ARC Business Development Revolving Loan Fund Grant Guidelines

I. Overview

A business development revolving loan fund (RLF) is a pool of money used by an eligible grantee for the purpose of making loans to create and/or save jobs. As loans are repaid by the borrowers, the money is returned to the RLF to make other loans. In that manner, the RLF fund becomes an ongoing or "revolving" financial tool. The major difference between the Appalachian Regional Commission RLF program and conventional lending is the lending goal. For conventional lending institutions, the goal is profit. For an ARC RLF, the goal is saving and creating private-sector jobs. Revolving loan funds are not substitutes for conventional lending sources. Given the small size of the RLF program and the limited resources of each project, revolving loan funds are not intended to replace the capacity of banks, investment houses or other lending organizations. RLFs are designed to fill unmet demand in existing local financial markets and to provide or attract capital which otherwise would not be available for economic development.

As part of the grant agreement, ARC requires that RLF projects be administered in accordance with a revolving loan fund plan developed by the grant applicant and approved by the Commission. An applicant's RLF plan defines specific objectives and operating procedures, including standards and selection criteria for loans in the portfolio. ARC does not normally review or approve individual loans made by the RLF. Instead, ARC monitors RLF project activities for conformance with these guidelines, as well as the following requirements, all of which apply and are incorporated into these guidelines:

- the Appalachian Regional Development Act of 1965, as amended (ARDA);
- the ARC Code;
- the Grantee's RLF Operating plan;
- the grant agreement; and
- the Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards at 2 CFR Part 200.

II. Objectives and Strategies

One of the major problems in local business development, and a significant contributing factor to local economic distress, is credit availability. Even when credit may be available, the cost and terms of the credit may prevent firms from expanding, continuing operations, or starting up. The result may be a community's loss of jobs, tax revenues, and private investment. The primary objective of the ARC RLF program is saving and creating private-sector jobs. Projects are expected to support specific types of economic activities planned or underway in the area. These may include, depending on local needs and conditions, one or more of the following:

1. Small business development, including the start-up or expansion of locally owned businesses as measured by job creation;
2. Existing business and saving jobs;
3. Redevelopment of blighted land and vacant facilities for productive use;
4. Modernization and rehabilitation of existing industrial or manufacturing facilities;
5. Support for the use of new technologies, growth industries, high-tech firms; and/or
6. Development of businesses owned and operated by minorities, women, and members of other economically disadvantaged groups.

The effectiveness of a revolving loan fund project as a development tool will depend on its lending policies and financing techniques. These may include, but are not limited to:

1. Short turn-around time in processing applications
2. Providing below market interest rates;
3. Taking greater risks than banks are traditionally prepared to take, when economic development benefits will result if the borrower does succeed; and/or
4. Structuring repayment terms, such as deferral of initial principal or interest payments, or seasonal payments.

III. RLF Grantees

A. Eligible Applicants

1. Eligible applicants for ARC RLF grant assistance include States, Local Development Districts, and other non-profit multicounty organizations, which ARC has determined are representative of an Appalachian area. Applicants must demonstrate the legal authority and capacity to make loans. An applicant may identify an appropriate subdivision of its organization or a separate organization to which it would delegate the administration of the RLF. In such cases, ARC will make its determination based on the authority and capacity of the designated organization to make loans. Because RLF projects continue indefinitely as loans are repaid, priority consideration will be given to governmental applicants that can administer the RLF on a long-term basis. Non-government applicants must be sponsored by the local development district or the state government having jurisdiction over the project area. The sponsor must be willing to assume responsibility for operating the RLF when and if the non-government applicant is no longer able to administer the project.
2. Each RLF grantee must have the staff capacity (or access to such capacity) in program and policy development, finance, law, marketing, credit analysis, loan packaging, loan processing and servicing. Grantees must have sufficient resources to cover the administrative costs of RLF operations.
3. RLF grantees must have a strong and effective loan review committee. A significant number of the loan review committee members must have had commercial lending experience. A list of the loan review committee members is included in the grantee's Operating Plan, which requires ARC approval. Additionally, a majority must currently represent the private sector as opposed to government. No RLF loan may be made without the favorable recommendation of the loan review committee; a majority of the members must participate in any meeting where an action is taken. In the case of

state-level revolving loan funds the composition of the loan review committee may be determined by state law or regulation. The composition must be approved by ARC if different from that noted above.

4. As lending organizations RLF grantees must recognize their obligations to federal and state law including but not limited to the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, as implemented by Federal Reserve Board Regulation B and the Internal Revenue Code requirements for lender cancellation of debt (Form 1099C, Cancellation of Debt).

B. ARC Grant Application Requirements

As required by the ARDA, applications for grant assistance must be submitted by the Appalachian state representing the applicant. The proposed project must support the state's ARC approved strategy statement that describes the state's program for achieving the goals and objectives contained in the state development plan.

The application narrative must include:

a. A general statement of the business development strategy and need for the grant (an applicant's business development strategy and detailed discussion of need and opportunities identified for stimulating business investment and productivity);
b. A statement of goals and objectives;
c. The target areas in the local economy or the industries and businesses to be assisted. Grantees should demonstrate knowledge of the characteristics of firms within targeted economic sectors and their needs for assistance;
d. The tools to be used for helping the targeted areas and businesses (including, but not limited to interest subsidy, fixed interest rate, deferral of repayment, subordination to commercial lender);
e. A justification of the capitalization requested. In general there is a ceiling of $500,000 on the initial capitalization. The federal co-chair can approve a higher capitalized level based upon a near-term demonstration of loan fund utilization; and
f. An RLF operating plan.

C. RLF Operating Plan Requirements

1. At a minimum, the grantee's RLF operating plan must include:
    a. A general discussion, in addition to the grant justification, of how the RLF economic development effort will be conducted.
    b. A statement of an applicant's intended operating parameters specifically to include:
        1. Eligible borrower groups;
        2. The type of loan permitted, and the anticipated term of each type;
        3. The maximum single loan amount to be approved for a borrower;
        4. The proportion of the grantee RLF lending capacity that one borrower may have outstanding (unpaid) through multiple loans;
        5. The minimum borrower equity contribution (percentage) to each loan project;

        6. The maximum dollar amount that may be loaned for each job created or retained, which the grantee may calculate on a per loan or a total loan portfolio basis.
        7. The definition of a delinquent loan and the actions that a grantee plans to take to deal with a delinquency.
    c. A statement identifying the planned source of funds for financing the administrative expenditures of operating the RLF;
    d. The names of loan review committee members, and a brief statement of each member's commercial loan experience; and
    e. A statement that no ARC RLF loan will be made without the favorable recommendation of the grantee's loan review committee, pursuant to section III.A.3 (above).
2. ARC RLF grantees must adhere to ARC RLF Loan Program policies in these guidelines. Grantees must affirm that they understand and agree to operate RLFs in accordance with the ARC RLF policies contained in these guidelines. ARC relies on the affirmation of each grantee's chief executive officer, on this plan, as a basis for releasing loan funds to the grantee.
3. Grantees may request changes to their RLF operating plan that improve RLF administration and/or enhance the ability of the grantee to meet the original objectives of the RLF project. All revisions to a grantee's RLF operating plan must be approved by ARC, in advance.

IV. Borrowers and Loans

A. Eligible Borrowers

Borrowers must include substantial U.S. citizens or legal resident ownership. The borrowing entity or any of its owners cannot have a delinquent debt to the federal government, or be on a suspended or debarred list. In most cases, the borrower will be located in the Region. The borrower may be located outside the Region, but the activity financed and its benefits must be within the Region.

1. Private, for-profit firms that do business within the Appalachian Region are the primary eligible target market for RLF loans.
2. Non-profit entities, operating and/or participating in commercial enterprises that fit and advance its charitable purpose.
3. Government entities, which includes towns, cities, counties, and economic development organizations, are eligible borrowers if the following conditions are met: a) the financing is only for the acquisition of land/building or new construction, b) a specific and identifiable small business(s) will be the ultimate beneficiary and will locate in the facility financed by the loan, c) an executed lease purchase agreement exists between the local government entity and the beneficiary small business.
4. Incubation projects operated and/or managed by government entities, such as towns, cities, and political subdivisions, are eligible borrowers provided that such projects are aimed at economic growth as well as job creation or retention goals.
5. Private, for-profit developers, whose development projects create jobs within the Region. The eligibility conditions, noted in paragraph 1 above, for lending to private, for-profit firms apply equally to developers. Developers must hold binding commitments for development occupancy from private business tenants.
6. A borrower is eligible for RLF financing only when credit is not otherwise available on terms and conditions that would permit accomplishment of the borrower's project.

RLF participation in a project must not displace local commercial lenders. The grantee is responsible for determining that a borrower meets this requirement and for maintaining documentation in the loan file describing, in each case, the basis for the determination. A borrower eligibility determination must be supported by either:

a. A loan commitment letter from the commercial lender participating in the project.
b. A commercial lender letter declining participation.
c. Evidence demonstrating why credit is not available on the terms and conditions that would permit accomplishment of the project, e.g., a bank rejection letter, or memorandum documenting discussion(s) with the borrower on this issue or with commercial lenders about the limits of their participation in a borrower's project.

B. Eligible Loans

For each loan, borrowers must agree to create new jobs and/or save existing jobs, within a time frame to be prescribed by the grantee. RLF grants may be used for debt financing through direct loans for:

a. Machinery, equipment, premises and other fixed asset acquisition including transportation/delivery and installation costs;
b. New construction, alteration, modification, repair and renovation of existing facilities, demolition and site preparation;
c. Land acquisition that is an integral part of a project;
d. Working capital;
e. Refinancing existing debt when the Grantee can document that the project will create or save jobs; and.
f. Acquisition of an existing business.

C. Loan Projects Not Eligible for ARC Funds

1. The following types of loans are not eligible for the use of ARC funds:
    a. Grantees may not make loans to themselves or to a subsidiary. (Subsidiaries are organizations under common control through common officers, directors, members, or employees.)
    b. Loans only for land acquisition are not permitted (see paragraph IV.B.1.c., these guidelines).
    c. Loans which assist the relocation of businesses from other labor areas are prohibited by law (see ARDA Section 224(b), 40 USC 14524(b)).
    d. Loans for the purpose of investing in high-interest investments or accounts not related to the creating or saving jobs objective of the RLF are prohibited.
    e. Loans to acquire an equity position for the RLF in a private business.
    f. Loans to subsidize interest payments on existing loans with the exception of interim construction financing (see paragraph IV.B.1.d., these guidelines).
    g. Loans that provide the mandatory equity contribution required of borrowers for other federal loan programs.
    h. Loans that refinance existing debt solely for the purpose of reducing the risk to existing lenders (please note the conditions under which refinancing is authorized in paragraph IV.B.1.e., these guidelines).
    i. Loans that establish revolving lines of credit for borrowers.

j. Loans in designated attainment counties (see Geographic Loan Restrictions, paragraph IV.D. below).

2. In accordance with ARC Code section 8.3, no official or employee of an ARC grantee or subgrantee shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or through other actions in any proceeding, application, request for a ruling or other determination, contract award, cooperative agreement, claim, controversy, or other particular matter in which grant funds (including program income or other funds generated by ARC-funded activities) are used; where to his knowledge, he or his immediate family, partners, organization (other than a public agency) in which he is serving as an officer, director, trustee, partner, or employee; or any person or organization with whom he is negotiating, or has any arrangement concerning prospective employment; has a financial interest or less than arms-length involvement.

   In the use of ARC grant funds, officials or employees of grantees or subgrantees shall avoid any action that might result in, or create the appearance of:
   - using official position for private gain;
   - giving preferential treatment to any person;
   - losing complete independence or impartiality;
   - making an official decision outside official channels; or
   - affecting adversely the confidence of the public in the integrity of the government or the program.

3. In addition, an Interested Party shall not receive any direct or indirect financial or personal benefits in connection with any ARC RLF grant or loan; and shall not lend funds to an Interested Party. Interested Party means any officer, employee or member of the board of directors or other governing board of the award 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 family and other persons directly connected to the Interested Party by law or through a business arrangement.

4. Former members of the board or governing body, former officials, employees, or members of the staff, and former members of the loan review committee are barred from receiving ARC RLF loan assistance for one year from the date of termination of their service. Loan activities that directly or indirectly benefit these individuals or people related to them by blood, marriage, law or business arrangement are prohibited for a period of one year from the date of termination of service of such related person.

5. All borrower loan activities and economic benefits resulting from loan activities must be located within the Appalachian Region. ARC RLF loan assistance must be withdrawn if for any reason the activity financed or the economic benefit is moved from the Appalachian Region.

D. Grant Match and Geographic Loan Restrictions

A match is required. A grantee shall generally match its ARC RLF grant funds at a rate of at least 50%. The actual required match is determined by statute and ARC regulation, and is dependent on the economic designation of the counties in which the grantee's revolving loan program operates. ARDA section 226 (40 USC 14526) and ARC Code section 7.3(f) and ARC staff should be consulted to determine the required match rate. This match may be from one of the following sources: 1) a loan-by-loan basis matched with other project financing sources or 2) on an entire loan portfolio basis with the cumulative amount of other project financing sources for all projects, Loans using ARC RLF sources may not be made in ARC designated attainment counties. These restrictions apply to all ARC funding approved after November 13, 1998.

County designations are made annually by the Commission for the succeeding fiscal year. Check with ARC for current county designations.

V. ARC RLF Lending Policies

A. General

1. The responsibility for approving loans and setting terms and conditions consistent with these guidelines resides fully with the Grantee. (When a grantee has not had at least 12 months experience lending under any RLF, the grantee must submit proposed loan documentation to ARC for review and comment prior to undertaking any loan commitments. These grantees shall submit all loan documentation (i.e., the RLF Form, application, financial statements, draft loan commitment letters, draft loan documents etc.) for pending loans to ARC for review for a period of one year.)
2. Grantees may make loans to eligible borrowers at interest rates and under conditions determined by the grantee to be most appropriate in achieving the goals of the RLF. The minimum positive interest rate an ARC RLF Grantee can charge is four percentage points below the current U.S. Treasury rate for issues of similar size and maturity, or the maximum interest rate allowed under state law, whichever is lower. The U.S. Treasury rate is found as a graph titled "Treasury Yield Curve," which runs daily in the Wall Street Journal's "Money and Investing" section. The minimum interest rate may be waived by the Federal Co-Chairman if circumstances warrant.
3. Financing should be designed to assist firms with special credit problems, and therefore may involve greater risks and more lenient terms than commercial lenders may provide. To encourage the participation of commercial lenders in a loan project, the RLF loan may be for a longer period than that of other project lenders.
4. All ARC RLF borrowers must comply with the requirements of applicable federal, state and local laws, including those listed in Appendix C to these guidelines.
5. A formal written loan application is required for each potential borrower. As a minimum the application should include:
    a. General information identifying the borrower, management and business history, the project description, a schedule of proposed financing, number of employees, and proposed job impact of the project.
    b. The applicant's certification that it will comply with legal requirements described in Appendix C to these guidelines.
6. Grantees must offer loan assistance by formal commitment letter which shall include a clear identification of the collateral and other loan terms offered, the conditions of the loan and other loan documentation required. A borrower must sign an acceptance of the loan commitment offered.
7. A loan agreement is required. The loan agreement must include language that permits the immediate recovery of the loan principal, or an increase in interest rate to commercial levels, if (1) a loan is not used for the purpose represented in the loan

application, or if (2) it becomes apparent that the number of jobs created or jobs saved in the project will not meet the Grantee's RLF Operating Plan criteria.

B. Collateral

When determining collateral requirements, the grantee must consider the merits and potential economic benefits of each request. When appropriate and practical, RLF financing may be secured by liens or assignments of rights in assets as follows:

1. When the purpose of a loan is for working capital, a Grantee will normally obtain collateral such as liens on inventories, accounts receivable, fixed assets and/or other available assets of the borrower. Such liens shall be properly recorded as prescribed by applicable state and local Uniform Commercial Code laws. The lien position of the RLF may be subordinate and made inferior to lien(s) securing other loans made in this project. Ordinarily, ARC RLF funds will not be used to take a subordinate lien position to other federal, state, or local loan programs participating in a project. ARC may approve individual exceptions.
2. In addition to these types of security, grantees may also require security in the form of the assignment of patents and licenses, the acquisition of hazard, liability and other forms of insurance including flood insurance as appropriate, performance bonds and such other additional security as a grantee determines is necessary to mitigate the RLF's exposure. The RLF must be shown as a lender loss payee by endorsement on insurance.
3. RLF loans to closely held corporations, partnerships, or proprietorships dependent for their continuing success on certain individuals ordinarily will be required to provide, and assign to the RLF, life insurance on these key persons.
4. Personal guarantees from a borrower's principal owners (partnerships and proprietorships) and their spouses, to the extent permitted by law (see the Equal Credit Opportunity Act), making them jointly and severally liable for the loan, should be required. In case of a corporate borrower, in addition to the pledging of corporate assets, members of the Board of Directors holding 20 percent or more of the corporation's outstanding common stock or 20 percent or more of the corporation's voting stock and their spouses (if jointly held), should guarantee loans.
5. Should a grantee determine that it is necessary or desirable to take actions to protect or further the interests of the RLF, the grantee should act to sell, collect, liquidate or otherwise recover on loans or guarantees extended by the RLF in accordance with the legal rights of the grantee, other lenders and the RLF borrower.
6. A Grantee may modify the terms under which RLF financing has been extended to enhance the ability of the RLF to achieve program objectives.

VI. RLF Administration

A. Grant Funds

1. RLF grant principal may be used only to fund loans. It is the grantee's responsibility to provide for the administrative costs of staffing and operating the RLF. These costs may not be charged against grant principal unless specifically authorized in the grant.
2. All repayments of RLF grant principal must be returned to the RLF for subsequent lending. Proceeds from the sale, collection or liquidation of loan collateral must also

be returned to the RLF for lending. The reasonable costs of collection or action to recover a loan are treated as administrative expenses. ARC approval is required to use prior year program income (see below, VI.B) or grant funds for collection purposes. Any proceeds from the sales of collateral assets above the original unpaid amount of the loan are treated as program income.

3. Selling ARC RLF loans on a secondary market is not permitted.

B. Program Income

1. Program income is the income received by the grantee earned as a result of lending authorized by the grant agreement. All grant related program income shall be reported to ARC in the manner prescribed by Appendix B to these guidelines. Program income typically includes but is not limited to the following, however described by the grantee.
    a. Loan interest.
    b. Fees for processing loan applications.
    c. Loan closing fees.
    d. Periodic fees for servicing loans.
    e. Penalties and interest caused by the borrower's late payment.
    f. Proceeds from the sale of collateral in excess of the unpaid balance of the original loan.
    g. Interest earned on loan repayment balances while awaiting relending.

2. Program income will be added to the loan fund to expand RLF lending or used to cover reasonable and necessary administrative costs of the RLF. Program income realized in a business year may be used to offset RLF administrative costs incurred only in that same year. Any RLF income remaining unexpended at the end of each business year is added to the RLF capital base. RLF income added to the RLF capital base may not be withdrawn, other than for lending purposes, without prior written consent of the Commission.
3. Grantees must keep complete records (e.g., time cards, logs, invoices, vouchers) to document those administrative costs. Administrative costs include direct costs that are specifically identifiable to an RLF cost and indirect costs which are incurred for common objectives.

C. Funds Management

1. Grantees may request advance payments only at the time and in the amount immediately needed to close loans.
    a. The amount of each advance payment that ARC releases will be based upon a grantee's request and a grantee's unloaned cash position as reported in the last annual financial report.
    b. All grant payments (drawdown) made by ARC to grantees are advance payments and are made on the basis of a Grantee invoice (letter request) accompanied by the report of the grantee's intent to close a loan on The RLF Form and supporting documents (see Appendix A, these guidelines). All payments are made by

automated clearing house (ACH) procedures. Grantees are provided with an ACH enrollment form with their initial grant contract.

   c. Grant advances should not be requested earlier than 30 days prior to the anticipated loan closing date. Should the forecast loan closing date be delayed by more than 60 days beyond the forecasted date, advance payments must be returned to ARC. ARC will make a second advanced payment for such loan, based upon a telephonic or fax request, referencing the documentation used to release the original payment.

2. Grantees must place funds advanced from ARC or returned to the RLF from lending activities in interest earning accounts pending the closing of new loans. Interest earning accounts may be federally insured deposits or short-term certificates of deposit that are covered by deposit insurance (see paragraph VI.D. below for excess cash policy).
3. Interest earned by a grantee, on funds initially advanced by ARC for loans, must be returned to ARC for deposit to the U.S. Treasury. Small amounts may be retained by the Grantee to offset processing costs. (Refer to Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200). Once grant funds have been applied to a loan and repaid by the borrower, the additional interest earned on such funds is considered program income and may be used in accordance with sub-section VI.B.2. above.

D. Excess Unloaned Funds

If RLF grantees are not using ARC grant funds for lending activities, grants may be revoked and grant funds recovered, as follows:

1. If an RLF grantee does not require an initial advance payment from an RLF grant (either capitalization or recapitalization) within 18 months of the approval of such grant, ARC may revoke its approval of such RLF grant at the request of the state.
2. If an RLF grantee does not require the full amount of a previously approved RLF grant (either capitalization or recapitalization) within 36 months of grant approval the unused grant balance may be recovered by ARC, at the request of the state.
3. An RLF grantee holding unloaned RLF cash in excess of 25 percent of the outstanding loan principal or in excess of $350,000, as reported by the grantee in its annual financial report is deemed to be holding excess unloaned cash. This excess cash must be returned to ARC after notification of the excess cash status by ARC. ARC may waive the return of excess cash in the amount of loans that are anticipated to be closed within 90 days after the annual financial report cutoff date.
4. Grant principal returned to ARC will be credited to the grantee's RLF grant and will remain available for reuse by the grantee returning funds for eighteen months. If the grantee has not reused such funds within this period the funds will be de-obligated with the concurrence of the state.
5. Nothing in this section shall, in itself, cause a grantee to be automatically ineligible for additional RLF grant recapitalizations.

E. Reporting

Each grantee must, annually, submit to ARC financial progress reports of the loan activity underway. Appendix B of these guidelines prescribes the format, content and cutoff date of the required financial reports. These reports are due in ARC's offices one month after the established cut off date for each grantee.

Grantees must report each loan closed on "The RLF Form" (see Attachment A-1, Appendix A, these guidelines)

1. Reports may be submitted at any time after a loan commitment has been made.
2. Reports must be submitted to support requests for RLF grant payments.
3. "The RLF Form" must be submitted by the grantee as loans are approved to support any loan shown as closed on the List of Loans Outstanding (Schedule B-2).

F. Financial Audits

1. A grantee that expends $750,000 or more in its fiscal year in federal grant awards, including the RLF contribution shall have a single or program-specific audit conducted for that year as required CFR Part 200, Subpart F. Grantees should notify auditors that the Catalog of Federal Domestic Assistance number for ARC RLF's is 23.011, Appalachian State Research, Technical Assistance and Demonstration Projects.
2. The following guidelines must be used to calculate the value of the federal awards expended under loan programs:
    (a) Value of new loans made or received during the audit period; plus
    (b) Beginning of the audit period balance of loans from previous years for which the federal government imposes continuing compliance requirements; plus
    (c) Any interest subsidy, cash, or administrative cost allowance received. 2 CFR 200.502(b).
3. Grantees that expend less than $750,000 a fiscal year in federal awards, including the RLF contribution, are exempt from audit for that year. Records must be available for review or audit by appropriate officials of ARC. No RLF program income or grant funds will be expended for audit in these cases.
4. Audits must be performed by a public accountant or a federal, state or local government audit organization which meets the general standards specified in Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States (known as the Yellow Book). Audits must conform to these standards. Auditors are required to follow the provisions of 2 CFR Part 200, subpart F, and the Compliance Supplement at appendix XI to 2 CFR Part 200.
5. Grantees are responsible for establishing and maintaining internal controls over the federal award that provide reasonable assurance that they are managing the RLF in compliance with laws, regulations, and the provisions of applicable grant agreements. 2 CFR 200.303.
6. Grantees must maintain financial management systems and retain financial records in accordance with standards prescribed in 2 CFR Part 200, in particular 2 CFR 200.302. Grantee records and accounting systems must include an accurate accounting for any principal repayments, loan interest, loan fees, or other income generated by the RLF and must document how these funds are used. Administrative

expenses paid from program income generated by the RLF must be documented for grant audits.

7. 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.
8. All recipients and subrecipients of ARC funds must cooperate with the ARC Office of Inspector General, who has the statutory authority to audit ARC programs and operations, and to investigate allegations of waste, fraud, and abuse.

G. Project Monitoring

1. ARC monitors RLF grant performance through annual financial reports and loan reports ("The RLF Form") submitted by the grantee, audit findings, grantee site visits and other necessary contact with the grantee.
2. Grantees are responsible for operating ARC funded RLF's in accordance with the terms of the ARC Code, ARC RLF Guidelines, the grant agreement and the grantee's RLF operating plan. RLF grants are held by the grantee as trustee for the benefit of borrowers and potential borrowers. Grantees may be required to repay ARC the amount of ARC RLF funds used in violation of the code, these guidelines, the grant agreement or the grantee's operating plan.
3. A grantee's failure to comply with these guidelines or the terms of the grant, including reporting requirements, may be cause for terminating the grant. When grants are terminated for cause, ARC has the right to recover grant funds and/or the assets of the RLF project, in accordance with the legal rights of the grantee and the Commission.
4. When an RLF grantee is no longer able or willing to carry out its responsibilities for administering the RLF, those responsibilities may be transferred, with ARC approval, to another eligible entity with jurisdiction over the project area. Such action will be taken only if the need for the fund still exists and the original purpose and benefits of the project can still be achieved. If not, the grant will be terminated and all grant funds will be returned to ARC.

H. Records Retention

RLF Recipients 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: principal, interest, fees, penalties and all other costs associated with the closed loan have been paid in full; or final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the Closed Loan have occurred.

RLF Recipients must at all times:

- Maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF Income expended for eligible RLF administrative costs;

- 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; and
- For the duration of RLF operations, maintain records to demonstrate the adequacy of the RLF's accounting system to identify, safeguard and account for the entire RLF Capital Base, outstanding loans and other RLF operations.

RLF Recipients must ensure that standard RLF loan documents reasonably necessary or advisable for lending are in place; and evidence of fidelity bond coverage for persons authorized to handle funds under the grant award in an amount sufficient to protect the interests of ARC and the RLF.

RLF Recipients must also 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.

I. Noncompliance

ARC will take appropriate compliance actions for an RLF recipients failure to operate the RLF in accordance with the RLF Operating Plan, the terms and conditions of the RLF grant, or ARC policies and guidelines, including failure to obtain ARC approval to material changes in the operating plan; failing to submit timely reports as required by these guidelines; failing to manage the RLF grant prudently; making an ineligible loan; failing to comply with audit requirements or implement timely resolutions to audit findings; or having a conflict of interest.

If noncompliance is found, ARC may require increased reporting; implementation of a corrective action plan; an audit; repayment of ineligible loans or costs to the RLF; transfer or merger of the RLF; suspension of the RLF grant; or termination of the RLF grant, in whole or in part.

In certain circumstances, ARC may disallow a proportion of the grant or direct the RLF recipient to transfer loans to an RLF third party for liquidation.

ARC shall determine the manner and timing of any suspension or termination action. ARC may require the RLF recipient to repay the federal share in a lump-sum payment or enter into a sale, or ARC may agree to enter into a repayment agreement with the RLF recipient for repayment of the federal share.

Appendix A | The RLF Form | Appendix B | Table B-1
Schedule B-1 | Schedule B-2 | Schedule B-3 | Appendix C