

generated by aggregating similar instruments such as loans or mortgages into a new transferable Security.

Security means any investment instrument issued by a corporation, government or other organization which offers evidence of debt or equity.

§ 307.9 Revolving Loan Fund Plan.

All RLF Recipients shall manage RLFs in accordance with an RLF plan (the “*RLF Plan*” or “*Plan*”) as described in this section. The Plan shall be submitted to and approved by EDA.

(a) *Format and content.* (1) Part I of the Plan titled “Revolving Loan Fund Strategy” shall summarize the CEDS and business development objectives and shall describe the RLF’s financing strategy, policy and portfolio standards.

(2) Part II of the Plan titled “Operational Procedures” shall serve as the internal operating manual for the RLF Recipient. The administrative procedures for operating the RLF must be consistent with Prudent Lending Practices.

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

(1) The Plan must be consistent with the CEDS or EDA-approved strategy for the Region;

(2) The Plan must identify the strategic purpose of the RLF and must describe the selection of the financing strategy and lending criteria, including:

(i) An 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; and

(3) The Plan must demonstrate an adequate understanding of commercial loan portfolio management procedures, including loan processing, underwriting, closing, disbursements, collections, monitoring, and foreclosures. It shall also provide sufficient administrative procedures to prevent conflicts of interest and to ensure accountability, safeguarding of assets and compliance with Federal and local laws.

(c) *Modification of RLF Plans.* An RLF Recipient must request and obtain

EDA approval prior to any modification of the Plan.

§ 307.10 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 compliance with applicable environmental laws and other regulations, including but not limited to parts 302 and 314 of this chapter. The RLF Recipient must also adopt procedures to comply, and ensure that potential borrowers comply, with applicable environmental laws and regulations.

(b) RLF Recipients must ensure 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 loan agreements shall include applicable Federal requirements to ensure compliance and RLF Recipients must adopt procedures to diligently correct instances of non-compliance, including loan call stipulations.

(c) All RLF loan documents and procedures must protect and hold the Federal government harmless from and against all liabilities that the Federal government may incur as a result of providing an RLF Grant to assist directly or indirectly in site preparation or construction, as well as the direct or indirect renovation or repair of any facility or site. These protections apply to the extent that the Federal government may become potentially liable as a result of ground water, surface, soil or other natural or man-made conditions on the property caused by operations of the RLF Recipient or any of its borrowers, predecessors or successors.

§ 307.11 Disbursement of funds to Revolving Loan Funds.

(a) *Pre-disbursement requirements.* Prior to any disbursement of EDA funds, RLF Recipients are required to provide in a form acceptable to EDA:

(1) Evidence of 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. Such insurance coverage must exist at all times during

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the duration of the RLF’s operation; and

(2) Evidence of certification in accordance with §307.15(b)(1).

(b) *Timing of request for disbursements.* An RLF Recipient shall request disbursements of Grant funds only to close a loan or disburse RLF funds to a borrower. The RLF Recipient must disburse the RLF funds to a borrower within thirty (30) days of receipt of the Grant funds. Any Grant funds not disbursed within the thirty (30) day period shall be refunded to EDA pursuant to paragraph (e) of this section.

(c) *Amount of disbursement.* The amount of a disbursement of Grant funds shall not exceed the difference, if any, between the RLF Capital and the amount of a new RLF loan, less the amount, if any, of the Local Share required to be disbursed concurrent with the Grant funds. However, RLF Income held to reimburse eligible administrative costs need not be disbursed in order to draw additional Grant funds.

(d) *EDA funds account.* The RLF Recipient shall establish and maintain an interest-bearing account designated as the “EDA funds account,” indicating that monies deposited therein are held for funding approved Closed Loans. The RLF Recipient shall withdraw funds or order a transfer from the EDA funds account for lending to eligible borrowers or return of funds to EDA.

(e) *Delays.* If the RLF Recipient receives Grant funds and the RLF loan disbursement is subsequently delayed beyond thirty (30) days, the RLF Recipient must notify the applicable grants officer and return such non-disbursed funds to EDA. Grant funds returned to EDA shall be available to the RLF Recipient for future draw-downs. When returning prematurely drawn Grant funds, the RLF Recipient must clearly identify on the face of the check or in the written notification to the applicable grants officer “EDA,” the Grant award number, the words “Premature Draw,” and a brief description of the reason for returning the Grant funds.

(f) *Local Share.* (1) Cash Local Share of the RLF may only be used for lending purposes. The cash Local Share must be used either in proportion to

the Grant funds or at a faster rate than the Grant funds.

(2) When an RLF has a combination of In-Kind Contributions and cash Local Share, the cash Local Share and the Grant funds will be disbursed proportionately as needed for lending activities, provided that the last twenty (20) percent of the Grant funds may not be disbursed until all cash Local Share has been expended. The full amount of the cash Local Share shall remain for use in the RLF.

§ 307.12 Revolving Loan Fund Income.

(a) *General requirements.* RLF Income must be placed into the RLF Capital base for the purpose of making loans or paying for eligible and reasonable administrative costs associated with the RLF’s operations. RLF Income may fund administrative costs, provided:

(1) Such RLF Income and the administrative costs are incurred in the same twelve-month (12) reporting period;

(2) RLF Income that is not used for administrative costs during the twelve-month (12) reporting period is made available for lending activities;

(3) RLF Income shall not be withdrawn from the RLF Capital base in a subsequent reporting period for any purpose other than lending without the prior written consent of EDA; and

(4) The RLF Recipient completes an RLF Income and Expense Statement (the “*Income and Expense Statement*”) as required under §307.14(c).

(b) *Compliance guidelines.* When charging costs against RLF Income, RLF Recipients must comply with applicable OMB cost principles and RLF audit guidelines as found in:

(1) OMB Circular A–87 for State, local, and Indian tribal governments, OMB Circular A–122 for non-profit organizations other than institutions of higher education, hospitals or organizations named in OMB Circular A–122 as not subject to such circular, and OMB Circular A–21 for educational institutions; and

(2) OMB Circular A–133 for Single Audit Act requirements for States, local governments, and non-profit organizations and the Compliance Supplement, as appropriate.