



December 2, 2016

The Honorable Jay Williams  
Assistant Secretary for Economic Development  
U.S. Economic Development Administration  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

Dear Assistant Secretary Williams:

The National Association of Development Organizations (NADO) appreciates the opportunity to submit comments on the U.S. Economic Development Administration's (EDA) Notice of Proposed Rulemaking (NPRM) on changes to regulations governing the Revolving Loan Fund (RLF) program (RIN Number 0610-AA69).

Founded in 1967, NADO promotes regional solutions, partnerships, and strategies that enhance the long-term economic competitiveness and quality of life across America's local communities. The association's core membership serves the nation's 520 regional planning and development organizations – known locally as councils of governments, economic development districts, local development districts, and regional councils – who provide valuable professional and technical assistance to over 2,500 counties and 15,000 small towns and cities.

The majority of NADO members are designated Economic Development Districts (EDDs) with EDA and many operate RLFs. EDA-funded RLFs are important components of many regions' overall economic development activity, providing small businesses and entrepreneurs with the gap financing needed to start or expand their ventures.

While we understand that EDA is limited in the changes it can make to the federal government's interest in the RLF program through the regulatory process, it is important to stress that release of the federal interest remains the most necessary reform to the program in order to end costly and burdensome reporting requirements on local grant recipients. It is incumbent on EDA to do as much as possible within its statutory authority to reform the current arcane system, mirrored in no other federal lending program, that requires continued reporting of funds after the initial disbursement. We encourage EDA to look for creative ways to ease this administrative burden, especially as you look to move to a new Risk Analysis System which place additional burdens on RLF recipients. NADO looks forward to our continued partnership with EDA to advance this necessary and long overdue reform.

Below are NADO's specific comments about the NPRM's proposed changes to the RLF program:

### **Risk Analysis System**

The NPRM proposes adopting a Risk Analysis System to evaluate and manage the performance of RLF recipients modeled on the Uniform Financial Institutions Ratings System (the CAMELS rating system), used by regulators to assess financial institutions and to identify those in need of extra assistance or attention.

NADO has concerns about the shift to a Risk Analysis System as it seem to run counter to the purpose and intent of the RLF program. RLF recipients are charged with making loans at interest rates at or below market rate to small businesses that cannot otherwise borrow capital and do not have the means to secure traditional credit. Many of these loans go to start-up businesses that cannot get traditional bank financing because they have been in existence less than two years. These loans are by their nature risky and a Risk Analysis System would open RLF recipients to a set of criteria not in line with the purpose of the RLF program. RLF recipients charged with managing these loans have been empowered with setting their own underwriting and risk management policies to ensure maximum flexibility. That responsibility should remain with the RLF operator. A well-managed RLF builds upon success, revolving its loan funds to extend capital access to small businesses when funds are otherwise unavailable from private lenders. RLF recipients are not financial institutions and should not subject to an evaluation system designed for them.

We are also concerned about the administrative burden a new Risk Analysis System would place on RLF recipients and the additional monitoring, financial controls, and reporting requirements that may be required of them. Many RLF operators are small with limited staff and administrative resources. The administrative burden of complying with RLF regulations and requirements can be time-consuming and expensive. Time and money spent on administering funds would be better spent investing in and building small businesses. In addition, EDA regional offices who would be charged with coordinating and implementing this new Risk Analysis System are already constrained by limited staff resources.

The NPRM states that EDA will describe the technical aspects of this system in a separate notice published in the Federal Register. NADO strongly encourages EDA to set up a working group to garner guidance and significant feedback from RLF recipients in the design of the framework for this new system. NADO stands ready to assist in facilitating that collaboration to ensure the new framework is workable and compatible with the purpose of the RLF program.

### **Allowable Cash Percentage**

The NPRM proposes adopting an Allowable Cash Percentage concept to replace the capital utilization standard which requires recipients to provide that at all times at least 75 percent of their RLF capital base is loaned or committed. Switching to an Allowable Cash Percentage will allow RLF recipients to be assessed on the amount of cash recipients have on hand for lending.

NADO requests that in a final rule, EDA include language stating that committed or approved, but not yet funded, loans will be included in the calculation of cash available for lending. In addition, NADO requests language that communication regarding “the Allowable Cash Percentage to be used during

the ensuing year” take place on a cycle that matches the RLF’s fiscal year. While the NPRM proposes to revise reporting requirements to align with the recipient’s fiscal year, it is not clearly stated that Allowable Cash Percentage should also align with a recipient’s fiscal year.

NADO is supportive of the proposed modification that eliminates the requirement for automatic sequestration of funds.

### **Reporting Requirements**

NADO supports the proposed change to move from the semi-annual reporting requirement to a frequency based on the each recipients’ fiscal year end.

### **RLF Capital Base Definition**

The NPRM defines the RLF capital base as the total value of RLF grant assets administered by the RLF recipient (equal to the amount of grant funds used to capitalize and re-capitalize the RLF) plus local share, RLF income, and voluntarily contributed capital, less any loan losses and disallowances.

NADO believes that there needs to be language added to the definition to explicitly state that administrative costs are not part of the capital base definition. We suggest adding “less any eligible administrative expenses” to the definition.

### **Administrative Costs**

NADO supports the proposed expansion of the requisite period during which RLF income must be earned and administrative costs must be incurred from the same six-month reporting period to the same fiscal year. This welcome modification will allow utilization of RLF income for administrative costs in the same fiscal year.

### **Leveraging of Other Investments**

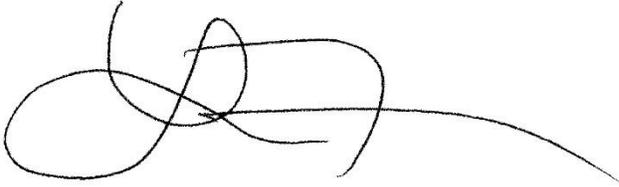
The NPRM proposes broadening the types of investments that may serve as appropriate leveraging to allow recipients to use funds from state and local lending programs to meet the RLF leveraging requirement. NADO would like to see additional language included in the final rule clarifying whether these investments would serve as a match for new loans or are related to the structure of a loan package.

### **Modifications to the Planning Program**

The NPRM makes modifications to the EDA planning program, including language stating that EDA may accept a non-EDA funded CEDS in certain circumstances such as a natural disaster or sudden and severe economic downturn. NADO would ask for further clarification in a final rule on what plans would be accepted in these circumstances. The CEDS is by its nature an EDA-funded document and thus it would be helpful if EDA could identify the particular documents that would be accepted in the circumstances laid out in the NPRM.

Again, we appreciate the opportunity to comment on EDA's Notice of Proposed Rulemaking (NPRM) on changes to the regulations governing the Revolving Loan Fund (RLF) program. NADO looks forward to our continued partnership with EDA assisting RLFs meet the needs of communities throughout the country.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynne Keller Forbes', with a long horizontal flourish extending to the right.

Lynne Keller Forbes  
President, National Association of Development Organizations  
Executive Director, South Eastern Council of Governments (Sioux Falls, SD)

A handwritten signature in blue ink, appearing to read 'Joe C. McKinney', with a horizontal flourish extending to the right.

Joe C. McKinney  
Executive Director, National Association of Development Organizations