

**§ 307.12**

**13 CFR Ch. III (1–1–07 Edition)**

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.

(c) *Priority of payments on defaulted RLF loans.* When an RLF Recipient receives proceeds on a defaulted RLF loan that is not subject to liquidation pursuant to §307.20, such proceeds shall be applied in the following order of priority:

- (1) *First*, towards any costs of collection;
- (2) *Second*, towards outstanding penalties and fees;
- (3) *Third*, towards any accrued interest to the extent due and payable; and
- (4) *Fourth*, towards any outstanding principal balance.

#### §307.13 Records and retention.

(a) *Closed Loan files and related documents.* The RLF Recipient shall maintain Closed Loan files and all related documents, books of account, computer data files and other records over the term of the Closed Loan and for a three-year (3) period from the date of final disposition of such Closed Loan. The date of final disposition of a Closed Loan is the date:

- (1) Principal, interest, fees, penalties and all other costs associated with the Closed Loan have been paid in full; or
- (2) Final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the Closed Loan have occurred.

(b) *Administrative records.* RLF Recipients must at all times:

(1) Maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF Income expended for eligible RLF administrative costs.

(2) Retain records of administrative expenses incurred for activities and equipment relating to the operation of the RLF for three (3) years from the actual submission date of the last semi-annual or annual report that covers the period that such costs were claimed, or for five (5) years from the date the costs were claimed, whichever is less.

(3) Make available for inspection retained records, including those retained for longer than the required period. The record retention periods described in this section are minimum periods and such prescription does not limit any other record retention requirement of law or agreement. In no

event will EDA question claimed administrative costs that are more than three (3) years old, unless fraud is at issue.

#### §307.14 Revolving Loan Fund semi-annual and annual reports.

(a) *Frequency of reports.* All RLF Recipients, including those receiving Recapitalization Grants for existing RLFs, must submit semi-annual reports. EDA may approve the substitution of annual reports for semi-annual reports upon written request by the Recipient if the following conditions have been met:

(1) At least one (1) year has passed from the date that the RLF has loaned an aggregate amount equal to its initial RLF Capital base;

(2) The RLF Recipient has timely submitted accurate semi-annual reports for the preceding two (2) years;

(3) The RLF Recipient has ensured completion and submission to EDA of required periodic audits for the most recent audit period within the preceding two (2) years; and

(4) EDA determines that the RLF is in compliance with all applicable RLF requirements.

(b) *Report contents.* RLF Recipients must certify as part of the semi-annual or annual report to EDA that the RLF is operating in accordance with the applicable RLF Plan. RLF Recipients must also describe (and propose pursuant to §307.9) any modifications to the RLF Plan to ensure effective use of the RLF as a strategic financing tool.

(c) *RLF Income and Expense Statement.*

(1) An RLF Recipient using either fifty (50) percent or more (or more than \$100,000) of RLF Income for administrative costs in the twelve-month (12) reporting period must submit a completed Income and Expense Statement annually to the appropriate regional office within ninety (90) days of the end of its fiscal year. An RLF Recipient using less than fifty (50) percent and less than \$100,000 of RLF Income for administrative costs in the twelve-month (12) reporting period must prepare and retain for four (4) years a completed Income and Expense Statement for the applicable fiscal year, which shall be made available to EDA upon request.