

the RLF is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s) or to lower the cost of financing to a borrower, or

(ii) An RLF uses RLF income sources and/or recycled RLF funds to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan. This action may be undertaken only if there is a high probability of receiving compensation within 18 months from the sale of assets sufficient to cover an RLF's expenses plus a reasonable portion of the outstanding loan obligation; or

(7) Finance any activity that serves to relocate jobs from one commuting area to another. (Commuting area is that area defined by the distance people travel to work in the locality of the project receiving RLF financial assistance.) An RLF's standard loan agreement must include a provision for calling the loan if it is determined that:

(i) The business used the RLF loan to relocate jobs from another commuting area, or

(ii) The activity financed was subsequently moved to a different commuting area to the detriment of local workers.

(c) *Credit otherwise available.* Unless otherwise provided for in the grant agreement or modified in writing by EDA, a borrower is not eligible for RLF financing if credit is otherwise available on terms and conditions that permit the completion or successful operation of the project activity to be financed. The RLF recipient is responsible for determining that each borrower meets this requirement and for documenting the basis for its determination in the loan write-up.

§ 308.19 Variances.

EDA may approve variances to the requirements of subpart B of this part provided they:

(a) Are consistent with the goals of the Economic Adjustment Program and with an RLF's strategy,

(b) Are necessary and reasonable for the effective implementation of the RLF,

(c) Are economically and financially sound,

(d) Do not conflict with applicable legal requirements, and

(e) Do not change the scope of the award after the period of availability of the funds for obligation has expired.

PARTS 309–313 [RESERVED]

PART 314—PROPERTY

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AUTHORITY: 42 U.S.C. 3211; 19 U.S.C. 2341-2355; 42 U.S.C. 6701; 42 U.S.C. 184; Department of Commerce Organization Order 10-4.

SOURCE: 64 FR 5476, Feb. 3, 1999, unless otherwise noted.

Subpart A—In General

§ 314.1 Federal interest, applicability.

(a) Property that is acquired or improved with EDA grant assistance shall be held in trust by the recipient for the benefit of the purposes of the project under which the property was acquired or improved. Limited exceptions to this requirement are listed in § 314.7(c).

(b) During the estimated useful life of the project, EDA retains an undivided equitable reversionary interest in property acquired or improved with EDA grant assistance, except for the exceptions listed in § 314.7(c).

(c) EDA may approve the substitution of an eligible entity for a recipient. The original recipient remains responsible for the period it was the recipient, and the successor recipient