent with the current CEDS and the RLF Plan;

(iv) The achievement of a new proposed time schedule is reasonable; and

(v) An explanation why no further delays are foreseen.

(2) EDA is under no obligation to grant a time extension, and in the event an extension is denied, EDA may deobligate (terminate) all or part of the unused portion of the grant.

(c) *Capital Utilization Standard.* (1) During the revolving phase, RLF recipients must manage their repayment and lending schedules such that at least 75 percent of the RLF's capital is loaned out or committed at all times. RLF income earned during a current reporting period is not included as RLF