

SOUTHERN MISSISSIPPI PLANNING AND
DEVELOPMENT DISTRICT, INC.

EDA Revolving Loan
Fund Plan including
Natural Disaster
Recovery and
Resiliency Lending

APPROVED BY SMPDD BOARD ON AUGUST 14, 2019

Section I: Revolving Loan Fund Plan including Natural Disaster Recovery and Resiliency Lending Strategy

Name of Organization:

Southern Mississippi Planning and Development District, Inc. ("SMPDD")

List of Counties Comprising the Lending Territory:

Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jefferson Davis, Jones, Lamar, Marion, Pearl River, Perry, Stone and Wayne

Executive Summary

This plan is developed to address two disasters affecting SMPDD's territory – Hurricane Nate in October 2017 and tornadoes occurring in January 2017. Both of these disasters were Presidentially declared disasters (4350 and 4295). More specifically, this lending plan is being implemented to address natural disaster recovery and resiliency projects. In addition to these declared disasters, the plan is developed to address general financing needs of businesses in SMPDD's 15-county area. This plan applies to loans made with disaster funding and also to general business RLF funding. This plan has been developed consistent with EDA's FY2018 Disaster Notice of Funding Opportunity and is designed to "help communities and regions devise and implement long-term economic recovery strategies...to address economic challenges in areas where a Presidential declaration of a major disaster was issued." This not only involves the affected communities and regions, but also specific small business owners affected. Disasters affect businesses directly through direct physical damage and also through storm preparation. Working capital needs increase through storm preparation costs and revenue decreases due to the closing of business operations during preparation times. The implementation of this Lending Plan will assist in the recovery efforts of the affected areas and businesses of these disasters and help them to be better prepared and more resilient in the event of future disasters. Loans made through this program will assist in seeing businesses restored in these communities; thereby, replacing lost employment.

SMPDD Region's Comprehensive Economic Development Strategy:

In addition to the items addressed in the Executive Summary, there are an additional 4 goals identified through our Region's CEDS* as follows:

1. Be recognized as the premier region in Mississippi that thinks and works together regardless of geographic boundaries (with one of the action items being "to act as a contingency hub that will ensure commerce continues to flow and expedite recovery in the event of natural, political or economic disasters or down turns").

2. Create new jobs, additional wealth and a better quality of life for the region by creating new and supporting established economic development programs.
3. Increase the growth and success of small business by creating and nurturing a culture of entrepreneurship and innovation.
4. Increase the opportunity for individuals to earn family-sustaining wages and meet the needs of employers by collaborating on and supporting workforce development strategies throughout the region.

*SMPDD Region's CEDS can be accessed on-line at <http://smpdd.com/wp-content/uploads/2019/07/SMPDD-2018-2022-CEDS-Plan.pdf>

Business Development Objectives:

The goal of the SMPDD ("The Recipient") EDA Revolving Loan Fund Plan including Natural Disaster Recovery and Resiliency Lending ("The RLF") Program is to finance costs associated with Economic Recovery related to the named disasters and to finance costs associated with improving the resiliency of affected communities and businesses to mitigate risks of future disasters. This goal is implemented with the following objectives in mind:

1. Provide financing that will assist in seeing businesses restored in areas affected by natural disasters; thereby, replacing lost employment,
2. Provide financing for projects that will strengthen community and business resilience in the event of future disasters,
3. Provide financing to businesses for which credit is not otherwise available,
4. Provide financing on terms and conditions that would aid in the completion and/or successful operation of a project,
5. Provide financing to projects that will lead to the retention and creation of jobs, additional wealth, higher wages and a better quality of life for the region,
6. Provide financing to not only existing businesses, but also start-ups, thereby encouraging further disaster recovery, resiliency, disaster risk mitigation, entrepreneurship and innovation,

Some project examples that support these objectives are as follows:

1. Loans to businesses and municipalities that will expedite economic recovery following a disaster, specifically projects that facilitate the recovery of lost jobs and projects that will increase resiliency for future disasters,
2. Projects that enhance local and regional economic development,
3. Rehabilitation of disaster destroyed structures,
4. Construction of new facilities that accommodate industry,
5. Projects that encourage and support satellite industries necessary for major industry location or expansion,
6. Projects that provide quality employment in order to increase per capita income,

7. Loans to local governments for projects that promote economic development and job creation/retention,

RLF Financing Strategy:

The RLF will provide financing for the following business purposes:

1. Machinery and equipment purchases,
2. Inventory purchases,
3. Working capital needs,
4. Land and building purchases/renovations,
5. Leasehold improvements,
6. Infrastructure for increased resiliency for future disasters.

The RLF will offer loans that range from \$10,000 to \$500,000. RLF funds can be combined with other SMPDD Loan Programs for requests over \$500,000.

Capital Markets in SMPDD's area:

The capital/financing market in SMPDD's 15 county region consists of larger regional banks in the larger concentrated population areas. These consist of the coastal area counties and the Hattiesburg/Pine Belt region – Regions Bank, Hancock Whitney Bank, Bancorpsouth, Wells Fargo and Trustmark. The challenge with these larger banks is mainly seen in the start-up market. Most large banks are risk averse to funding start-up businesses. Other banks in these areas are community banks such as The First, Community Bank, The Citizens Bank of Philadelphia, and Peoples Bank of Biloxi. In the smaller population areas, local banks handle the majority of business loans. These would include First State Bank, Citizens Bank, Bank of Wiggins, Priority One Bank, Great Southern Bank and First Southern Bank. In addition to these banks, there are also credit unions in the region that offer business loans. These include Keesler Federal Credit Union, Singing River Federal Credit Union, Hope Credit Union and Gulf Coast Federal Credit Union. The community banks, local banks and credit unions typically need assistance with gap financing between what they are able to lend and owners' equity. The start-up and gap financing challenges these institutions see present an ideal market for SMPDD to provide financing to businesses that would not otherwise be able to obtain financing. There is an additional lender in the region that is a non-profit lender and CDFI – Renaissance Community Loan Fund. Their lending programs are similar to SMPDD's programs. In instances where a partnership is needed for additional financing mainly due to loan size, SMPDD shall reach out to this lender or the banks and credit unions listed above.

Interest Rate Guidelines

13 CFR 307.15: EDA Interest Rate Regulation:

(1) General rule. An RLF Recipient may make loans to eligible borrowers at interest rates and under conditions determined by the RLF Recipient to be appropriate in achieving the goals of the RLF. The minimum interest rate an RLF Recipient may charge is four percentage points below the lesser of the current money center prime interest rate quoted in the Wall Street Journal, or

the maximum interest rate allowed under State law. In no event shall the interest rate be less than the lower of four percent or 75 percent of the prime interest rate listed in the Wall Street Journal.

(2) Exception - should the prime interest rate listed in the Wall Street Journal exceed fourteen (14) percent, the minimum RLF interest rate is not required to be raised above ten (10) percent if doing so compromises the ability of the RLF Recipient to implement its financing strategy.

A loan origination fee of 1% of the loan amount will be charged at closing for RLF loans. This fee will be included in total program income.

No pre-payment penalty will be charged on RLF loans that are paid in full prior to the maturity date.

A minimum equity contribution by the business owner in the amount of 10% of the total project cost must be provided by the borrower. The preferable contribution is in the form of cash; however, other assets of the business/business owner may be acceptable.

Sufficient collateral will be required and determined on a loan-by-loan basis. The RLF will subordinate to a senior lienholder, if necessary. No unsecured loans will be made with the exception of loans made to local governments.

The business owners will be required to fully personally guarantee each loan and to provide a life insurance policy assignment in an amount no less than the loan amount.

The RLF will provide the following loan terms:

1. Maximum 5-year amortization on working capital loans,
2. Maximum 10-year amortization on non-real estate fixed asset loans (i.e., machinery, equipment, furniture, fixtures),
3. Maximum 15-year amortization on real estate loans with case-by-case consideration given to increasing to a 20-year amortization,
4. Up to 12-month interest only on loans with a construction draw period that automatically convert to permanent payments. Consideration as to an interest-only period prior to automatic conversion to permanent payments may be given in other cases not involving a construction period.

Loan Recipient Eligibility Requirements

13 CFR 307.17: Use of Capital/Ineligible Loans

(a) General. RLF Cash Available for Lending shall be deposited and held in an interest-bearing account by the Recipient and used for the purpose of making RLF loans that are consistent with an RLF Plan or such other purposes approved by EDA. To ensure that RLF funds are used as intended, each loan agreement must clearly state the purpose of each loan.

(b) Allowable Cash Percentage. EDA shall notify each RLF recipient by January 1 of each year of the Allowable Cash Percentage that is applicable to lending during the Recipient's ensuing fiscal year. During the Revolving Phase, RLF Recipients must manage their repayment and lending schedules so that at all times they do not exceed the Allowable Cash Percentage.

(c) Restrictions on use of RLF Cash Available for Lending. RLF Cash Available for Lending shall not be used to:

(1) Acquire an equity position in a private business;

(2) Subsidize interest payments on an existing RLF loan;

(3) Provide a loan to a borrower for the purpose of meeting the requirements of equity contributions under another Federal Agency's loan programs;

(4) Enable borrowers to acquire an interest in a business either through the purchase of stock or through the acquisition of assets, unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly consistent with the strategic objectives of the RLF;

(5) Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts, certificates of deposit, or any investment unrelated to the RLF; or

(6) 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 Cash Available for Lending 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. RLF funds may be used for this purpose only if there is a high probability of receiving compensation from the sale of assets sufficient to cover an RLF's costs plus a reasonable portion of the outstanding RLF loan within a reasonable time frame approved by EDA following the date of refinancing.

(7) Serve as collateral to obtain credit or any other type of financing without EDA's prior written approval;

(8) Support operations or administration of the RLF Recipient; or

(9) Undertake any activity that would violate the requirements found in part 314 of this chapter, including §314.3 ("Authorized Use of Property") and §314.4 ("Unauthorized Use of Property");

(10) Business involved in gambling activities, illegal activity, illicit drug sales, etc.

(11) Loans for the purpose of relocating jobs.

As required in 13 CFR 307.15: Accounting principles

(1) RLFs shall operate in accordance with generally accepted accounting principles (“GAAP”) as in effect in the United States and the provisions outlined in the audit requirements set out as subpart F to 2 CFR part 200 and the Compliance Supplement, which is appendix XI to 2 CFR part 200, as applicable.

(2) In accordance with GAAP, a loan loss reserve may be recorded in the RLF Recipient's financial statements to show the adjusted current value of an RLF's loan portfolio, provided this loan loss reserve is non-funded and is represented by a noncash entry. However, loan loss reserves shall not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards (“SEFA”) required as part of the RLF Recipient's audit requirements under 2 CFR part 200.

RLF Financing Policies:

13 CFR 307.11: Required Loan Documentation

(ii) The RLF Recipient's certification that standard RLF loan documents reasonably necessary or advisable for lending are in place and a certification from the RLF Recipient's legal counsel that the loan documents are adequate and comply with the terms and conditions of the RLF Grant, RLF Plan, and applicable State and local law. The standard loan documents must include, at a minimum, the following:

(A) Loan application;

(B) Loan agreement;

(C) Board of directors' meeting minutes approving the RLF loan;

(D) Promissory note;

(E) Security agreement(s);

(F) Deed of trust or mortgage (as applicable);

(G) Agreement of prior lien holder (as applicable); and

(H) Evidence demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed.

This documentation may include: (1) Detailed memorandum to the loan file detailing the RLF Loan Staff's communication with the declining bank; (2) Commitment letter from the bank providing a certain level of financing for a project (in situations where the prospective borrower is applying for funds from the RLF above the amount committed by the bank); (3) Email communication from the declining bank.

(ix) Documentation of the required environmental review determined necessary for the specific file and, if applicable, copy of the environmental review.

RLF Portfolio Standards:

13 CFR 307.15: Leveraging *(1) RLF loans must leverage additional investment of at least two dollars for every one dollar of such RLF loans. This leveraging requirement applies to the RLF portfolio as a whole rather than to individual loans and is effective for the duration of the RLF's*

operation. To be classified as leveraged, additional investment must be made within 12 months of approval of an RLF loan, as part of the same business development project, and may include:

(i) Capital invested by the borrower or others;

(ii) Financing from private entities;

(iii) The non-guaranteed portions and 90 percent of the guaranteed portions of any Federal loan; or

(iv) Loans from other State and local lending programs.

Through the use of the EDA Semi-annual Report, the RLF staff will measure the standards of the program by reviewing the following:

1. Number of jobs created/retained against amount loaned (Must be at least 1 job for every \$20,000 loaned for the total RLF portfolio),
2. Private leveraging requirements,
3. Adherence to the allowable cash percentage as provided by the regional EDA office adjusted for the specific region annually.

EDA evaluates RLF's using a Risk Analysis System that will focus on such risk factors as capital, assets, management, earnings, liquidity, strategic results and financial controls.

During the revolving phase, RLF recipients must manage their repayment and lending schedules so that they do not exceed the allowable cash percentage. EDA notifies the RLF recipients of the allowable cash percentage to apply to the recipient's next fiscal year.

Section II: Operational Procedures

Organizational Structure and Administrative Elements:

- A. The administrative support for the RLF will be provided by SMPDD's Loan Program Staff. These administrative duties include:
 1. Assembling information on applicants for presentation to approving committee/board;
 2. Administering individual loans and RLF portfolio;
 3. Servicing individual loans and RLF portfolio;
 4. Recording individual loan payments;
 5. Requesting and receiving loan file maintenance information such as insurance documents, tax statements and financial information;
 6. Conducting annual site visits;
 7. Working with SMPDD's legal counsel on loan closings and collection activity;
 8. Maintaining Legal and Correspondence loan files;
 9. Marketing of the RLF Program;
 10. Preparing (along with assistance from Finance Staff) and submitting the EDA Semi-annual reports;

11. Providing technical assistance to potential and existing borrowers for application preparation and referring to outside partner/resources for business plan and income/expense projection preparation.
- B. The RLF will be governed by an 11-member Revolving Loan Fund Committee (“RLF Committee)” which is approved by SMPDD’s Board of Directors. No member of the SMPDD’s Board of Directors can serve on the RLF Committee as to avoid any internal conflict or conflict of interest. Criteria and make-up of the RLF Committee consists of the following:
1. Two (2) individuals with current experience in banking or finance;
 2. Two (2) individuals with principal or majority owner of private, for-profit, commercial enterprises qualifying as small businesses as defined under the Mississippi Small Business Assistance Program (MSBAP);
 3. Two (2) individuals who are senior officers of a private, for-profit, commercial enterprise not qualifying as a small business under MSBAP, or the executive director of an industrial or economic development foundation;
 4. One (1) minority individual who has current experience in banking or finance or who is the principal or majority owner of a private, for-profit, commercial enterprise qualifying as a small business under the MSBAP;
 5. One (1) female individual who has current experience in banking or finance, or who is the principal or majority owner of a private, for-profit, commercial enterprise qualifying as a small business under the MSBAP;
 6. The remaining positions will be filled at the SMPDD Board’s discretion;
 7. All members of the RLF Committee must be residents of the 15 County SMPDD District.
- C. The following loan approval levels have been established by SMPDD’s Board of Directors:
1. Loans in amounts equal to or less than \$75,000.00 may be authorized and approved by the RLF Committee;
 2. Loans in amounts between \$75,000.01 and \$175,000.00 may be authorized and approved by the Executive Committee of SMPDD’s Board following an approval recommendation by the RLF Committee;
 3. Loans in amounts greater than \$175,000.01 may be authorized and approved by SMPDD’s Board following an approval recommendation of the RLF Committee;
 4. These amounts not only apply to individual loan requests but also to total SMPDD relationships (i.e., a borrower with an existing loan of \$75,000 applying for an additional \$30,000 would require an approval level as represented in #2 above as their total relationship upon approval of the second loan would equal \$105,000.00);
 5. While the most optimal setting for presenting a loan is in a stated or called meeting, it is recognized and accepted on a case-by-case basis to obtain loan approval

through poll votes, conference call votes and/or email voting provided the approving body ratifies their decision at their next stated meeting.

D. Loan servicing responsibilities as approved by SMPDD's Board of Directors is as follows:

1. Loan servicing includes the granting of partial releases of collateral, subordinations of lien positions, releases of personal liability may be approved by the Executive Director with input provided by the Loan Program Manager;
2. Loan treatment including the placement of loans on non-accrual status, restructuring loans, re-amortization of loans and granting of deferrals or extensions of time for payment of installments may be approved by the Executive Director with input provided by the Loan Program Manager;
3. Any loan servicing or loan treatment action resulting in new funds being disbursed or a significant increase in SMPDD's exposure must be approved through the RLF Committee;
4. Loan collection actions including initiating foreclosure activity, repossession activity, initiating suit, whether for deficiency or to recover directly on the note may be approved by the Loan Program Manager along with the direct involvement of SMPDD's legal counsel;
5. Charge-offs of defaulted loans must be authorized and approved by the RLF Committee and SMPDD's Board of Directors regardless of amount.

E. Standard Loan Application Procedures

1. RLF Staff holds a pre-application conference with potential applicant to discuss economic benefits of a project, determines any unknown problem or conflicts, informs applicants of general application and project requirements and makes a preliminary determination of project feasibility and eligibility. If the project is determined to not be eligible for RLF Funds, the potential applicant is so informed. If eligible, the RLF Staff reviews the RLF guidelines with the potential borrower as they pertain to the potential loan request and presents an application package for completion by the potential borrower.
2. The following is a list of items required to be attached to the completed RLF application:
 - a. Three years personal and business tax returns;
 - b. Business plan including Three years financial projections;
 - c. Most recent appraisal for land/real estate, if applicable;
 - d. Invoices or detailed list of business asset valuation, if applicable;
 - e. Personal Financial Statement;
 - f. Proof of equity injection;
 - g. Commitment letter from participating lender, if applicable;
 - h. Signed environmental questionnaire;

- i. Bank denial info (memo, letter, email, etc. as previously referenced);
 - j. Executed credit consent form by borrower.
3. Credit reports are required of all loan applicants. A credit consent form is requested of the applicant granting permission for SMPDD to obtain the credit report. These executed forms are to be maintained for approved loans and denied loans. Credit will be only one factor weighed by the loan committee in making decisions regarding loan applications. While there is no minimum credit score to receive funding through the RLF Program, it is one of the initial tools used in evaluating a request. Borrowers must show a positive and established credit history.
4. Market valuations must be obtained in order to properly value collateral. Appraisals are the preferred method for valuing real estate collateral. On a case-by-case basis, tax valuations may be used if approved by the RLF Committee. Invoices may be used for machinery, equipment, furniture and fixtures valuation.
5. An environmental questionnaire is included in the loan application package, and must be properly completed prior to the loan being considered for funding on real estate transactions.
6. Loan write-up – The RLF loan write-up consists of the following information:
 - a. Credit memorandum providing details of loan request including borrowing entity, business location, business/borrower history, owners/guarantors, loan terms, collateral description, funding source, personal credit/financial history of business owners/guarantors and disaster impact;
 - b. Credit review providing more detail as to the financial details of the loan request – sources and uses, Debt Service Coverage calculations, collateral valuation;
 - c. Business plan including business owner resumes and income/expense and cash flow projections;
 - d. Historical income/expenses for existing businesses
 - e. Verification of collateral – invoices, appraisal, etc.;
 - f. Credit report of owners/guarantors
 - g. Personal Financial Statement of owners/guarantors
7. Procedures for Loan Approvals – The potential borrower’s loan package is summarized through the use of the RLF Loan Write-up and presented to the RLF Committee for approval. Depending on the loan amount, additional approval is required as detailed in the Loan Approval section of this plan. Upon approval from the final approving body, the borrower is notified of the approval through the issuance of a Commitment Letter executed by SMPDD and the borrower. Through this letter and through other communication, the borrower is asked to present all necessary documentation for the loan closing. Minutes of all approving bodies are maintained in the Legal loan files of the corresponding loans.

If a loan is denied, the borrower is notified verbally and also is provided a letter of denial with full explanation of the reasons for denial.

F. Loan closing and disbursement procedures

1. All loans are closed through SMPDD's legal counsel. Upon approval and execution of the Commitment Letter, RLF Staff submits an attorney instruction letter to legal counsel along with a copy of the executed commitment letter and any necessary documentation required for closing (i.e., warranty deed, insurance documentation, etc.). The closing is coordinated among RLF staff, legal counsel and the borrower.
2. Loan closing documentation – the following is a checklist of items necessary for loan closing:
 - A. Promissory note;
 - B. Personal guarantees of owners/guarantors;
 - C. Deed of trust;
 - D. Title insurance;
 - E. Life insurance assignment;
 - F. UCC Financing Statements on machinery, equipment, furniture, fixtures, inventory;
 - G. Commitment letter;
 - H. Loan agreement;
 - I. Security agreement;
 - J. Any other documentation deemed pertinent by legal counsel.
3. All funds are disbursed through SMPDD's legal counsel even in events where funds are being held (i.e., construction financing).
4. RLF Staff is responsible for entering and booking new loan information into the RLF loan tracking system and maintaining the Legal and Correspondence Loan Files.
5. The required documentation for a Loan Legal File after closing includes:
 - A. Loan agreement;
 - B. Commitment letter;
 - C. Promissory note;
 - D. Personal guaranty;
 - E. Security agreement;
 - F. Deed of trust;
 - G. RLF application including business plan documents;
 - H. Copies of private lender loan documents;
 - I. Copies of property and liability insurance;
 - J. Copies of life insurance and assignment;
 - K. Amortization schedule;
 - L. UCC Financing Statements;
 - M. Credit report;
 - N. Full RLF Committee Loan write-up used in approval presentation;
 - O. Copy of minutes from approving bodies;

- P. Any other closing documents from SMPDD's legal counsel from loan closing;
 - Q. Evidence that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed (see previous documentation listed under RLF Financing Policies);
 - R. Documentation of the type of environmental review, if required for the specific file, and a copy of the environmental review.
6. RLF loan correspondence files will also be kept separate from the Loan Legal Files and will contain ongoing loan documents such as site visit forms, annual insurance declaration pages, annual financial statements and any other correspondence that is not required in the Loan Legal File.
- G. Loan servicing procedures
- 1. Loan payments are submitted via mail or hand delivered to the SMPDD receptionist at which time the payments are logged denoting delivery.
 - 2. Loan payments may also be received through auto draft. An auto draft form is provided to the borrower and returned back to SMPDD.
 - 3. SMPDD Finance Staff receives the payments from the receptionist for entry into the RLF payment log and deposit processing. In the event of a payment being set up on auto draft, the Finance Staff enters those loans paid in this manner and submits them monthly to SMPDD's financial institution for drafting of the RLF borrowers' account.
 - 4. RLF staff receives the payment log and enters payment into the RLF loan tracking system for each individual loan.
 - 5. The RLF Staff will make annual site visits to each borrower to verify that the borrower is in compliance with all terms of the loan.
- H. Loan write off policy:
- 1. Borrowers whose loans become 30 days late will be contacted by RLF Staff to determine a plan of action to bring the loan payments current. The primary manner of handling this communication is through a late payment notice produced through the RLF software system. Further communication such as telephone calls or email may be warranted.
 - 2. Once a loan reaches a status of being 90 days late, SMPDD's legal counsel will be notified by RLF staff in order to write a collection letter.
 - 3. Every effort will be made, within reason and while making sound credit decisions, to assist the borrower in bringing their loan current. These may include re-structuring, deferring late payments, etc.
 - 4. Loans that are deemed as unrecoverable by RLF Staff and by SMPDD's legal counsel will proceed through all of the necessary legal channels in an attempt to recover the outstanding debt. These include, but are not limited to foreclosure, judgment filing, etc.
 - 5. Once RLF staff along with input from SMPDD's legal counsel deem a loan unrecoverable, the loan is presented to the RLF Committee for charge-off approval then submitted to SMPDD's Board of Directors for final approval (as previously

stated in this plan, SMPDD's Board of Directors must approve all charge-offs regardless of amount).

6. For loans on borrowers that have filed bankruptcy, SMPDD's legal counsel is notified immediately upon receipt of bankruptcy notification and all matters are handled through counsel.
7. For loans that have been charged-off and deemed uncollectable, an IRS form 1099C is prepared and sent to the borrower and filed with the IRS, with the exception of those loans for borrowers that have filed bankruptcy.

Priority of Payment on Defaulted Loans:

13 FR 307.12: Payment Priority

Priority of payments on defaulted and written off RLF loans. When an RLF Recipient receives proceeds on a defaulted or written off RLF loan that is not subject to liquidation pursuant to §307.21, 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.*

Conflicts of Interest Policy

13 CFR 300.3: Interested Party Definition

Interested Party means any officer, employee or member of the board of directors or other governing board of the Recipient, including any other parties that advise, approve, recommend or otherwise participate in the business decisions of the Recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. An Interested Party also includes the Interested Party's immediate family and other persons directly connected to the Interested Party by law or through a business arrangement.

13 CFR 302.17: EDA Conflicts of Interest

It is EDA's and the Department's policy to maintain the highest standards of conduct to prevent conflicts of interest in connection with the award of Investment Assistance or its use for reimbursement or payment of costs (e.g., procurement of goods or services) by or to the Recipient. A conflict of interest generally exists when an Interested Party participates in a matter that has a direct and predictable effect on the Interested Party's personal or financial interests. A conflict may also exist where there is an appearance that an Interested Party's objectivity in performing his or her responsibilities under the Project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other

activities or relationships with other persons or entities, an Interested Party is unable to render impartial assistance, services or advice to the Recipient, a participant in the Project or to the Federal government. Additionally, a conflict of interest may result from non-financial gain to an Interested Party, such as benefit to reputation or prestige in a professional field.(b) Prohibition on direct or indirect financial or personal benefits. (1) An Interested Party shall not receive any direct or indirect financial or personal benefits in connection with the award of Investment Assistance or its use for payment or reimbursement of costs by or to the Recipient.(2) An Interested Party shall also not, directly or indirectly, solicit or accept any gift, gratuity, favor, entertainment or other benefit having monetary value, for himself or herself or for another person or entity, from any person or organization which has obtained or seeks to obtain Investment Assistance from EDA.(3) Costs incurred in violation of any conflicts of interest rules contained in this chapter or in violation of any assurances by the Recipient may be denied reimbursement.(4) See § 315.15 of this chapter for special conflicts of interest rules for Trade Adjustment Assistance Investments.(c) Special rules for Revolving Loan Fund (“RLF”) Grants. In addition to the rules set forth in this section:(1) An Interested Party of a Recipient of an RLF Grant shall not receive, directly or indirectly, any personal or financial benefits resulting from the disbursement of RLF loans;(2) A Recipient of an RLF Grant shall also not lend RLF funds to an Interested Party; and(3) Former board members of a Recipient of an RLF Grant and members of his or her Immediate Family shall not receive a loan from such RLF for a period of two (2) years from the date that the board member last served on the RLF’s board of directors.

Annual certifications are obtained by each member of SMPDD’s Board of Directors, each member of SMPDD’s RLF Loan Committee and each member of SMPDD’s RLF loan staff certifying that any conflicts of interest will be disclosed prior to a vote for a loan approval and that should any conflict arise, the member(s) will recuse themselves from voting. A copy of this form is attached as an exhibit.

RLF Income:

13 CFR 307.12: RLF Income Regulations

(a) Revolving Loan Fund Income requirements during the Revolving Phase. During the Revolving Phase, 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 is earned and the administrative costs are accrued in the same fiscal year of the RLF Recipient;*
- (2) RLF Income earned, but not used for administrative costs during the same fiscal year of the RLF Recipient is made available for lending activities;*

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

(4) An RLF Recipient shall not use funds in excess of RLF Income for administrative costs unless directed otherwise in writing by EDA. In accordance with EDA's RLF Risk Analysis System, RLF Recipients are expected to keep administrative costs to a minimum in order to maintain the RLF Capital Base. The percentage of RLF Income used for administrative expenses will be one of the measures used in EDA's RLF Risk Analysis System to evaluate RLF Recipients. See also §307.16.

(b) Compliance guidance. When charging costs against RLF Income, RLF Recipients must comply with applicable Federal uniform administrative requirements, cost principles, and audit requirements as detailed in this paragraph (b) and in the terms and conditions of the RLF Grant.

(1) For RLF Grants made on or after December 26, 2014. For RLFs awarded on or after December 26, 2014 or for RLF's that have received one or more Recapitalization Grants on or after December 26, 2014, the RLF Recipient must comply with the administrative and cost principles in 2 CFR part 200 ("Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards").

(2) For RLF Grants made before December 26, 2014. For RLFs awarded before December 26, 2014, unless otherwise indicated in the terms of the Grant, the RLF Recipient must comply with the following cost principles:

(i) 2 CFR part 225 (OMB Circular A-87 for State, local, and Indian tribal governments),

(ii) 2 CFR part 230 (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

(iii) 2 CFR part 220 (OMB Circular A-21 for educational institutions).

(3) For all RLF Grants. For all RLF Grants, regardless of when they were awarded, the audit requirements set out as subpart F to 2 CFR part 200 apply to audits of the RLF Recipient's fiscal years beginning on or after December 26, 2014. In addition, the Compliance Supplement, which is appendix XI to 2 CFR part 200, applies as appropriate.

Environmental Requirements

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under the following statutes and E.O.s, and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment, and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

b. The National Historic Preservation Act (16 U.S.C. §§ 470 et seq.)

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit any information sufficient to enable DOC to make the requisite assessment under the NHPA. Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 et seq., formerly 16 U.S.C. § 469a-1 et seq.); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.), and E.O. 11738 (38 FR 25161), and must not use a facility on the Environmental Protection Agency’s (EPA) List of Violating Facilities (this list is incorporated into the Excluded Parties List System found at the System for Award Management (SAM) website located SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 et seq.)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

f. The Endangered Species Act (16 U.S.C. §§ 1531 et seq.)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 et seq.)

Funded projects must be consistent with a coastal State’s approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 et seq.)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 et seq.)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f et seq.)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 et seq.) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note et seq.)

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”)

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions, and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

p. Rivers and Harbors Act (33 U.S.C. § 407)

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

r. Executive Order 13112 (Invasive Species, February 3, 1999)

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.)

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S. Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified” by any agency under a Federal permit or license.

As part of the loan application process, SMPDD requires that the applicant complete an Environmental Questionnaire which consists of EDA Environmental Narrative Requirements. This questionnaire is to be completed by the applicant and certified by the signature of the applicant’s authorized representative. In addition, site inspections are made by SMPDD RLF Staff to determine any further environmental issues. Should any further action be required to address any environmental issues, a third party provided shall be engaged to address proper remediation.

RLF Semi-Annual Reporting:

13 CFR 307.14: Reporting Requirements

(a) Frequency of reports. All RLF Recipients, including those receiving Recapitalization Grants for existing RLFs, must complete and submit an RLF report, using Form ED-209, in a format and at a frequency as required by EDA.

(b) Report contents. RLF Recipients must certify as part of the RLF report to EDA that the RLF is operating in accordance with the applicable RLF Plan and that the information provided is complete and accurate.

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 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 years from the actual submission date of the report that covers the fiscal year in which such costs were claimed.

(3) *Consistent with § 307.13, for the duration of RLF operations, maintain records to demonstrate:*

(i) The adequacy of the RLF's accounting system to identify, safeguard, and account for the entire RLF Capital Base, outstanding RLF loans, and other RLF operations;

(ii) That standard RLF loan documents reasonably necessary or advisable for lending are in place; and

(iii) Evidence of fidelity bond coverage for persons authorized to handle funds under the grant award in an amount sufficient to protect the interests of EDA and the RLF.

(4) *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 years old, unless fraud is at issue.*

*Italicized sections are EDA regulations