

Economic Development Administration
Revolving Loan Fund NPRM Webinar
Tuesday, November 15, 2016 – AdobeConnect

An informational webinar was conducted on Nov. 15, 2016. The webinar summarized the Notice of Proposed Rulemaking (NPRM) published on Oct. 3, 2016 (81 FR 68186) that proposed regulatory changes to the Economic Development Administration's (EDA) Revolving Loan Fund (RLF) program. The script below was developed with accompanying slides.

Webinar Text:

SPEAKER: (Tom Guevara)

**Slide 1: "EDA RLF Proposed Changes"*

Ladies and Gentleman, my name is Tom Guevara, Deputy Assistant Secretary for Regional Affairs at the Economic Development Administration. Thank you for joining us for this important webinar about proposed changes to EDA's Revolving Loan Fund regulations. On October 3, 2016, we published in the Federal Register a Notice of Proposed Rulemaking, or NPRM, that proposes changes to EDA regulations enacted primarily under the authority of the Public Works and Economic Development Act of 1965. The majority of these proposed changes would affect the RLF Program. It is our hope that the changes would revamp the RLF Program to make it more flexible for RLF Recipients, more reflective of best practices, and a more powerful tool for economic growth, increased private investment, and greater job creation. Given the comprehensive nature of these proposed changes, we will be focusing exclusively on the proposed changes to RLF regulations in this webinar.

**Slide 2: "Agenda"*

Our goal for today is to walk you through an overview of the RLF program as well as encourage you to submit questions or comments to us for consideration before the deadline for public comments. Through the webinar we will explain our motivation for proposing changes to the

program, describe the three categories of changes being proposed while being clear about what would NOT change as part of this program overhaul, and then answer some of your questions.

****Slide 3: “Revolving Loan Fund”***

EDA is committed to its mission of leading the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA supports development in economically distressed areas of the United States by making strategic investments that foster job creation and attract private investment.

The RLF program has served a critical role in EDA’s investment programs since the program’s establishment in 1975. The goal of the RLF program is to help communities and regions transform their economies and propel them towards economic prosperity through innovation, entrepreneurship, and public-private partnerships. Through the RLF program, EDA RLF Recipients make loans for economic development purposes to businesses that cannot obtain traditional bank financing and to governmental entities for public infrastructure and economic development benefit. These loans enable small businesses to expand and lead to new employment opportunities that pay competitive wages and benefits. They also help retain jobs that might otherwise be lost, create wealth, and support minority and women-owned businesses.

Since the program’s inception, EDA has funded approximately 800 RLFs nationwide, investing \$550 million in RLFs that have a combined capital base of \$813 million. EDA-funded RLFs have made more than 36,000 loans to American small businesses and have leveraged more than

\$16 billion non-RLF dollars. RLF Recipients report that the program has contributed to creating or retaining more than 650,000 jobs.

Since February 1, 2011, EDA has taken a critical and comprehensive look back at its regulations, removing outdated provisions and streamlining and clarifying requirements. These proposed changes to RLF regulations continue this effort and reflect current best practices, while strengthening EDA's efforts to evaluate, monitor, and improve RLF Program performance.

Let's now take a look at the proposed changes to EDA RLF regulations. Our fellow EDA colleagues Mitchell Harrison, Program Analyst and RLF Coordinator at EDA here in Washington, and Patrick Waggoner, Economic Development Specialist and RLF Administrator in EDA's Denver Regional Office, are here to lead you through the proposed changes. Mitchell, let's start with you.

SPEAKER: (Mitchell Harrison)

**Slide 4: "Comments"*

Thank you, Tom! While we will not be addressing, today, the other changes proposed in the NPRM, we strongly encourage you to review the entire NPRM and to submit comments on any or all revisions that have been proposed within the Notice. During today's webinar, feel free to submit questions or comments using the chat function. We will respond to as many questions as time allows at the end of the presentation.

[breath]

As indicated in the NPRM, there are multiple ways to ask questions or make comments. You may submit them through the Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov). Search for the NPRM's RIN number, 0610-AA69, in the search box on the main page, and it will take you to the NPRM. There is a "Comment Now" button on the right-hand side of the page that you can click to submit your comments.

As an alternative, you may send them by email to: regulations@eda.gov. Please include "Comments on EDA's regulations" and "Docket No. 160519444-6444-01" in the subject line of the message.

Or, you may Fax them to: (202) 482-5671. Please indicate "Attention: Office of Chief Counsel," "Comments on EDA's regulations," and Docket No. 160519444-6444-01 on the cover page.

Finally, if you prefer, you can mail questions or comments to: Office of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230. Please indicate "Comments on EDA's regulations" and Docket No. 160519444-6444-01 on the envelope.

Please note that you do not need to use all of these methods. Simply select the one method that works best for you.

Unfortunately, due to time constraints and the amount of information to convey, there will be limited opportunities for us to respond to questions during today's webinar. Nevertheless, EDA wants to hear from you. We are deeply interested in your thoughts regarding these proposed

changes and urge you to share them with us. Just keep in mind that all questions and comments must be received by December 2, 2016.

****Slide 5: “RLF Proposed Changes”***

As Tom mentioned in his introduction, this is a very exciting time for the RLF Program, and I am honored to share this opportunity and speak to all of you about where we are hoping to take the RLF Program with these proposed changes. As Tom has noted, this effort is the culmination of years of effort and dedication by all those at EDA who work with RLFs across the nation. Our hope is that, in partnership with you – our stakeholders – we will strengthen our ability to reach those who need the kind of financing that RLFs are uniquely qualified to provide and that, by doing so, we will drive economic growth like never before.

To meet these goals, we have proposed regulatory changes that fall into one of three categories: those designed to help manage risk, new and revised definitions, and other key changes that will support broader shifts in the RLF program to improve operational performance and oversight.

****Slide 6: “RLF Proposed Changes”***

Let’s dive into the first topic: Managing Risk

****Slide 7: “Managing Risk: Risk-Based Analysis Framework”***

In an effort to help both EDA and RLF Recipients manage risk, EDA is proposing to introduce a brand new approach, the Risk Analysis System. The proposed Risk Analysis

System is modeled on the Uniform Financial Institutions Rating System, often referred to as the acronym “CAMELS”. The CAMELS system produces a composite rating by examining six components: capital adequacy (the “C” in CAMELS), asset quality (“A”), management capability (“M”), earnings (“E”), liquidity (“L”), and sensitivity to market risk (“S”). This system has been used by regulators since 1979 to assess the performance of financial institutions on a uniform basis and to identify those in need of additional attention.

The Risk Analysis System is intended to provide RLF Recipients with a set of portfolio management and operations standards to evaluate their program and improve performance. The system will also help EDA to identify those RLF Recipients that require additional monitoring, technical assistance, or other actions. EDA would use the information and data already submitted by RLF Recipients as part of their required reporting process along with the adapted CAMELS factors to assign risk analysis ratings to each operator. Scores will be assigned for each factor on a numerical score of three to one, with three being the highest score. The scores will be totaled to determine each Recipient’s classification as “A”, “B” or “C”. Those Recipients classified as “A” will be considered a strong performer, who is managing its RLF program without any problems and with no need for intervention or assistance. Recipients classified as “B” will be those considered to be generally managing their RLF program well but possibly in need of technical assistance in one or more areas. A “C” is one that will be considered to have serious challenges with its programs and in need of significant improvement.

At this point, you are probably wondering what all of this will mean for you, especially if you are deemed to be a “B” or “C” Recipient. EDA will provide those categorized as “B” or “C” with guidance regarding areas of weakness and steps that would need to be taken to improve

their scores. In general, they will then be given a reasonable amount of time to address those areas of weakness or non-compliance. Ultimately, persistent noncompliance may result in EDA taking compliance actions, including possibly requiring a corrective action plan, disallowing Grant funds, or suspending or possibly even terminating the RLF grant.

Some of you may be thinking, “Well, that certainly won’t happen to *my* RLF! I am a star performer. I am organized and conscientious . . . an A for sure! What does this mean for *me*? Can’t I just go off and do my own thing now?” EDA recognizes and appreciates the hard work and commitment displayed by the entire RLF community; and we are especially grateful to those of you who consistently comply with the regulations, fully complete your reports and audits and submit them on time, and do everything possible to ensure that your operations are effective and efficient. For those Recipients who are classified as A’s through the Risk Analysis System, while we cannot free you from all further reporting and compliance requirements, we will relax your reporting requirements to make them on an annual, rather than semi-annual basis. We will continue to be available to assist you or answer questions as needed, but we will give you the increased flexibility of reduced reporting requirements so that you can focus more on what you do so well – provide lending to communities in need.

Because you likely have additional questions about this new approach to the RLF program, we will be issuing a separate notice that will be published in the Federal Register at a later time to describe, in depth, the technical aspects of this system. This notice will provide additional agency guidance regarding the system and the underlying data and metrics that will be used for scoring.

****Slide 8: “Managing Risk: Allowable Cash Percentage”***

In support of this shift to a risk-based approach to RLF performance and monitoring, EDA is proposing the introduction of a new concept, the ALLOWABLE CASH PERCENTAGE.

Currently, EDA uses a nationally administered, fixed Capital Utilization Rate as a basis for determining whether RLF Recipients are lending out RLF funds at an appropriate rate and to ensure that repaid funds are used to promote further (or revolving) lending. In the current regulations, the Capital Utilization Rate typically requires Recipients to have no more than 25% of their capital base in cash. In other words, the Capital Utilization Rate requires recipients to manage their lending and repayment schedules so that, at all times, at least 75% of their RLF Capital is loaned out or committed. Failure to comply with this requirement in successive reporting periods automatically triggers sequestration of funds, whereby EDA requires the RLF Recipient to deposit excess funds in an interest bearing account. The portion of interest earned on the account holding excess funds attributable to the Federal Share of the RLF Grant must then be remitted to the U.S. Treasury. The RLF Recipient must obtain EDA’s written authorization to withdraw any sequestered funds. If an RLF Recipient fails to achieve the Capital Utilization Standard after a reasonable period of time, it may be subject to sanctions such as suspension or termination.

In place of the current rule, EDA is proposing to replace the uniform, rigid Capital Utilization Rate with a more flexible Allowable Cash Percentage. The Allowable Cash Percentage will be a floating rate that takes into consideration the economic cycles of the U.S. national economy and regional differences. EDA recognizes that different regions of the country may experience

differences in their economic conditions and differences in the availability of capital in each region. To accommodate those differences, the Allowable Cash Percentage will be defined by each EDA regional office *individually*. Each year, each regional office will calculate the average percentage of RLF cash available for lending across their RLF portfolio and will notify the RLF recipients within their region of the Allowable Cash Percentage to be used during the ensuing year. Recipients will be required to manage their repayment and lending schedules to ensure that at all times, their amount of cash available for lending does not exceed the Allowable Cash Percentage.

****Slide 9: “Managing Risk: Allowable Cash Percentage” [EXAMPLE]***

In the NPRM, we provided an example to illustrate how this would work in practice. Assume an EDA Regional Office’s RLF portfolio is made up of five awards. Based on their 2015 RLF reports, the percentage of each RLF’s RLF Capital Base that was held as RLF Cash Available for Lending was as follows:

RLF 1 – RLF Capital Base of \$4,500,000, of which \$1,200,000 was held as RLF Cash Available for Lending;

RLF 2 – RLF Capital Base of \$7,600,000, of which \$2,800,000 was held as RLF Cash Available for Lending;

RLF 3 – RLF Capital Base of \$1,670,000, of which \$630,000 was held as RLF Cash Available for Lending;

RLF 4 – RLF Capital Base of \$13,872,930, of which \$2,974,025 was held as RLF Cash Available for Lending; and

RLF 5 – RLF Capital Base of \$5,423,000, of which \$900,000 was held as RLF Cash Available for Lending.

****Slide 10: “Managing Risk: Allowable Cash Percentage” [CALCULATION]***

Based on these numbers, on January 1, 2016, the EDA Regional Office would have informed all RLF Recipients in the region’s RLF portfolio that the Allowable Cash Percentage is 26%, which represents the sum of RLF Cash Available for Lending for the 5 RLFs (\$8,504,025) divided by the sum of the RLF Capital Base for the 5 RLFs (\$33,065,930). The RLF Recipients in that region would also be told that they must manage their lending and repayment schedules throughout 2016 so that at all times their RLF Cash Available for Lending does not exceed 26%.

If one of the Recipients has Cash Available for Lending that *does* exceed 26%, under the proposed changes, the Recipient would no longer be subject to automatic sequestration. Instead, this would be considered as one factor in the Risk Analysis rating for this particular Recipient, and sequestration would be viewed as one of a range of possible remedies to obtain compliance with the terms of the RLF Grant.

****Slide 11: “Managing Risk: Updates and Reorganization”***

You are probably already aware that the Federal government has been working on a process of combining and updating former Office of Management and Budget grant management circulars, advisories, and supplements into a single Uniform Guidance. On December 26, 2014, the Office of Management and Budget issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which codifies this single set of Uniform Guidance

in the Code of Federal Regulations at 2 CFR Part 200. This Uniform Guidance was created to reduce administrative burdens, streamline requirements for Federal awards, and protect Federal funds from fraud, waste, and abuse. It creates uniform requirements for all Federal funding recipients.

The **administrative requirements and cost principles** within the Uniform Guidance are applicable to all new awards issued on or after December 26, 2014, and may be applied to older awards if new terms or conditions are issued for those awards. The **audit requirements** within the Uniform Guidance apply to all award recipients during the entities' first full fiscal year after December 26, 2014.

As part of this NPRM, EDA proposes to replace references to superseded Circulars and regulations to reflect adoption of the new Uniform Guidance.

Beyond updating these requirements, EDA seeks to provide greater clarity to its RLF regulations by reorganizing them. Specifically, EDA is proposing to place all pre-disbursement and disbursement phase requirements into a single section – section 307.11 – and to add language designed to clarify potentially confusing, if not conflicting, deadlines for these requirements. For example, currently, Recipients must provide evidence of fidelity bond coverage and certification regarding the Recipients' accounting system before *any* disbursement of EDA funds. Under the proposed changes, the language would be revised to make it clear that these items would be required within 60 calendar days *before the initial* disbursement of EDA funds.

In addition to making changes designed to clarify the phases of an RLF, EDA is proposing to reorganize the provisions regarding compliance. The new regulations separate the compliance regulations into two different sections: one section describing those actions considered to be in noncompliance and another section listing remedies for noncompliance. We hope that this will make it easier for everyone to identify problems, as well as ways that EDA may use to address those problems. In line with this approach, EDA is proposing to update the list of practices deemed to be noncompliant in order to reflect the shift to a risk based approach. For instance, the current regulations list one example of non-compliance as having excess cash sequestered for 12 months or longer without an approved extension request. As noted previously, the NPRM proposes to replace the use of a fixed Capital Utilization Rate with a floating Allowable Cash Percentage and, in the process, eliminate automatic sequestration as a “knee-jerk” remedy. Instead, the results of each recipient’s score on the annual risk-analysis assessment will determine which steps EDA takes to remedy areas of weakness or non-compliance, with sequestration as one among a range of possible responses.

I have now covered a number of the changes associated with managing risk. I discussed our proposal to adopt a Risk-Based Analysis Framework, the origins of that approach, and how that would generally work. I also talked about the new concept of an Allowable Cash Percentage and how this should introduce flexibility that does not currently exist with the Capital Utilization Rate. Finally, I mentioned our attempts to update, reorganize, and clarify the regulations. I realize that this has been a lot of information to absorb. Please feel free to submit any burning questions or comments you may have on any of this through the “web-chat” feature on your screen. As we pointed out at the beginning of this webinar, we will address as many questions as

possible at the end of the presentation. For those we will be unable to address during the webinar, we will ensure that those questions are included in the transcript for the webinar and are considered along with all other public comments received during the comment period for the NPRM.

Now, I have the pleasure of handing you over to my esteemed colleague, Patrick Waggoner, who will walk you through some other important changes that we are proposing.

SPEAKER: (Patrick Waggoner)

****Slide 12: “RLF Proposed Changes”***

Thank you, Mitchell! Good afternoon, everyone. It is great to be a part of this historic effort and to have the chance to talk with all of you about these changes. As we indicated at the beginning of this presentation, EDA is proposing a number of changes to the definitions section within the RLF regulations. In some cases, we are adding completely new definitions, though mostly these are for concepts that are already familiar to most of you. In other cases, we are revising existing definitions to ensure that they are accurate and reflect existing practices. Let’s go over some of these.

****Slide 13: “Revised Definitions: New Definitions”***

We are proposing to add definitions for the following terms:

- Disbursement Phase. As you could tell from Mitchell’s discussion regarding our attempts to reorganize the regulations, this one is not a new concept. One of the most defining aspects of an RLF is the fact that they have two phases of operation: disbursement phase and revolving phase. In a continued effort to clarify the two phases, we decided to add a definition for “disbursement phase” to accompany the existing definition already in the regulations for “Revolving Phase.”
- RLF Capital Base. Again, this is a concept that has been around for a while but was never defined explicitly in the regulations. The Capital Base is the total value of RLF Grant assets. It is equal to the amount of Grant funds used to capitalize and possibly recapitalize the RLF *plus* Local Share *plus* RLF Income *plus* Voluntarily Contributed Capital *minus* loan losses and disallowances.
- The RLF Cash Available for Lending is that part of the RLF Capital Base that is held in cash and is available to make loans. In other words, it is that part of the Capital Base that is un-loaned or uncommitted and is available for lending.
- Allowable Cash Percentage. Mitchell has already explained the Allowable Cash Percentage. We are proposing to include a definition for this concept, in addition to the regulations discussing its application, to ensure that it is readily understandable.
- Risk Analysis System. Again, Mitchell went into detail on this important concept earlier. We are including a definition for it in the “definitions” section of the regulations to accompany the section that would implement it as a new approach.

- RLF Recipient. The term, RLF Recipient, is used throughout existing regulations but has not been defined until this point. EDA proposes to define it as “the Eligible Recipient that receives an RLF Grant to manage an RLF in accordance with an RLF Plan, Prudent Lending Practices, the terms and conditions of the RLF Grant, and all applicable policies, laws, and regulations.” Definitely a mouthful.
- Voluntarily Contributed Capital is “an RLF Recipient’s voluntary infusion of additional non-EDA funds into the RLF Capital Base that is separate from and exceeds any Local Share that is required as a condition of the RLF Grant.” EDA is proposing to add a definition for Voluntarily Contributed Capital to clarify that this is a voluntary infusion of capital that is separate from the required Matching Share and, as such, becomes an irrevocable part of the Capital Base and must be administered in accordance with EDA regulations and policies.

****Slide 14: “Revised Definitions: Amended Definitions”***

In addition to adding some new definitions to our regulations, we took a hard look at the existing definitions to make sure that these were clear and up-to-date, especially given the pivot to a risk-based approach. As a result, EDA decided to propose some minor and some not-so-minor revisions to three items:

- Recapitalization Grants. We are proposing a minor change to replace the phrase, “capital base of an RLF” with the newly defined term, “RLF Capital Base.”
- RLF Income. This would be another relatively minor change. In short, EDA is proposing to remove redundant language regarding excluding from the definition

repayment of interest earned on excess funds to the U.S. Treasury and updates the references underlying that exclusion.

- Reporting Period. Unlike the changes I described for “Recapitalization Grants” and “RLF Income,” we are proposing significant changes to this definition. We are proposing to revise the definition for “Reporting Period” to base the reporting period on the Recipient’s fiscal year end – rather than the Federal government’s fiscal year - to ensure consistency between the RLF Reports and the annual audit reports. In addition, EDA is proposing to change the reporting frequency from a stipulated semi-annual basis to a basis that will be determined, at least in part, by the Recipient’s score on the Risk Analysis System. In other words, for those Recipients scored as A, they would file their reports on an annual basis. Recipients scored as B or C would be required to file their reports on a semi-annual basis.

****Slide 15: “RLF Proposed Changes”***

We have now walked you through those changes that would directly support the adoption of a Risk Based Analysis system, as well as changes to our body of definitions. At this point, you are probably thinking, “Enough already!” I’m afraid there is more. If you have questions or comments on the definitions we just covered, please feel free to submit those now or through one of the methods described in the NPRM and at the beginning of this presentation. Otherwise, please bear with me as I walk you through the final set of proposed changes.

****Slide 16: “Other Key Changes”***

Our team of experts at EDA spent a long time reviewing every section of the RLF regulations, asking if anything could be streamlined, if there were ways to make the process easier for Recipients, and if there were ways to strengthen accountability and oversight above and beyond looking at risk and performance. The result of this review are the key changes described in this slide and the next.

The first of these is the proposal to **ELIMINATE THE INCOME AND EXPENSE STATEMENT**. Under the current regulations, RLF recipients may use 100% of RLF Income incurred in a six-month Reporting Period to cover administrative expenses by submitting an RLF Income and Expense Statement, otherwise known as the Form ED-209I. While this form would no longer be required, EDA is proposing language that would prohibit Recipients from using funds in excess of RLF Income for administrative expenses in a Recipient's fiscal year. This proposal would also establish that administrative costs should be kept to a minimum and that the percentage of RLF Income used for administrative costs will be one factor considered as part of the Risk Analysis System for scoring. As explained in the NPRM, the goal behind this change would be to incentivize Recipients to manage their expenses in order to maintain their Capital Base for lending.

A second important change would be the introduction of **REPORT CERTIFICATION**. With this change, all Recipients would be required to certify, as part of the reporting process, that all of the information they provide is complete and accurate and that each RLF is operating in accordance with its RLF Plan. Currently, reporting tends to be inconsistent, with Recipients occasionally

submitting incomplete or inaccurate information. This change is designed to provide one way to combat that problem.

Another change is with regards to LEGAL CERTIFICATION FOR LOAN DOCUMENTS. EDA is proposing changes that would require the Recipient's *legal counsel* to certify that standard loan documents are in place and comply with the terms and conditions of the grant, RLF Plan, and applicable law. This would replace the current language, which has the *Recipient* certify that their counsel reviewed. In addition to streamlining this certification process, this change would provide greater assurance that the Recipient's legal counsel reviewed the standard loan documents and found those documents to be adequate and in compliance with applicable requirements.

In another effort to make the process more efficient, we are proposing to CLARIFY THE REQUIREMENT FOR BORROWERS TO PROVIDE A BANK TURN-DOWN LETTER as a prerequisite to obtain RLF financing. Instead, RLF Recipients could provide any evidence that credit is not otherwise available on terms and conditions that would permit the completion or successful operation of the activity to be financed. Some borrowers have reported that it is difficult, if not impossible, to obtain a turn-down letter from a bank or financial institution. Rather, they have been provided other documentation proving their inability to obtain traditional financing. This change would enable borrowers to use that alternative evidence as part of their loan package.

EDA is also proposing to change the regulations regarding FIDELITY BOND COVERAGE requirements. The existing regulations allow the minimum amount of coverage to be equal to the greater of the maximum permissible loan amount or 25% of the RLF Capital Base. This latter approach – amounting to 25% of the Capital Base – is challenging to maintain as the Capital Base fluctuates. In addition, both approaches tend to lead to similar amounts of coverage. As a result, EDA proposes to eliminate the 25% alternative and instead establish the minimum coverage as equal to the maximum permissible loan amount under the RLF Plan

Another change that we are proposing would clarify the requirement to maintain an ADEQUATE ACCOUNTING SYSTEM AND LOAN DOCUMENTATION. Specifically, EDA is proposing to add language to clarify that Recipients must maintain an adequate accounting system and loan documentation, as well as documentation demonstrating that these requirements are being met, throughout the RLF's operations.

****Slide 17: "Other Key Changes"***

In addition to the changes I just described, we are proposing a number of others. As indicated in the slide, EDA proposes to expand the types of funds that can be used to meet the LEVERAGING requirements. Recipients are required to ensure funding from additional sources at a ratio of \$2 of additional funding to every \$1 of RLF loans. The revisions we are proposing would enable Recipients to include loans from State and local lending programs, in addition to

the non-guaranteed portions and 90% of the guaranteed portions of Federal loan programs, as a way to leverage RLF dollars.

We are also proposing to clarify the provision permitting THE USE OF LOAN LOSS RESERVES in a Recipient's financial statements as a way to show the fair market value of an RLF loan portfolio. This regulation would be revised to clearly state that loan loss reserves shall not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards, or SEFA, which is a list of expenditures for each Federal award within a Recipient's financial statements. Generally Accepted Accounting Principles permit the inclusion of loan loss reserves in *financial statements*, but auditing requirements in 2 CFR Part 200 prohibit their inclusion in the *SEFA*. This has caused confusion by Recipients and led to inaccurate reporting in the *SEFA*. We are hoping that the revised language will eliminate this confusion.

We are also seeking to clarify the PROHIBITIONS ON HOW RLF CASH CAN BE USED. EDA has long-standing regulations that prohibit the use of Federal grant awards to: (1) serve as collateral to obtain credit or other financing without EDA approval; (2) support the operations of the Recipient; or (3) undertake any activity that would violate EDA regulations regarding the unauthorized uses of property acquired with Federal grant funds. We are proposing to add language clearly stating that such prohibitions also apply to RLF funds.

Finally, as we have already explained, we are proposing changes that would eliminate automatic sequestration of excess cash and would apply, instead, a more flexible approach that would base the compliance action on the Risk Based Analysis scores. To further support this new approach while also retaining the ability to ensure continued lending by Recipients, we are proposing to add language that would clarify that if an RLF Recipient's Cash Available for Lending reaches 50% or more of the RLF Capital Base and remains there for 24 months or longer, EDA may require disallowance of the excess cash.

****Slide 18: "What will NOT Change"***

This concludes our discussion of the major changes described in the NPRM. Now, I would like to turn you back over to Mitchell to explain what would NOT change in this program and to try to address a few of the questions that have been submitted this far in the webinar. Mitchell -

SPEAKER: (Mitchell Harrison)

Thank you, Patrick. As you can see from this slide, two things would not change with this package of proposed regulations. The first is the fact that RLF funds would continue to retain their Federal character in perpetuity; and, as a result, Recipients' obligations to manage their RLF funds in accordance with the terms of the awards and regulations also continue in perpetuity. We are aware that many RLFs have been operating successfully for many years . . . even decades. Over the years, many of you have urged us to set a time limit, after which we would release the Federal interest in these awards. We hear you. Unfortunately, this "de-federalization" requires a legislative fix - not a regulatory one. However, we continue to work with Congress to try to achieve the necessary authorities to make this happen.

The second thing that will not change is our commitment to you and to the goals of the RLF program. As Tom, Patrick, and I have tried to express during the presentation, we hope that these proposed changes will make it easier for RLF Recipients to do the important work that they do on a daily basis. We also hope that these changes will strengthen the RLF program, as a whole, and give us the opportunity to work with our Recipients in more targeted and effective ways. Mostly, we believe the RLF program is a powerful tool for building up our communities and our economy, and we remain unwavering in our support of all of you and your efforts with this program.

****Slide 19: “Questions” and Speaker Contact Info.***

At this point, Patrick and I will try to respond to some of the excellent questions that have been submitted during the webinar. Meanwhile, please note our contact information if you would like to follow up individually.

X

X

X

****Slide 20: “Submit Comments”***

Thank you very much for joining us today. As we remarked at the beginning of this presentation, we are recording this webinar and will be posting it on EDA’s YouTube page, along with any questions or comments we were unable to address for lack of time today. For all other questions

or comments about these proposed changes, please follow the procedures outlined in the NPRM and at the beginning this presentation. We look forward to all of your feedback.