U.S. ECONOMIC DEVELOPMENT ADMINISTRATION

Flexibilities for EDA RLF Recipients

Frequently Asked Questions

EDA has made available certain flexibilities to recipients of EDA-funded Revolving Loan Fund (RLF) awards in light of the impact of the coronavirus pandemic on small businesses, the increasing demand for RLF loans, and the need for RLFs to provide credit quickly and efficiently to their communities. These flexibilities were initially provided for the one-year period of 05/07/2020 through 05/06/2021 and have been extended through 06/30/2022. The flexibilities include waiving the RLF regulations that:

- Establish a minimum interest rate for RLF loans (13 CFR 307.15(b)(1))
- Require RLF loans to leverage additional capital (13 CFR 307.15(c))
- Require evidence demonstrating credit is not otherwise available (13 CFR 307.11(a)(1)(ii)(H))

Additionally, EDA has suspended scoring of the following four measures of the Risk Analysis System for existing RLF awards for three rating cycles:

- Net RLF Income
- Default Rate
- Default Rate Over Time
- Leverage Ratio

Questions regarding the above administrative relief provisions should be directed to the EDA Regional Office where the community served by the RLF award is located. For EDA Regional Office contact information, see www.eda.gov/contact/. Frequently asked questions and answers regarding EDA RLF award flexibilities are below.

1. What materials govern the administration of an RLF award? How can they be modified?

An RLF award is mainly governed by three items: award documents, RLF regulations, and an RLF plan. First, the award documents establish the high-level characteristics unique to an RLF award, such as lending area and eligible borrowers, and generally may only be modified by an amendment to the award. Second, the RLF regulations establish high-level requirements applicable to all RLF awards, such as the minimum interest rate for RLF loans, the requirement to leverage additional capital, and the requirement to demonstrate that credit is not otherwise available. EDA may issue waivers to the RLF regulations, as discussed above. Third, the RLF plan, which is written by the RLF recipient and approved by EDA, establishes lending policies and procedures unique to the RLF award. An RLF recipient may propose changes and exceptions to the RLF plan.

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2. What lending policies and procedures may an RLF recipient modify when responding to urgent circumstances?

An RLF recipient should first examine the RLF plan governing the RLF award to determine whether there are flexibilities under the existing RLF plan that may be implemented promptly. Additionally, an RLF recipient may propose changes and exceptions to the RLF plan; see question #7 for more information.Examples of flexibilities in lending policies and procedures that may be permissible under an existing RLF plan or that an RLF recipient may propose to modify in an RLF plan include:

- Simplified underwriting and loan approval procedures
- Reduced or eliminated loan application fees
- Reduced or eliminated borrower equity and collateral requirements
- Changed maximum or minimum loan amounts
- Modified loan terms; see question #8 for information about loan deferrals and forbearances

RLF awards must be administered pursuant to prudent lending practices. At a minimum, this means that loans should not be made from an RLF award unless there is a reasonable expectation that the loan will be repaid in full. RLF Recipients must also continue to take reasonable steps to detect and prevent RLF borrowers from obtaining funding from multiple federal funding sources (including federal grants, federal loans, and federally guaranteed loans) for identical expenses.

3. What is the minimum interest rate for RLF loans?

The regulations governing RLF awards establish an interest rate floor for RLF loans (13 CFR 307.15(b)(1)). In general, the minimum interest rate of an RLF loan is four percentage points below the current money center prime interest rate quoted in the Wall Street Journal (WSJ Prime Rate), but never below the lesser of 4% or 75% of the WSJ Prime Rate. In the current low-interest rate environment, the latter clause controls, meaning that for present purposes the minimum interest rate of an RLF loan is 75% of the WSJ Prime Rate. As of the publication of this FAQ document, the WSJ Prime Rate is 3.25%; therefore, the minimum interest rate is 2.44%. Note that the RLF plan governing the administration of a specific RLF award may in some instances require a higher interest rate. EDA has waived the minimum interest rate requirement through 06/30/2022; see question #6 for more information.

4. What is the leveraged capital requirement?

RLF awards are normally required to leverage at least two dollars of additional capital for each one dollar loaned as specified in 13 CFR § 307.15(c). This leveraged capital requirement is not a requirement for individual loans; rather, it is applied to an RLF's loan portfolio as a whole. It is not necessary to leverage capital for each loan. EDA has waived the leveraged capital requirement through 06/30/2022; see question #6 for more information.

5. What is the requirement to demonstrate that credit is not otherwise available?

The regulations governing RLF awards currently require that RLF loan documents include "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." (13 CFR 307.11(a)(1)(ii)(H)). This sometimes takes the form of a loan application rejection letter from a commercial lender. EDA has waived the requirement to demonstrate that credit is not otherwise available through 06/30/2022; see question #6 for more information.

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6. Is EDA issuing a variance to these three regulations? For how long?

EDA has issued a variance to the three regulations governing RLF awards that:

- Establish a minimum interest rate for RLF loans (13 CFR 307.15(b)(1)).
- Require RLF loans to leverage additional capital (13 CFR 307.15(c)).
- Require evidence demonstrating that credit is not otherwise available (13 CFR 307.11(a)(1)(ii)(H)).

This variance was initially provided for the one-year period of 05/07/2020 through 05/06/2021 and has been extended through 06/30/2022. Importantly, this variance does not require an RLF recipient to make loans at lower interest rates, cease leveraging additional capital, or obtain evidence that credit is not otherwise available. Instead, this variance provides RLF recipients with increased flexibility to respond to the impact of the coronavirus pandemic on small businesses in their communities. It is ultimately within the discretion of each RLF recipient how to apply this flexibility to its existing RLF loan portfolio and to new RLF loans.

7. How does the extension of the variance to the three regulations affect RLF Plans?

As provided above, the RLF Plan establishes lending policies and procedures unique to the RLF award. The content and requirements of RLF Plans differ by RLF award. RLF recipients should examine the existing RLF plan to determine whether the existing RLF plan already accommodates the flexibilities that are suitable to the RLF award. RLF recipients that need to update their RLF Plan to take advantage of the extension of the variance discussed above are encouraged to contact the applicable EDA Regional Office to determine the most prudent and efficient approach.

8. May RLF recipients provide deferments and/or forbearances to RLF borrowers?

First, RLF recipients may defer RLF borrowers' payments of principal and interest as part of their administration of the loan portfolio in accordance with prudent lending practices. As long as it is not contrary to the RLF plan governing the administration of the specific RLF award, EDA approval is not required for this action. Although payments are deferred, interest continues to accrue. Second, RLF recipients usually may not waive RLF borrowers' interest if it would cause the interest rate on the loan to fall below the minimum interest rate set forth in either the RLF plan or EDA's regulation. However, EDA Regional Offices can grant variances to RLF plans, and the waiver of the regulation establishing a minimum interest rate for RLF loans in effect through 06/30/2022 means such forbearances and deferrals are explicitly permitted in this period.

9. May EDA approve a variance to the lending area of an RLF award?

No. The lending area of an RLF is established in the award documents and is integral to the scope of work for the award. Therefore, an RLF award's lending area may not be expanded via a regulatory variance, but instead can be changed only via a grant amendment.

10. May EDA allow RLF recipients to make forgivable loans?

No. EDA's current statutory authorities do not authorize forgivable loans. An RLF recipient may only make RLF loans that are reasonably expected to be repaid in full. However, this does not affect an RLF recipient's ability to provide loan payment deferrals and forbearances and to take actions to mitigate losses for defaulted loans, such as through loan modifications, in accordance with prudent lending practices and the RLF plan.

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11. Will EDA offer any flexibilities around the Risk Analysis System?

EDA employs the Risk Analysis System to monitor and evaluate the performance of RLF awards during the revolving phase to ensure that RLF recipients are using RLF funds efficiently and appropriately. (EDA does not employ the Risk Analysis System to monitor and evaluate the performance of RLF awards during the initial round of lending, i.e. the disbursement phase.) The Risk Analysis system scores RLF awards on fifteen measures to produce a composite risk rating for each RLF award.

To encourage RLF recipients to make credit more quickly and easily available to small businesses impacted by the coronavirus pandemic, EDA has suspended scoring of the following four measures of the Risk Analysis System for existing RLF awards for three rating cycles:

- Default Rate
- Default Rate Over Time
- Leverage Ratio
- Net RLF Income (suspension of this measure does not authorize use of the RLF capital base for administrative expenses, which continues to require EDA's prior written approval)

Because Risk Analysis System ratings are generated using data provided at the end of an RLF recipient's fiscal year, and RLF recipients' fiscal years vary, the dates of the three rating cycles during which the scoring of the four risk measures would be suspended would vary by RLF recipient. For example, for RLF recipients with fiscal years ending June 30, the four risk measures will not be scored for the fiscal years ending 06/30/20, 06/30/21, and 06/30/22.

Suspending scoring for four of the fifteen measures of the Risk Analysis System reduces the total number of points available from 45 points to 33 points. This requires a temporarily modified risk-rating rubric:

- **Level A:** 30-33 points
- **Level B:** 22-29 points
- **Level C:** 11-21 points