

DEPARTMENT OF COMMERCE

CFDA 11.300 INVESTMENTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT FACILITIES

CFDA 11.307 ECONOMIC ADJUSTMENT ASSISTANCE

I. PROGRAM OBJECTIVES

The Economic Development Administration (EDA) awards grants through its Public Works and Economic Development (Public Works) program to assist the Nation's most 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 goal of these awards is 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, underemployment, low per capita income, outmigration, or a special need arising from actual or threatened severe unemployment or severe changes in local economic conditions. Public Works grants may include construction and related activities, such as acquisition, design and engineering, and related machinery and equipment.

The objective of EDA's Economic Adjustment Assistance 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 Assistance awards may be used to develop a comprehensive economic development strategy (CEDS) or other strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation, or to fund a project implementing that CEDS or other strategy, including grants for construction and grants for Revolving Loan Funds (RLFs). EDA grants to capitalize or recapitalize RLFs are most commonly used for business lending, but may also fund public infrastructure or other authorized lending purposes if specifically allowed for in the terms and conditions of the recipient's award.

II. PROGRAM PROCEDURES

In nearly all cases, a recipient of a Public Works or Economic Adjustment Assistance grant is required to provide a matching share. The required matching share varies on a grant-by-grant basis and is set forth in the grant award. Prior to EDA approving the matching share, the recipient must demonstrate to EDA's satisfaction that the matching share is committed to the project, available as needed, and not conditioned or encumbered in any way that would preclude its use consistent with the requirements of the grant award (42 USC 3144-3146; 13 CFR sections 300.3 and 301.5). EDA has greater discretion to award grants under supplemental appropriations for natural disasters at investment rates up to and including one hundred (100) percent.

Section 302 (42 USC 3162) of the Public Works and Economic Development Act of 1965, as amended (PWEDA, 42 USC 3121 *et seq.*), sets forth a CEDS requirement for Public Works and Economic Adjustment Assistance grants, except for planning projects (i.e., strategy grants) under the Economic Adjustment Assistance program. Pursuant to section 214 of PWEDA (42 USC

3154), EDA may waive the CEDS requirements for Economic Adjustment projects located in regions designated as “Special Impact Areas.” EDA has designated certain areas affected by Hurricane Katrina, the Midwest floods, and other recent natural disasters as Special Impact Areas. If a project is located in a designated “Special Impact Area,” such designation will be specified in the grant award documents.

RLF recipients must manage RLFs in accordance with an RLF Plan approved by EDA. The RLF Plan must be approved by the RLF recipient’s governing board prior to the initial disbursement of EDA funds. RLF recipients are responsible for ensuring that borrowers are aware of and comply with applicable Federal statutory and regulatory requirements.

Source of Governing Requirements

The programs are authorized by PWEDA, as amended by the Economic Development Administration Reauthorization Act of 2004 (Pub. L. No. 108-373). All section citations contained herein refer to EDA’s regulations as codified at 13 CFR Chapter III, as amended. EDA published an interim final rule on October 22, 2008 in the *Federal Register* (73 FR 62858) to amend some of its regulations, namely the Trade Adjustment Assistance for Firms (TAA) regulations and the Revolving Loan Fund (RLF) regulations. The technical revisions to a few of the TAA definitions were made to help better align EDA’s responsibilities in implementing the TAA program under the Trade Act. EDA also made a number of changes to the RLF regulations to implement the Department of Commerce’s Office of Inspector General’s audit recommendations and to improve the administration and effectiveness of the RLF program. All provisions of the interim final rule went into effect on October 22, 2008, except as otherwise noted in this Compliance Supplement.

Availability of Other Program Information

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

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 or 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 sections 305.2(a) and 307.3).

- b. RLF grants may be made for the establishment or recapitalization of an RLF, usually for business development, but RLF grants may also fund public infrastructure or other authorized purposes involving lending if specifically allowed for in the terms and conditions of the recipient's award (42 USC 3149; and 13 CFR section 307.7).
- c. Other activities that can be funded under the Economic Adjustment Assistance program (in addition to grants for construction and RLFs) are grants for CEDS (or other strategy) development and grants for CEDS (or other strategy) implementation, which include market or industry research and analysis, technical assistance, public services, training, and other activities as justified by the strategy which meet applicable statutory and regulatory requirements (42 USC 3149; and 13 CFR section 307.3).
- d. A recipient of a Public Works grant may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of a subgrant to another eligible recipient to fund required components of the scope of work approved for the project (42 USC 3154c; 13 CFR section 309.1).
- e. A recipient of an Economic Adjustment Assistance grant may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of (i) a subgrant to another eligible recipient that qualifies for an Economic Adjustment Assistance award or (ii) a loan or other appropriate assistance to non-profit and private for-profit entities (42 USC 3154c; 13 CFR section 309.2).

2. *Activities Unallowed*

RLF capital (as defined in 13 CFR section 307.8) may not be used to:

- a. Acquire an equity position in a private business (13 CFR section 307.17(b)(1)).
- b. Subsidize interest payments on an existing RLF loan (13 CFR section 307.17(b)(2)).
- c. Provide the equity contribution required of borrowers under other Federal loan programs (13 CFR section 307.17(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 307.17(b)(4)).

- e. Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts or other investments not related to the RLF (13 CFR section 307.17(b)(5)).
- f. Refinance existing debt unless (i) the RLF recipient sufficiently demonstrates in the loan documentation a “sound economic justification” for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities); for this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a “sound economic justification”; or (ii) RLF capital will finance the purchase of the rights of a prior lien holder during a foreclosure action which is necessary to preclude a significant loss on an RLF loan (13 CFR section 307.17(b)(6)).

C. Cash Management

- 1. Unless otherwise specified in a special award condition, the method of payment for an award for an infrastructure construction project is generally through reimbursement (using Form ED-113, *Outlay Report and Request for Reimbursement for Construction Programs*) for costs incurred. Prior to disbursing grant funds for an infrastructure construction project, EDA also must receive an invoice from the recipient. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the recipient can demonstrate that a severe hardship will result without such approval (13 CFR section 305.9(b)).
- 2. Grant funds also are made available to RLF recipients on a reimbursement basis (when an obligation is incurred by the RLF recipient at the time of loan approval and loan announcement). An RLF recipient must request a disbursement only to close a loan or disburse RLF funds to a borrower. The RLF recipient must disburse the grant funds to a borrower within thirty (30) days of receipt of the funds. Any grant funds not disbursed within the thirty (30) day period must be returned to EDA. An RLF recipient is required to submit a written request for continued use of grant funds beyond a missed disbursement deadline. The amount of disbursed grant funds cannot exceed the difference, if any, between the RLF capital and the amount of a new loan, less the amount, if any, of the matching share required to be disbursed concurrent with the grant funds. However, RLF income held to cover eligible administrative expenses need not be disbursed in order to draw additional grant funds (13 CFR section 307.11).

D. Davis-Bacon Act

All laborers and mechanics employed by contractors or subcontractors on construction projects receiving EDA grant assistance shall be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor

in accordance with subchapter IV of chapter 31 of title 40, United States Code (42 USC 3212; 13 CFR section 302.13).

F. Equipment and Real Property Management

Except as otherwise authorized by EDA, property acquired or improved with EDA grant assistance cannot be used to secure a mortgage or deed of trust or in any way collateralized or otherwise encumbered. An encumbrance includes but is not limited to easements, rights-of-way or other restrictions on the use of any property (13 CFR section 314.6(a)).

G. Matching, Level of Effort, Earmarking

1. Matching

The required matching share varies on a grant-by-grant basis and is set forth in the grant award (42 USC 3144-3146; 13 CFR sections 300.3 and 301.5).

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 that is used in lieu of the SF-271.

d. SF-272, *Federal Cash Transactions Report* – Applicable

As soon as possible after October 1, 2008, and no later than October 1, 2009, OMB requires all agencies to transition all financial reporting to the FFR. EDA has selected a transition date of June 30, 2009. After this date (June 30, 2009), EDA will no longer accept Forms SF 269/SF-269A and SF-272/SF-272A and will only accept the FFR (Forms SF-425 and SF-425A).

2. Performance Reporting - Not Applicable

3. Special Reporting

a. EDA is in the process of transitioning from hard-copy reporting using the ED-209S, *Semi-Annual Report for EDA-Funded RLF Grants*, and ED-209A, *Annual Report for EDA-Funded RLF Grants* (OMB No. 0610-

0095), to web-based reporting using the ED-209, *Semi-Annual Report for EDA-Funded RLF Grants (OMB No. 0610-0095)*. As an interim step, EDA is requiring all RLF recipients to file a Form ED-209S for the period ending March 31, 2009. EDA expects that, contingent upon a successful deployment of its automated reporting system, all recipients will be required to electronically file Form ED-209 for the period ending September 30, 2009. Therefore, recipients must have filed a Form ED-209S (unless EDA approved the substitution of an annual Form ED-209A upon the written request of the RLF recipient) for the period ending September 30, 2008. For the period ending March 31, 2009, recipients must report using the ED-209S. For the period ending September 30, 2009, recipients must file a report consistent with regulations in effect as of that date (13 CFR section 307.14(a)).

Key Line Items - The following line items in the ED-209S and ED-209A 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 of RLF Base Capital</i>
(3) Line III-D-20	NA	<i>Current Balance Available as a Percent of Base Capital</i>
(4) N/A	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>

Key Line Items - The following line items contain critical information on the ED-209:

ED-209

- (1) *Total Active Loans (Section I.A)*
- (2) *Current RLF Capital Base (Section III.C)*
- (3) *Current Balance Available as a Percentage of RLF Capital Base (Section III.D)*

- (5) *Amount of RLF Income Earned during this Reporting Period (Section V.C)*
 - (6) *Percentage of RLF Income used for Administrative Expenses during this Reporting Period (Section V.C)*
- b. ED-209I, *RLF Income and Expense Statement (OMB No. 0610-0095)* – On October 22, 2008, EDA published an interim final rule replacing the hardcopy ED-209I, which was to be completed by all RLF recipients for the 12-month period coinciding with the recipient's fiscal year, with the electronic ED-209I, which has the same fields as the previous ED-209I, but different reporting thresholds and periods. Therefore, all recipients must have completed a hardcopy ED-209I for the latest recipient fiscal year ending on or before September 30, 2008. However, for the period ending March 31, 2009, and all subsequent semi-annual periods ending September 30 and March 31, those RLF recipients electing to use either 50 percent or more (or more than \$100,000) of RLF income to cover all or part of an RLF's administrative expenses in that same semi-annual period must submit an electronic Form ED-209I, unless EDA has approved submission of the form in hard copy (13 CFR sections 307.14 (a) and (c)).

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

- (1) *RLF Income*
- (2) *Expenses Charged to RLF Income (2.a through 2.l)*
- (3) *Total Expenses (sum of 2.a through 2.l)*
- (4) *Net RLF Income (1 minus 3)*
- (5) *Cumulative Net RLF Income*
- (6) *Expenses as % of RLF Income (3/1)*
- (7) *For the current reporting period, provide an estimate of projected RLF Income and the percentage expected to be used for RLF administrative expenses.*

N. Special Tests and Provisions

1. Increases to RLF Capital Base and Capital Utilization

Compliance Requirements - 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 and any interest remitted to the U.S. Treasury pursuant to a sequestration of excess funds. When an RLF recipient receives proceeds on a defaulted RLF loan, 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 (13 CFR sections 307.8 and 307.12(c)).

RLF income may fund administrative expenses, provided the following conditions are met: (1) the RLF income and the administrative expense are earned in the same 6-month reporting period; (2) RLF income that is not used for administrative expenses during the 6-month reporting period must be made available for lending activities; (3) RLF income cannot be withdrawn from the RLF capital base in a subsequent reporting period for any use other than lending without the prior written consent of EDA; and (4) the recipient completes an *RLF Income and Expense Statement* if required by EDA's regulations (13 CFR sections 307.12(a) and 307.14(c)).

The RLF capital base is defined as the value of RLF assets administered by the recipient. It is equal to the amount of grant funds used to capitalize (and, if applicable, re-capitalize) the fund, plus the matching funds committed to the RLF at the time of award (and any subsequent additions, but not withdrawals), plus RLF income added to the fund less loan losses. The RLF capital must be used for the purpose of making RLF loans that are consistent with the recipient's RLF Plan (13 CFR section 307.17(a)).

The portion of the RLF capital base that is not loaned out must be made available for lending. Generally, EDA requires recipients to have at least 75 percent of the RLF's capital base loaned or committed at any given time. The following exceptions apply:

- a. An RLF recipient that anticipates making large loans relative to the size of its RLF capital base may propose an RLF Plan that provides for maintaining a capital utilization percentage greater than 25 percent; and
- b. EDA may require an RLF recipient with an RLF capital base in excess of \$4 million to adopt an RLF Plan that maintains a proportionately higher percentage of its funds loaned (13 CFR section 307.16(c)).

EDA requires the recipient to sequester "excess funds" if RLF capital loaned or committed falls below 75 percent of the total RLF capital, or alternatively, below the capital utilization standard specified in the RLF Plan (if applicable), in two consecutive reporting periods (13 CFR section 307.16(c)). "Excess funds" can be calculated by taking the difference between the actual value of cash and investments on hand (e.g., that portion of the capital base that is not loaned out or committed) and the allowable value of

cash and investments on hand. The allowable value of cash and investments is equal to: ((100% – (minus) capital utilization standard) X (multiplied by) RLF capital base).

For example, an RLF with a capital base of \$1,000,000, a capital utilization standard of 75 percent, and \$500,000 in capital loaned or committed would calculate its excess cash as follows:

$\$1,000,000$ RLF capital base – $\$500,000$ loaned/committed = $\$500,000$ cash/investments

Allowable cash/investments = $(100\% - 75\%) \times \$1,000,000$ capital base = $\$250,000$

Excess cash = $\$500,000$ actual cash/investments – $\$250,000$ allowable = $\$250,000$

EDA also requires the recipient to remit the Federal share of the interest earned on sequestered funds to the U.S. Treasury on a quarterly basis (13 CFR section 307.16(c)). For example, if the recipient is required to sequester \$250,000 in an interest-bearing account, the quarterly interest accruing on this account is \$2,500, and the Federal share of the RLF award is 50 percent, the recipient would be required to remit \$1,250 to the U.S. Treasury for that quarter.

Audit Objective - Determine whether (1) all the conditions for RLF income to be used to fund administrative expenses were satisfied; (2) RLF income not used for administrative expenses was added to the RLF capital base and made available for lending; (3) repayments of principal on RLF loans were made available for re-lending; and (4) the recipient is meeting its capital utilization standard and, if not, whether it is fulfilling EDA's requirements related to sequestration of excess funds and remittance of the Federal share of the interest to the U.S. Treasury.

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 was added to the RLF capital base.
- c. Ascertain if all funds arising from repayments of principal on RLF loans were made available for re-lending.
- d. Verify that any "excess funds" have been sequestered, as required, and that the recipient is properly accounting for the Federal share of the interest accruing on these funds and remitting this amount to the U.S. Treasury on a quarterly basis.

2. Loan Requirements

Compliance Requirements - The following requirements apply to RLF loans:

- a. RLFs must operate in accordance with generally accepted accounting principles (GAAP). Within sixty (60) days prior to the initial disbursement of EDA funds, an independent accountant familiar with the RLF recipient's accounting system must certify to EDA and the RLF recipient that such system is adequate to identify, safeguard and account for all RLF capital, outstanding RLF loans and other RLF operations (13 CFR sections 307.15(a) and (b)).
- b. Prior to the disbursement of any EDA funds, the RLF recipient must certify that standard RLF loan documents necessary or advisable for lending are in place and that these documents have been reviewed by its legal counsel for adequacy and compliance with the terms and conditions of the grant and applicable State and local law. The standard loan documents include, at a minimum, the (1) loan application, (2) loan agreement, (3) board of directors' meeting minutes approving the RLF loan, (4) promissory note, (5) security agreement(s), (6) deed of trust or mortgage (if applicable), (7) agreement of prior lien holder (if applicable), and (8) signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed. EDA will accept alternate documentation only if such documentation is allowed in the RLF recipient's EDA-approved RLF Plan (13 CFR section 307.15(b)(2)).
- c. An RLF recipient must make loans to implement and assist economic activity only within its EDA-approved lending area, as defined in the special terms and conditions of the grant award and the RLF Plan (13 CFR section 307.18).

Audit Objective - Determine whether (1) the required standard loan documents were completed for the RLF loans; (2) an independent accountant certified to EDA and to the RLF recipient that the accounting system is adequate to identify, safeguard and account for all RLF operations; (3) the financed activity is located in an EDA-approved lending area; and (4) there is loan documentation to support that credit was not otherwise available to the borrower.

Suggested Audit Procedures

Test a sample of RLF loan files and ascertain if:

- a. All required standard loan documents are in the file and were properly completed.
 - b. The financed activity is located in an EDA-approved lending area.
- c. The RLF recipient documents in the RLF loan file that credit was not otherwise available to the borrower.

3. Addition of Lending Areas; Merger of RLFs

- a. An RLF recipient may add an additional lending area to its existing lending area to create a new lending area only with EDA's prior written approval (42 USC 3149 and 13 CFR section 307.18(a)).
- b. EDA may provide written approval for an RLF recipient with more than one EDA RLF grant to merge its RLFs into a single RLF. If EDA approves this merger, EDA will determine a new grant rate for the resulting RLF (42 USC 3149 and 13 CFR section 307.18(b)(1)).
- c. EDA may provide written approval for multiple RLF recipients to merge their EDA RLFs into a single RLF. If EDA approves this merger, EDA will determine a new grant rate for the resulting RLF, all applicable RLF grant assets of the discharging RLF recipient(s) will transfer to the surviving RLF recipient as of the merger's effective date, and the surviving RLF recipient will become fully responsible for administration of the RLF grant assets transferred and fulfill all surviving RLF grant requirements and any other conditions reasonably requested by EDA (42 USC 3149 and 13 CFR section 307.18(b)(2)).

Audit Objectives – Determine, if applicable, whether (1) EDA has provided prior written approval to an RLF recipient, permitting it to (a) create a new lending area or (b) merge two or more of its EDA-funded RLFs into one surviving RLF; or (2) EDA has provided prior written approval to two or more RLF recipients to consolidate their EDA-funded RLFs into one surviving RLF.

Suggested Audit Procedures

Verify that the RLF recipient has evidence of EDA's prior written approval for the creation of a new lending area or the merger of RLFs.

4. RLF Loan Portfolio Sales and Securitizations

With prior approval from EDA, an RLF recipient may enter into a sale or a securitization of all or a portion of its RLF loan portfolio, provided it: (1) uses all the proceeds of any sale or a securitization to make additional RLF loans; and (2) requests EDA to subordinate its interest in all or a portion of any RLF loan portfolio sold or securitized (42 USC 3149; and 13 CFR section 307.19).

Audit Objectives – In the event an RLF recipient has sold or securitized RLF loans, verify whether it (1) received EDA's prior approval; and (2) used all the proceeds from the sale or securitization to make additional RLF loans.

Suggested Audit Procedures

- a. Verify that the RLF recipient has a written record demonstrating EDA's approval to sell or securitize all or a portion of its RLF loan portfolio.

- b. Ascertain that all the proceeds from the sale or securitization (net of reasonable transactions costs) were used to make additional RLF loans.

IV. OTHER INFORMATION

For purposes of completing the Schedule of Expenditures of Federal Awards (SEFA), each EDA RLF grant (CFDA 11.307) should be shown as a separate line item calculated as follows:

1. The RLF capital base, as of the end of the recipient's fiscal year; *plus*
2. Allowable, reasonable, and documented administrative expenses paid out of RLF income during the recipient's fiscal year; *plus*
3. The unpaid principal of all loans written off during the recipient's fiscal year; *and then multiply this sum (1+ 2 +3) by*
4. The Federal share of the RLF. The Federal share is defined as the Federal participation rate (or the Federal grant rate), as specified in the grant award. Note that some RLFs have received EDA's permission to co-mingle funds from one or more EDA RLF grants. If this is the case, the Federal share will be the weighted average of the Federal grant rates of the EDA RLF grants used to capitalize the fund. The Federal grant rates for each EDA RLF can be found in the respective grant awards.

As an example, if a recipient received two EDA RLF grants that were subsequently co-mingled—one for \$500,000 with a \$500,000 match, and the second for \$500,000 with a \$250,000 match, with a current capital base of \$2,225,000, allowable administrative expenses paid out of RLF income of \$50,000, and no write-offs for the year—the Federal Awards Expended calculation would be as follows:

$$(\$2,225,000 + \$50,000) \times [(\$500,000 + \$500,000) \div (\$1,000,000 + \$750,000)] = \$1,300,000$$

DEPARTMENT OF COMMERCE

CFDA 11.555 PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Public Safety Interoperable Communications (PSIC) Grant Program is a one-time formula-based, 3-year matching grant program intended to enhance interoperable communications for voice, data, and/or video signals. This program provides public safety agencies with the opportunity to achieve meaningful and measurable improvements to the state of public safety communications interoperability through the full and efficient use of all telecommunications resources.

II. PROGRAM PROCEDURES

Section 3006 of the Deficit Reduction Act of 2005 (Pub. L. No. 109-171), as amended by Section 2201 of Pub. L. No. 110-53 and Section 4 of the Call Home Act of 2006, Pub. L. No. 109-459, directed the National Telecommunications and Information Administration (NTIA), in consultation with the Department of Homeland Security (DHS), to establish and implement a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications systems that:

- utilize reallocated public safety spectrum for radio communications;
- enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or
- otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands.

States and Territories are required to submit an Investment Justification (IJ) for each proposed PSIC Investment (project). Up to 10 Investment Justifications will be accepted per State or Territory. A portfolio review of each State's or Territory's Investment Justifications will include a statewide Investment summary, which will include the following:

- Summary of PSIC Investments;
- Summary of how the Investments collectively relate to the statewide strategy/plan—the Statewide Communications Interoperability Plan (SCIP);
- Description of the process used to identify, prioritize, and select Investments included in the Investment Justification; and
- Description of the stakeholders involved in the evaluation and selection of proposals.

These Investments should strongly align with the goals and gaps set forth in the SCIP and the PSIC criteria. The statewide Investment summary of a State's or Territory's IJs must cumulatively account for the total amount of PSIC funding allocated to the State or Territory, not including any funds (up to 5 percent) already dedicated to statewide planning efforts. Each IJ must be a separate and unique project from any efforts currently under way. For example, a State may use its funding to support an existing statewide communications system; however, this funding must be a unique component of this system that does not receive funding from another federal grant program.

The Department of Commerce, through the NTIA, is authorized to make grants only through the end of fiscal year 2010. The PSIC grant has been awarded to the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. The Governor of each State and Territory has designated a State Administrative Agency (SAA), which applied for and administers the funds under the PSIC Grant Program. A recipient must be a public safety agency that is a State, local, or tribal government entity or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect safety of life, health, or property (Pub. L. No. 109-171, Section 3006(d)(1), 120 Stat. at 24).

The PSIC Grant Program period of performance began on October 1, 2007 and continues until September 30, 2010. A special condition has been placed on each grant award indicating that the applicant cannot drawdown, obligate, or expend Federal funds until approval of the SCIP and IJs. From the period between October 1, 2007 and the approval in early 2008, applicants can (at their own risk) incur matching costs associated with the acquisition, deployment, and management and administration (M&A) of the interoperability project. Applicants should not obligate federal dollars prior to NTIA approval of the Investment.

the PSIC Grant Program encourages the development and implementation of voluntary consensus standards for interoperable communications to the greatest extent possible. Public safety agencies may also use PSIC funds for interim- or long term Internet Protocol-based interoperable solutions. (Pub. L. No. 110-53, Section 2201(a)(2), 121 Stat. 537).

Source of Governing Requirements

The PSIC Grant Program is authorized by Section 3006 of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, as amended by Section 2201 of Pub. L. No. 110-53, and Section 4 of the Call Home Act of 2006, Pub. L. No. 109-459.

Availability of Other Program Information

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

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

Funds may be used for the following activities:

1. Planning and coordination associated with the use of interoperable communications equipment, software and systems.
2. Acquisition of interoperable communications equipment, software and systems. Acquisition activities may also include technical and financial planning, as well as procurement and system design activities.
3. Deployment costs of interoperable communications equipment, software and systems. Deployment activities may also include the development of deployment procedures for use and the establishment of service level agreements for its use.
4. Training for the use of interoperable communications equipment, software, and systems, both technical and operational (Pub. L. No. 109-171, Section 3006(a)(1), as amended by Section 2201 of Pub. L. No. 110-53, 121 Stat. 537).

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

SAs must provide, from non-federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program (Pub. L. No. 109-171, Section 3006(c), 120 Stat. at 24). The SAA is required to track and report the 20 percent matching requirement for acquisition, deployment, and management and administrative costs.

- a. A match is not required for each Investment, as long as the aggregated State-level costs associated with the overall acquisition, deployment, and management and administrative cost categories have met the minimum 20 percent matching requirement.
- b. Costs for planning and coordination and training activities do not require a match.
- c. As provided in 48 USC 1469a, the requirement for local matching funds under \$200,000 (including in-kind contributions) is waived for the Territorial governments in Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

2. Level of Effort – Not Applicable**3. Earmarking – Not Applicable**

H. Period of Availability of Federal Funds

All PSIC grant funds that are not expended by September 30, 2010 must be returned to the U.S. Treasury (Section 3006 of the Deficit Reduction Act of 2005, Public Law No. 109-171, Section 3006(a)(2), 120 Stat. at 24 (2006)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* due quarterly - Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**IV. OTHER INFORMATION**

The PSIC Grant Program is closely related to the DHS Homeland Security Grant Program (CFDA 97.067). The auditor should be certain that the allowable expenditures under the awards for each of these grant programs are properly allocated and that the specific requirements of each program are followed.