

CHAPTER 5

SECTION 5

State Regulations Governing CDAP Capitalized Revolving Loan Funds

A. Summary

All locally administered CDAP Revolving Loan Fund (RLF) Programs are governed by RLF state regulations which, in the State of Illinois, are published by Joint Committee on Administrative Rules (JCAR). RLF topics addressed in JCAR include Requirements for RLF Projects, RLF fund use, RLF Fundability Analysis, and RLF Loan Closings. Local RLF Administrators should carefully review the JCAR rules to be sure they are incorporated into their local RLF Guidelines.

B. State RLF Regulation (JCAR) Appendix

The State Joint Committee on Administrative Rules (JCAR) RLF Regulations Appendix can be found on page 5-5-5.

**CHAPTER 5
STATE REGULATIONS GOVERNING CDAP CAPITALIZED
REVOLVING LOAN FUNDS**

Appendix

JCAR Rules

5-5-A

NOTE: ADMINISTRATIVE CODE FOR THE REVOLVING FUNDS HAS BEEN UPDATED SINCE THE HANDBOOK WAS ORIGINALLY DISTRIBUTED. ATTACHED IS THE LATEST UPDATED ILLINOIS ADMINISTRATIVE CODE – JCAR REVOLVING FUND RULES. LAST UPDATE SEPTEMBER 23, 2004.

1/9/2006

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

**TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
PART 110 STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM FOR SMALL CITIES**

The General Assembly's Illinois Administrative Code database includes only those rulemakings that have been permanently adopted. This menu will point out the Sections on which an emergency rule (valid for a maximum of 150 days, usually until replaced by a permanent rulemaking) exists. The emergency rulemaking is linked through the notation that follows the Section heading in the menu.

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

- [Section 110.10 Legislative Base](#)
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- [Section 110.30 Definitions](#)
- [Section 110.35 Incorporation by Reference](#)
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- [Section 110.50 Eligible Applicants](#)
- [Section 110.60 Eligible/Ineligible Projects and Activities for CDAP Components](#)
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- [Section 110.80 Funding](#)
- [Section 110.90 Set-Aside for Emergency Public Facilities Component](#)
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- [Section 110.94 Competitive Planning Assistance Component](#)
- [Section 110.95 Non-Competitive and Accessibility Rehabilitation Services Component](#)
- [Section 110.100 Application Evaluation for Competitive Public Facilities and Competitive Housing Rehabilitation Components \(Repealed\)](#)

- [Section 110.101 Application Evaluation for Competitive Planning Assistance Component](#)
- [Section 110.102 Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services](#)
- [Section 110.103 Application Evaluation for Competitive Public Facilities Construction and Design Engineering Component](#)
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- [Section 110.105 Small Business Financing Component \(Repealed\)](#)
- [Section 110.106 Demonstration Program: Set-Aside for Emergency Lead-Based Paint Abatement](#)
- [Section 110.110 Administrative Requirements](#)
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SUBPART B: REVOLVING FUNDS

- [Section 110.210 Purpose](#)
- [Section 110.220 Definitions](#)
- [Section 110.230 Recapture Strategy Requirements](#)
- [Section 110.240 Revolving Fund Administration](#)
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- [Section 110.260 Requirements for Revolving Fund Projects](#)
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- [Section 110.330 Recordkeeping and Reporting](#)
- [Section 110.340 Department Monitoring](#)
- [Section 110.350 Evaluation of Performance](#)
- [Section 110.360 Program Income Subject to the Act](#)

AUTHORITY: Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.).

SOURCE: Adopted and codified at 7 Ill. Reg. 2972, effective March 9, 1983; amended at 7 Ill. Reg. 7898, effective June 21, 1983; amended at 8 Ill. Reg. 16250, effective August 29, 1984; amended at 9 Ill. Reg. 7117, effective May 9, 1985; amended at 9 Ill. Reg. 10702, effective June 28, 1985; amended at 10 Ill. Reg. 10093, effective May 28, 1986; amended at 12 Ill. Reg. 2254, effective January 19, 1988; amended at 15 Ill. Reg. 4410, effective March 11, 1991; amended at 16 Ill. Reg. 20106, effective December 14, 1992; amended at 20 Ill. Reg. 7799, effective May 29, 1996; amended at 22 Ill. Reg. 1910, effective January 1, 1998; amended at 23 Ill. Reg. 8362, effective July 12, 1999; amended at 26 Ill. Reg. 11805, effective July 18, 2002; amended at 28 Ill. Reg. 13468, effective September 23, 2004; emergency amendment at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10017, effective June 28, 2005.

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.210 PURPOSE**

Section 110.210 Purpose

- a) The Department is responsible for the administration and management of the CDAP. For the purpose of this program, the Department establishes grants with eligible units of local government throughout the State pursuant to Subpart A of this Part. Proceeds from those grants may be used to extend financial assistance to private for-profit or not-for-profit entities.
- b) In accordance with Title I of the Housing and Community Development Act of 1974 (Act) (42 USCA 5301), the Department may permit grantees to retain the payments, including principal and interest, that may be generated from financial assistance made through the CDAP as long as those funds are deposited into a local revolving fund (RF) for economic development and the grantee has an approved recapture strategy (RF Plan or Recapture Strategy Plan).
- c) The primary objective of CDAP-funded revolving funds (RF) is to enable grantees to carry out local economic development activities in a way that will expand economic opportunity, principally for low and moderate-income persons. Each RF project shall result in private sector job creation or retention. At least 51% of such jobs shall be filled or retained by persons of low and moderate-income.
- d) The purpose of this Subpart is to provide rules governing and relative to the administration of local RFs funded through the CDAP.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.220 DEFINITIONS**

Section 110.220 Definitions

"Administration" shall mean managing or servicing the day to day operations of CDAP-funded revolving funds. A financial intermediary may perform the day to day servicing functions of the financial assistance, as provided for in the Financial Intermediary Agreement.

"Closed CDAP Grant" shall mean a grant for which the Department has issued a "Grantee Evaluation Report" (GER) final determination letter.

"Grantee Evaluation Report" shall mean a report summarizing grantee compliance with program objectives governing the grantee's CDAP grant. The GER shall provide:

a description of citizen participation;

a description of activities completed;

an analysis of benefit to low and moderate-income persons;

an analysis of benefit to minorities, handicapped and female heads of household; and

a description of activities undertaken to affirmatively further fair housing.

"Low and Moderate-Income Persons" shall mean those individuals in a family whose income is less than 80% of the median income of the area (for non-metropolitan areas the non-metropolitan median income or county income shall apply, whichever is higher).

"Program Income", as it pertains to a revolving fund (RF), shall mean gross

income earned by the grantee or its recipient directly generated from the use of CDAP funds and/or RF (grants or program income). Program income includes, but is not limited to, the following:

payments, which may include principal and interest, derived from Financial Assistance Agreements made using CDAP funds;

interest earned on CDAP funds held in a revolving fund account;

payments, which may include principal and interest, derived from Financial Assistance Agreements made using existing revolving funds.

"Revolving Fund" (RF) shall mean a separate fund (with a set of subaccounts that are independent of CDAP or other program accounts) established for the purpose of carrying out specific financial assistance activities that, in turn, generate program income to be deposited into the RF for use in carrying out activities consistent with the RF approved recapture strategy as defined in Section 110.230.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.230 RECAPTURE STRATEGY REQUIREMENTS

Section 110.230 Recapture Strategy Requirements

As a condition of approval for releasing CDAP funds, each grantee undertaking an RF program for local economic development shall submit for Department approval an RF Plan, also known as a "recapture strategy", pursuant to Section 110.210(b) of this Subpart. This plan shall describe the policies and procedures governing the RF and provide sufficient information to assure the Department that the RF shall be administered in conformance with this Subpart. The elements listed below shall be included in the RF Plan:

- a) RF Goals and Objectives: A clear set of goals and objectives for the RF shall be developed. These goals and objectives shall serve as a basis for the development of an organizational strategy and operating plan.
- b) RF Strategy: A strategy shall be developed that describes how the RF will achieve the stated goals and objectives. This strategy shall include:
 - 1) A description of the eligible uses of the funds.
 - 2) A description of the geographic area within which the funds will be utilized.
 - 3) A description of the RF's targeting strategy (e.g., retention of traditional industrial base firms, start-up firms, minority and women-owned businesses). The RF's business targeting strategy shall tie closely with its economic development goals and objectives.
 - 4) A description of how the applications will be generated from potential recipients, including how minority-owned businesses will be reached.
- c) RF Management Plan: A system for effectively managing the RF shall be developed. This system shall:

- 1) Describe the financial assistance decision-making process, including any advisory bodies or financial assistance review committees.
 - 2) Identify how the RF will be staffed. The staff shall have expertise in financial analysis and packaging.
 - 3) Describe how the Financial Assistance Agreements will be serviced and monitored to hold the recipient accountable for receiving public benefit.
 - 4) If the grantee elects to utilize one or more Financial Intermediary Agreements, it shall describe how financial intermediaries may be used to accomplish the purposes of this Section.
- d) Assurances: A RF recapture strategy shall be developed that includes the following assurances:
- 1) No more than 10% of the annual program income of the RF shall be used for administration of the RF and such costs shall be documented.
 - 2) Assistance provided with RF shall result in at least a 51 percent benefit to low and moderate-income persons and such benefit shall be documented.
 - 3) On a semi-annual basis, the grantee shall submit an RF status report to the Department.
 - 4) All changes to the recapture strategy shall be submitted to the Department for approval prior to implementation.
 - 5) The grantee agrees to pursue all legal remedies to recover delinquent loans and/or enforce compliance with the terms of any Financial Assistance Agreement. Legal actions shall be those authorized by federal and State law, including civil debt collection actions.
 - 6) The grantee shall assure that one job will be created or retained for every \$15,000 of financial assistance provided.
 - 7) A minimum leverage ratio of \$1 non-CDAP funds to \$1 CDAP revolving funds must be obtained for each project. Revolving funds may not comprise more than 50% of the financing for any project.
 - 8) The grantee shall assure that any and all environmental reviews will

be completed for each project funded and it will assure that prevailing wages are paid, if applicable.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.240 REVOLVING FUND ADMINISTRATION**

Section 110.240 Revolving Fund Administration

- a) RFs shall have an administrative structure sufficient to carry out responsibilities for the day-to-day operations of the RF.
- b) If the RF administrator is not the unit of local government, a written agreement shall be executed between the grantee and its RF administrator. This agreement shall remain in effect during the entire term of the Financial Assistance Agreement. If the grantee invests in a project with a financial intermediary, and the financial intermediary serves as the administrator, the terms governing this administration shall be included in the Financial Intermediary Agreement. The minimum provisions that shall be included in either the agreement or Financial Intermediary Agreement shall include the following:
 - 1) a statement of work (with a work description and a budget; i.e., a breakdown of all fees and costs);
 - 2) requirements for the maintenance of records and reports;
 - 3) requirements for the management of the RF;
 - 4) applicability of other program requirements;
 - 5) provisions for an annual audit of the RFs;
 - 6) provisions for suspension and termination of the agreement; and
 - 7) policy regarding reversion of assets at the termination of the agreement.
- c) Final authority for approving any financial assistance made through the RF

shall remain with the chief elected official of the unit of local government, unless formally delegated by resolution and outlined in a formal agreement pursuant to subsection (b).

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.250 USE OF REVOLVING FUNDS**

Section 110.250 Use of Revolving Funds

- a) Revolving funds may be used to finance:
 - 1) Financial assistance that shall result in job creation or retention for for-profit or not-for-profit businesses:
 - A) for fixed assets including land, buildings, machinery and equipment, including new construction or renovation of existing facilities;
 - B) to provide working capital;
 - C) to provide loan guarantees and interest supplements through the use of program income for RF loans;
 - 2) Grants to the grantee for public infrastructure improvement projects when the activities will directly result in the creation and/or retention of jobs by a specifically identified for-profit or not-for-profit business which satisfies the requirements of Section 110.280 of this Subpart. The unit of local government must obtain a Participation Agreement with the benefiting business outlining the job creation and/or retention requirements as a result of this public infrastructure;
 - 3) Activities not listed in this subsection require written approval from the Department prior to final local approval; and
 - 4) Revolving funds may be used for CDBG-eligible activities with prior written approval from the Department, provided that the unit of local government spends the fund in its entirety and the fund ceases to be used for the purpose of business loans.

- b) Revolving funds shall not be used to:
- 1) refinance existing private debts;
 - 2) finance the relocation of an industry or business from one area of the State to another (exceptions require prior written approval from the Department and shall be made in those instances in which a business can demonstrate that it can no longer operate in its existing location and that jobs would be lost to the State if financing is not received);
 - 3) finance any activities for speculative activities (i.e., commercial/retail development without lease agreements) or purposes;
 - 4) conduct general marketing activities; or
 - 5) prepare a CDAP application.
- c) Forgiveness of loans or other financial assistance is prohibited.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.260 REQUIREMENTS FOR REVOLVING FUND PROJECTS**

Section 110.260 Requirements for Revolving Fund Projects

- a) Each RF project shall create or retain at least one job for every \$15,000 of RF investment of CDAP funds.
- b) Job creation attributable to CDAP revolving funds shall take place within 24 months after the disbursement of funds.
- c) For each RF project that results in job creation, documentation shall be obtained and maintained in the local files, pursuant to Section 110.91(a)(1)(A)(i) and (ii) of Subpart A, which verifies that at least 51% of these new employees benefiting from the project are low and moderate-income persons.
- d) For each RF project that results in the retention of jobs, documentation in the form of employee income certifications shall be maintained in the local files, pursuant to Section 110.91(a)(1)(B) of Subpart A, which verifies that a minimum of 51% of the jobs retained are held by low and moderate-income persons at the time the financial assistance is made.
- e) A minimum leverage ratio of \$1 non-CDAP funds to \$1 CDAP revolving funds shall be obtained for each RF project. Revolving funds shall not comprise more than 50% of the financing for any project.
- f) All RF projects shall be conducted within the geographical jurisdiction specified in the approved RF Plan.
- g) All businesses receiving or benefiting from revolving funds shall satisfy the requirements of Section 110.91(b)(3)(A), (B) and (C) of Subpart A.
- h) Each project shall meet the eligibility requirements of section 105 of the Act.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.270 ADMINISTRATIVE COSTS**

Section 110.270 Administrative Costs

- a) Eligible administrative costs include, but are not limited to, salaries, supplies, utilities, Financial Intermediary Agreement costs or similar expenses necessary for managing or servicing the RF portfolio and implementing the RF project. All administrative costs paid with RF shall be exclusively for RF activities.
- b) Administrative costs may be paid from the grantee's own funds or from the RF.
- c) Administrative costs paid from RFs shall not exceed 10% of the program income received each calendar year (e.g., loan repayments, interest earned on revolving funds).
- d) Administrative costs shall be documented (e.g., timesheets, invoices, etc.).
- e) Administrative costs charged to the RF shall not be used for general marketing activities or for the costs of preparing an application for a new CDAP grant from the Department.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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- d) Administrative costs shall be documented (e.g., timesheets, invoices, etc.).
- e) Administrative costs charged to the RF shall not be used for general marketing activities or for the costs of preparing an application for a new CDAP grant from the Department.

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SECTION 110.280 REVOLVING FUND FUNDABILITY ANALYSIS**

Section 110.280 Revolving Fund Fundability Analysis

Each RF shall have a standard RF financial assistance application. The RF administrator shall conduct a review and maintain documentation for each RF application to support that minimum program requirements have been satisfied pursuant to Sections 110.250 and 110.260 of this Subpart and that fundability is consistent with the following:

- a) Financial Feasibility Evaluation – The RF applicant shall submit supporting financial data which at a minimum shall include the following information:
 - 1) A brief history of the business and past employment growth.
 - 2) Market Information on the business' products or services and identification of existing and potential major customers and competitors.
 - 3) Three years historical financial statements which consist of: a balance sheet, profit and loss statement and a reconciliation of net worth. This information shall cover three years, as well as the most recent 90 days. Accountant's notes or detailed notes, in those instances in which the statement is not audited, shall be included with the statement.
 - 4) Prior three years of tax statements for those small businesses with no formal financial statements.
 - 5) Personal financial statement of each principal (sole proprietor, partner, officer, stockholder) owning 20 percent or greater share of the outstanding stock or interest in the business, as well as a brief personal history statement for each.
 - 6) Projected earnings report which includes a three year projected

balance sheet and profit and loss statement, as well as a one year monthly cash flow statement. Base assumptions shall also be included.

- 7) Business plan and/or market feasibility information which addresses business products or services and identifies existing and potential major customers and competitors.
 - 8) Financial statements of the general partners, if a business is a limited partnership. If a business is a corporate general partner, the personal and corporate financial statements of the general partner shall be submitted.
 - 9) A list of major equipment or classes of equipment to be acquired. For acquisition of new machinery and equipment, reliable vendor cost estimates shall be provided. For used machinery and equipment acquisition, an appraisal shall be provided which demonstrates that the fair market value is in line with the purchase price.
 - 10) A detailed explanation of the need for and specific use of working capital. If used for inventory, a list with supporting cost estimates shall be provided.
 - 11) A list of all sources of leveraging documented by written letters of commitment. Loans from financial institutions used as leverage shall indicate approval as well as the loan amount, the specified term and rate, collateral, and conditions attendant to the loan. Equity contributions shall be documented through signed letters from the benefiting business.
 - 12) Documentation of the legal status of the borrower and authorization to enter into the loan, e.g., Articles of Incorporation, Secretary's Certificate, Certificate of Good Standing, etc.
 - 13) A letter verifying the number of jobs to be created and/or retained, including the number to be filled by low and moderate-income persons and the specific time period over which this will occur.
- b) Determination of Need – Documentation shall be maintained by the RF administrator to verify that the RF application review procedures include criteria to determine if revolving funds are necessary. Such criteria shall consist of the following elements:
- 1) Evaluation of Project Costs – All costs associated with the project shall be verified prior to making a funding determination and establishing a funding level. Third party cost estimates shall be

obtained to document all project costs. If a grantee does not use third-party quotations to verify cost elements, then the grantee shall conduct its own cost analysis using appropriate cost estimating manuals or services.

- 2) Verification of Other Funding Sources – At a minimum, the loan applicant shall show evidence, in the form of a bank commitment letter, of the level of financing that a bank will commit. This review shall also include an analysis of the private equity available to be committed to the project. All sources of funding shall be firmly committed in writing and maintained in the loan file. All units of local government with existing RFs shall utilize all available revolving funds prior to requesting funds through CDAP.
- 3) The grantee shall review the applications to ensure that, to the extent practicable, CDBG funds will not be used to substantially reduce the amount of non-RF financial support for the activity. To reach this determination, the grantee shall conduct a financial analysis of the project, including review of the appropriate projections of revenue, expenses, debt service and return on equity investments. The extent of the review shall be appropriate for the size and complexity of the project and use industry standards for similar projects, taking into account the unique factors of the project such as risk and location.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.290 REVOLVING FUND FINANCIAL ASSISTANCE CLOSINGS**

Section 110.290 Revolving Fund Financial Assistance Closings

Each grantee shall establish a financial assistance closing process for its RF that shall govern the negotiation and signing of the agreement and disbursement of the proceeds. This process finalizes the terms, conditions and covenants of the financial assistance.

- a) The grantee shall establish a standardized financial assistance closing agenda or checklist which specifies legal and other programmatic documents required in connection with the Financial Assistance Agreement (e.g., documents and attachments which support collateral, amortization schedule, budget, project description, promissory note, finalization of hiring commitments and all outside financing sources per Section 110.280(b) of this Subpart).
- b) The RF administrator shall obtain and review a letter from the recipient's legal counsel that states that the business is in compliance with all federal and State laws, as applicable, and that the company has no hidden liabilities or encumbrances.
- c) Financial assistance documents may include the following:
 - 1) A standardized loan document, including a loan agreement, promissory note and security agreement shall be developed which shall be a binding enforceable document.
 - 2) A standardized financial assistance document shall be developed for each type of assistance utilized by the grantee.
- d) Documentation shall be maintained in each financial assistance file demonstrating that compliance with all terms and conditions contained in the Financial Assistance Agreement have been met.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.300 SECURITY**

Section 110.300 Security

- a) All RF loans from grantees to their recipients shall be secured with a mortgage, security agreement, promissory note, financing statement or other assignment of rights of the assets of assisted recipients.
- b) In the event it is necessary or desirable to take actions to protect or further the interests of the RF, the grantee shall take timely actions to sell, collect, liquidate or otherwise recover loans, guarantees or other forms of financial assistance extended by the RF in accordance with the legal rights of the grantee and its administrator, other participants and the recipient.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.310 DISBURSEMENT OF REVOLVING FUNDS**

Section 110.310 Disbursement of Revolving Funds

RF administrators shall keep records showing that the invoices or other evidence of the actual costs of the recipient's expenses were verified prior to the disbursement of RF. Grantees shall also assure that their disbursements are only for items approved under the agreement with the recipient. No RF drawdown may occur until the closing date has occurred and documentation exists to release RF to the recipient. The grantee may disburse funds to a financial intermediary that will close the Financial Assistance Agreement with the recipient for appropriate disbursement upon or after closing.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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SECTION 110.320 REVOLVING FUND MONITORING**

Section 110.320 Revolving Fund Monitoring

The purpose of monitoring is to assist recipients so they can successfully generate jobs for low and moderate-income persons and to safeguard the capital utilized to assure availability of funds for future financial assistance projects. This shall be accomplished through periodic and regular reviews and contact with recipients.

- a) A repayment schedule, where appropriate, shall be prepared for each financial assistance project and shall be provided to the recipient at the time of closing. Procedures shall be established for notifying the recipient in advance of each payment date and following up on delinquent payments. A sufficient monitoring system shall provide for:
 - 1) regular reporting;
 - 2) scheduled telephone contact;
 - 3) site visits;
 - 4) regular financial assistance committee review of financial assistance status;
 - 5) systematic reports and files; and
 - 6) collection procedures.
- b) Each RF grantee or administrator shall maintain a monitoring file for each Financial Assistance Agreement that includes the repayment schedule with repayment dates, if applicable, and amounts, a log of telephone calls with the date and items discussed, copies of correspondence with the recipient and progress reports.

- c) The RF grantee or administrator shall designate an individual to prepare and distribute a monthly loan status report, listing all outstanding Financial Assistance Agreements and the individual payment status of each agreement in a format that shall include the recipient's name, financial assistance amount, date of agreement, payment due date, if applicable to the form of financial assistance, and the terms of the Financial Assistance Agreement. This status report shall also indicate whether recipient's payments, if applicable, are current or delinquent (i.e., late by 30 days, 60 days, etc.).
- d) The grantee and the financial intermediary shall incorporate into the Financial Intermediary Agreement their respective responsibilities for monitoring the recipient and the agreement shall also establish the financial intermediary's reporting requirements to the grantee.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
PART 110 STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM FOR SMALL CITIES
SECTION 110.330 RECORDKEEPING AND REPORTING**

Section 110.330 Recordkeeping and Reporting

- a) Grantees shall maintain all records of financial, programmatic and compliance activities. All documents that are associated with a financial assistance review process shall be maintained on file with the grantee.
- b) All grantees shall submit semi-annual status reports to the Department. The January-June report shall be due no later than July 31 of each calendar year; the July-December report shall be due no later than January 31 of each calendar year. Failure to submit semi-annual status reports could result in delayed reimbursement of other active CDAP payments to the grantee or rejection of pending CDAP grant applications. Status reports shall include the following information:
 - 1) Date submitted;
 - 2) Name, title and telephone number of the person preparing the report;
 - 3) Report period;
 - 4) Name of the unit of local government;
 - 5) Name of county;
 - 6) Name of assigned Department compliance review staff;
 - 7) For financial assistance made from revolving funds, the following:
 - A) Date of agreement;
 - B) Name of recipient;

- C) Initial amount;
 - D) Total amount to be recaptured, broken out by principal, interest and other forms of payment;
 - E) Total amount recaptured to date, broken out by principal, interest and other forms of payment;
 - F) Status (i.e., current (yes/no) or closed);
 - G) Number of jobs created/retained;
 - H) Number of jobs created/retained for low and moderate-income persons;
 - I) Source and amount of other financing;
 - J) If payments scheduled under a Financial Assistance Agreement are not current, date of last payment;
 - K) A list of RF Financial Assistance Agreements in default or in bankruptcy and a full description of the current status of those Agreements, including collection efforts;
- 8) A copy of the amortization, royalty payment, and other program income schedules that relate to each Financial Assistance Agreement; and
 - 9) Signature of the chief elected official for the unit of local government certifying that the information contained in the report is true and correct and is supported by documentation on file at their office.
- c) Each Department-funded CDAP Financial Assistance Agreement shall contain the following:
 - 1) Agreement number;
 - 2) Date of Financial Assistance Agreement;
 - 3) Initial amount;
 - 4) Total amount to be recaptured, broken out by principal, interest and other forms of payment;
 - 5) Total amount recaptured to date, broken out by principal, interest and

other forms of payment;

- 6) Status (i.e., current (yes/no) or closed);
 - 7) If payments scheduled under a Financial Assistance Agreement are not current, date of last payment;
 - 8) A list of CDAP Financial Assistance Agreements in default or in bankruptcy and the full description of the current status of those Agreements, including collection efforts.
- d) Totals for information listed in subsections (c)(5), (b)(7)(C) and (b)(7)(E) shall be included in the following computation: Total CDAP recaptured amounts less the total amount of financial assistance provided for the RF plus total RF recaptured amounts less eligible infrastructure expenditures less eligible administrative expenses plus interest earned on deposits. This formula allows the grantee to determine the total amount in its RF. This figure shall match the balance shown on the grantee's bank statement at the end of the report period. A copy of the bank statement shall be attached to the semi-annual report and submitted to the Department.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.340 DEPARTMENT MONITORING**

Section 110.340 Department Monitoring

- a) The grantee shall be responsible for operating the RF in accordance with the terms of its CDAP grant agreements and its RF Plan.
- b) The grantee shall permit any agent authorized by the Department, upon presentation of credentials, to have full access to and the right to examine any documents, papers, and records of the grantee and the RF relating to transactions of the RF.
- c) The Department shall monitor RF programs using on-site visits, semi-annual status reports submitted by the grantee, disbursement transactions and other contacts with the grantee as necessary.
- d) Department monitoring procedures shall concentrate on financial assistance evaluation and decision-making as well as servicing and monitoring of RF agreements. The grantee shall remain responsible for the actions, compliance and recordkeeping of its administrator. Grantee communities are responsible for establishing a system to monitor the performance of their RF administrator.
- e) Pursuant to its obligations under the Act, this Part, and the applicable grant agreements, the Department will conduct a program of RF visitations for the purpose of providing technical assistance and monitoring the operations of the local RF grantees. As a result of those visits, the Department may take any of the following actions, by way of sanctions against inappropriate local RF activities or against the grantee jurisdiction:
 - 1) issue "Findings" outlining deficiencies in the RF operations and requiring that they be corrected within a specified time;
 - 2) the Findings may mandate the return to the RF account, from non-

Block Grant sources, amounts disbursed for ineligible activities;

- 3) require for a specified period of time (including permanently) that an RF seek prior written approval from the Department for any specified activity. Specified activities may be limited, for instance, to include only new Financial Assistance Agreements made, or may include all RF activities. This sanction may include the requirement that all application materials for new financial assistance be forwarded for review to the Department;
- 4) the grantee may be deemed to be unable to continue operations of a local RF program, in which case the Department may take any of the following actions:
 - A) revocation of local authority to operate a CDBG RF;
 - B) instruct the grantee to continue to collect loan payments of existing Financial Assistance Agreements and service the current portfolio. However, no additional Financial Assistance Agreements would be allowed to be made from the portfolio. Instead, on a yearly basis the balance available in the account would be returned to the Department; and
 - C) instruct the grantee to turn over the cash balance and loans in the RF to the Department.
- f) The grantee or RF administrator shall conduct at least one on-site monitoring visit of each RF financial assistance recipient to verify job creation and retention, low and moderate-income benefit, documentation of expenditures, and compliance with the other terms and conditions of the Financial Assistance Agreement before closing out a project and shall maintain documentation of the visit.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.350 EVALUATION OF PERFORMANCE**

Section 110.350 Evaluation of Performance

- a) The Department shall review the RF to determine if the grantee has administered and carried out its RF activities in compliance with the requirements and criteria outlined in Subpart B, with emphasis upon:
- 1) The requirements of Section 110.230 that there be an approved updated recapture strategy.
 - 2) The requirements of Sections 110.250 and 110.270 regarding the eligible uses of revolving funds and administrative costs.
 - 3) The requirements of Section 110.260, specifically Section 110.260(c), and Section 110.270(d) that outline the basic RF requirements, stating that, for each Financial Assistance Agreement, not less than 51% of the jobs created or retained shall benefit low and moderate-income persons.
 - 4) The development of and adherence to sound administrative principles and procedures pursuant to the requirements of Sections 110.240, 110.280 and 110.290.
 - 5) The requirements of Sections 110.300, 110.310, and 110.320 of the RF implement solid lending and investing practices and strict follow-up procedures. This shall be evidenced by a Financial Assistance Agreement compliance worksheet acceptable to the Department that includes information pertaining to and based upon the number of Financial Assistance Agreements made through the RF, the number of non-performing Financial Assistance Agreements, the underlying justification for the financial assistance (Section 110.280) and the documentation on file regarding follow-up, including legal action.

- 6) The grantee's past performance and past willingness to act on Department recommendations resulting from its periodic monitoring visits pursuant to Section 110.340.
- b) With the receipt of any new economic development grant awarded under Subpart A of this Part, the Department shall evaluate the performance of an existing RF using the criteria found in subsection (a) of this Section as a condition of retaining future repayments.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)

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GRANT PROGRAM FOR SMALL CITIES
SECTION 110.360 PROGRAM INCOME SUBJECT TO THE ACT**

Section 110.360 Program Income Subject to the Act

- a) Any program income (as defined in Section 110.220 of this Subpart) that the Department has permitted a grantee to retain and that is realized while the grantee has an open CDAP grant is subject to the requirements of the Act and 24 CFR 570.
- b) Program income retained by the grantee generated from a grant award prior to October 28, 1992 is not subject to the Act and 24 CFR 570 under the following conditions:
 - 1) The CDAP grant which generated the income is closed. For purposes of this Subpart, a closed project is defined in Section 110.220 of this Subpart; and
 - 2) All concurrent CDAP grants are closed.
- c) Program income retained by the grantee generated from a grant awarded after October 28, 1992 is subject to the Act and 24 CFR 570.
- d) If the grantee's CDAP grant records are insufficient to determine when program income was earned in relation to close-out of the grantee's CDAP projects, those RF shall be considered subject to the Act.
- e) Regardless of when the program income is earned, the RF shall always be subject to the requirements of the approved recapture strategy and each beneficiary of funds through the RF shall benefit at least 51% low and moderate-income persons.

(Source: Amended at 28 Ill. Reg. 13468, effective September 23, 2004)