

DEPARTMENT OF COMMERCE

CFDA 11.300 GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT FACILITIES

CFDA 11.307 ECONOMIC ADJUSTMENT ASSISTANCE

I. PROGRAM OBJECTIVES

Public Works and Economic Development grants are awarded to assist the Nation's distressed communities: (1) revitalize and expand their physical and economic infrastructure and (2) provide support for the creation or retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of their local economies. The primary focus is on the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by high unemployment, low income, or a special need arising from actual or threatened severe unemployment or severe changes in local economic conditions.

The objective of Economic Adjustment Program is to address the needs of communities experiencing adverse economic changes that may occur suddenly or over time, including, but not limited to, those caused by military base closures or realignments, depletion of natural resources, Presidentially-declared disasters or emergencies, or international trade. Economic Adjustment grants may be used to pay for developing a strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation, or to pay for a project in implementation of that strategy, including grants for construction and grants for Revolving Loan Funds (RLFs). Economic Adjustment grants may be spent directly by the grantee or redistributed to other entities.

II. PROGRAM PROCEDURES

Economic Development Administration (EDA) grant awards contain mandatory requirements and information vital to the accomplishment of the project. The recipient must adhere to the scope of work described in the award or award amendments.

EDA grants to capitalize or recapitalize RLFs are most commonly used for business lending, but may also be established for public infrastructure lending or other authorized purposes involving lending. RLF recipients must manage RLFs in accordance with an RLF Plan approved by EDA.

For RLF recipients other than States, the RLF plan must be approved by the organization's governing board; however, political subdivisions of States may be exempted from this requirement with EDA approval. RLF recipients are responsible for ensuring that borrowers are aware of and comply with the applicable Federal statutory and regulatory requirements.

Source of Governing Requirements

The programs are authorized by the Public Works and Economic Development Act of 1965, as amended, 42 USC 3121 *et seq.* Implementing regulations are 13 CFR part 300 *et seq.*

Availability of Other Program Information

Other program information is available on the Internet at <http://www.doc.gov/eda/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed*

The grant budget and grant agreement will specify the purpose for use of funds which include the following:

- a. Construction grants can be made for the acquisition or development of land and improvements for use for a public works, public service, or development facility. Construction grants can also be made for the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment (42 USC 3141; 42 USC 3149; and 13 CFR section 305.2(a)).
- b. RLF grants may be made for the establishment or recapitalization of an RLF, usually for business lending, but RLF grants may also be established for public infrastructure lending or other authorized purposes involving lending (42 USC 3149 and 13 CFR section 308.7).
- c. Other activities that can be funded under the Economic Adjustment program (in addition to grants for construction and RLFs) are grants for strategies and grants for implementation which include market or industry research and analysis, technical assistance, public services, training; and other activities as justified by the strategy which meet statutory and regulatory requirements (42 USC 3149 and 13 CFR section 308.3(a)).

2. *Activities Unallowed*

RLF capital may not be used to:

- a. Acquire an equity position in a private business (13 CFR section 308.18(b)(1)).
- b. Subsidize interest payments on an existing loan (13 CFR section 308.18(b)(2)).

- c. Provide the equity contribution required of borrowers under other Federal loan programs (13 CFR section 308.18(b)(3)).
- d. Enable an RLF borrower to acquire an interest in a business unless there is a sufficient justification and documentation showing the need for RLF financing (13 CFR section 308.18(b)(4)).
- e. Provide loans to a borrower for the purpose of investing in interest bearing accounts, or other investments not related to the objectives of the RLF (13 CFR section 308.18(b)(5)).
- f. Refinance existing debt unless special limited circumstances exist (13 CFR section 308.18(b)(6)).
- g. Finance any activity that serves to relocate jobs from one commuting area to another (13 CFR section 308.18(b)(7)).

C. Cash Management

1. Disbursement of funds for construction grants is generally made on a reimbursable basis on request of the recipient for reimbursement. Disbursements may be made only after the execution of all contracts required for the completion of the project unless EDA has waived this requirement. Disbursements shall be made on the basis of the work accomplished and the percentage of EDA participation, but in no event for more than the total sum stated in the financial assistance award accepted by the grantee (13 CFR section 305.24).
2. An RLF recipient must request disbursement from EDA only at the time and in the amount immediately needed to close a loan or disburse funds to a borrower. As each new loan is made, the RLF recipient may request disbursement of grant funds only for the difference between the amount of funds available for relending (from repayments of loan principal and RLF income) and the amount of the new loan, less the amount of required matching funds. However, RLF income received during the grant period may be held to cover eligible administrative expenses and need not be applied to new loans in order to draw down additional grant funds (13 CFR section 308.16).

F. Equipment and Real Property Management

Construction Grants

Property acquired or improved with grant funds for construction projects cannot be mortgaged or otherwise encumbered, except to secure a grant or loan made by a State, other Federal agency or other public body participating in the same project, unless a waiver has been approved by EDA (13 CFR section 314.6).

G. Matching, Level of Effort, Earmarking**1. Matching**

Matching requirements for construction and RLF grants are set forth in the grant agreement along with the total project cost and grant amount. The Federal share percentage is generally 50 percent, but can exceed such amount, up to and including 100 percent, under certain circumstances (42 USC 3144, 3145, 3146, and 3173; 13 CFR section 301.4).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - ED-113 (OMB No. 0610-0096) which contains substantially the same information, is used in lieu of the SF-271.
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. *Semi-Annual Report For EDA-Funded RLF Grants*, (OMB No. 0610-0095) - All RLF recipients must submit semi-annual reports, unless they have qualified for annual report status, which include a certification that the RLF is being operated in accordance with the RLF plan (13 CFR section 308.14).
- f. *RLF Income and Expense Statement* (OMB No. 0610-0095) - Grant recipients electing to use 50 percent or more or at least \$100,000 of RLF income to cover all or part of an RLF's administrative expense must annually complete an "RLF Income and Expense Statement" (13 CFR section 308.14).

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. ED-209S, *Semi-Annual Report for EDA-Funded RLF Grants and ED-209A, Annual Report for EDA-Funded RLF Grants (OMB No. 0610-0095)*—RLFs are required to submit either ED-209S for the semi-annual periods ending March 30 and September 30 (most RLFs), or ED-209A, which covers the annual period ending September 30 (certain veteran RLFs that have graduated to annual reporting only).

Key Line Items - The following line items contain critical information:

	<u>ED-209S</u>	<u>ED-209A</u>	
(1)	Line I-A-6	Line C-16	<i>Total Active Loans</i>
(2)	Line III-C-14	Line A-6	<i>Current Level or RLF Base Capital</i>
(3)	Line III-D-20	NA	<i>Current Balance Available as a Percent of Base Capital</i>
(4)	NA	Line A-11	<i>RLF Capital Utilization Rate</i>
(5)	Line V-C-9	NA	<i>Amount of RLF Income Earned in the most recent 12-month period</i>
(6)	Line V-C-11	NA	<i>Percentage of RLF Income used for Administrative Costs</i>

M. Subrecipient Monitoring

Public Works and Economic Development grants (CFDA 11.300) may not be subgranted. Economic Adjustment grants (CFDA 11.307) may be spent directly by the grantee or subgranted to other eligible entities (13 CFR section 308.3(b)).

N. Special Tests and Provisions

1. Increases to RLF Capital Base

Compliance Requirement - RLF income includes all interest earned on outstanding loan principal, interest earned on accounts holding idle RLF funds, loan fees and other loan-related earnings. RLF income does not include repayment of RLF loan principal. In accounting for RLF income, any 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 for lending purposes only. Any proceeds in excess of the unpaid principal will be treated as RLF income (13 CFR sections 308.8 and 308.12(c)).

RLF income earned in the 12-month reporting period may be used for RLF administrative expenses of the same period or for lending. Any RLF income remaining at the end of the 12-month reporting period must be permanently added to the RLF's capital base to be used for lending. 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 (CFR sections 308.8, 308.12(a), and (b)).

Repayments of principal on RLF loans must be placed in the RLF for relending (13 CFR section 308.16(f)(3)).

Audit Objective - Determine whether RLF income not used for administrative expenses has been added to the RLF capital base for lending and whether repayments of principal on RLF loans were placed in the RLF for relending.

Suggested Audit Procedures

- a. Verify that the amounts recorded in the financial records include RLF income and repayments of principal on RLF loans.
- b. Ascertain if RLF income not used for administrative expenses has been added to the RLF capital base.
- c. Ascertain if repayments of principal on RLF loans have been placed in the RLF.

2. Loan Requirements

Compliance Requirement - The following requirements apply to RLF loans:

- a. RLF recipients are required to retain standard RLF loan documents necessary for lending. These documents must be reviewed by RLF legal counsel for adequacy and compliance with the terms and conditions of the grant and applicable laws. The standard loan documents must include: (1) loan application, (2) loan agreement, (3) promissory note, (4) security agreement, (5) deed of trust or mortgage (if applicable), (6) agreement of prior lien holder (if applicable), and (7) personal guaranty agreement (for officers or owners of corporate borrowers, as applicable) (13 CFR section 308.15(b)).
- b. The financed activity must be located in an eligible lending area as defined in the special terms and conditions of the grant award (13 CFR section 308.11).
- c. Unless otherwise provided for in the grant agreement or modified in writing by EDA, a borrower is not eligible for RLF financing if credit is otherwise available on terms and conditions that permit the completion or successful operation of the project activity to be financed. The RLF recipient is responsible for determining that each borrower meets this requirement and for documenting the basis for its determination in the loan write-up (13 CFR section 308.18(c)).

Audit Objective - Determine whether (1) the required standard loan documents were completed for the RLF loans, (2) the financed activity is located in an eligible area, and (3) there is documentation to support that credit was not otherwise available to the borrower.

Suggested Audit Procedures

Test a sample of loan files and ascertain if:

- a. The standard loan documents were properly completed.
- b. The financed activity is located in an eligible area.
- c. The RLF determination that credit was not otherwise available to the borrower is documented in the file.

IV. OTHER INFORMATION

RLF

For the RLF part of the program, calculation of Federal awards expended for determining when an audit is required under OMB Circular A-133 and determining Type A programs shall consider the following:

1. Balance of RLF loans outstanding at the end of the fiscal year, plus
2. Cash and investment balance in the RLF at the end of the fiscal year, plus
3. Administrative expenses paid out of RLF during the fiscal year.

Only the Federal share (exclude the matching fund share) of the RLF shall be used in this determination. Federal awards expended for the RLF part of this program shall be added to other Federal awards expended to determine total Federal awards expended for the program.