Buffalo and Erie County Regional Development Corporation Loan Committee

May 10, 2017
at
9:00 a.m.

ECIDA Offices
95 Perry Street
4th Floor - Perry Room
Buffalo, New York 14203

1. Roll Call

2. Reading and approval of the Minutes of the March 8, 2017 Loan Committee meeting.

3. Review and Discussion of the RDC Loan Administration Plan (LAP) and recommendations to send to the Full RDC Board of Directors

4. Adjournment

Draft
For Committee Approval

MINUTES
OF THE LOAN COMMITTEE OF THE
BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT CORPORATION
(RDC)

DATE AND PLACE: March 8, 2017, at the Erie County Industrial Development Agency, 95 Perry Street, Suite 403, Buffalo, New York 14203

MEMBERS PRESENT: Hon. Joseph H. Emminger, Rebecca Gandour, Nancy LaTulip, David McKinley, and Michael A. Taylor

MEMBERS ABSENT: Thomas Grys and John J. Mudie

OTHERS PRESENT: Steve Weathers, Chief Executive Officer; Mollie Profic, Treasurer; Gerald Manhard, Chief Lending Officer; Michael Alexander, Assistant Loan Manager; and Robert G. Murray, Secretary

There being a quorum present at 9:04 a.m., the meeting of the RDC Loan Committee was called to order by its Chair, Mr. Emminger.

MINUTES

Upon motion made by Ms. Gandour, and seconded by Ms. LaTulip, and unanimously carried, it was

> **RESOLVED,** that the minutes of the RDC Loan Committee meeting of January 11, 2017 are hereby approved.

PROJECTS

Radio One Buffalo, LLC/2900 Genesee St. LLC, 2900 Genesee Street, Cheektowaga, New York, $187,500 60-Month term loan, secured and guaranteed. Mr. Manhard reviewed the application and loan case detailing the proposed $187,500 term loan, proceeds of which would be used by the borrower to acquire all assets associated with the purchase of two local radio stations, including antenna tower, transmitter site and all furniture, fixtures and equipment. General discussion ensued. Mr. Emminger then asked for a motion to approve of the loan as proposed. Ms. Gandour moved and Mr. Taylor seconded to approve of the loan request. The motion was then unanimously approved.

There being no further business to discuss, the meeting was adjourned at 9:29 a.m.

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Robert G. Murray, Secretary

Date: 5/24/2017
To: RDC Board of Directors
From: RDC Lending Team
Re: ***Proposed Changes to 2017 Loan Administration Plan Revision***

The RDC RLF began in 1979 and, since its inception, has funded *(through December 2016 loans)* in excess of $118 million, which has leveraged private local investment of over $832 million *(7:1)* and created/retained over 2,465 jobs.

The RDC Loan Administration Plan is required to be revised to align with the needs of the region every five years, minimally. Proposed changes to take place in the 2017 revision are as follows:

- Allow financing of Retail Start-Ups located outside of distressed census tracts and eliminating requirement of being operational for 2 years.
- Standardize fee structure:
  - Micro Loans: responsible for credit reports, filing fees, good standing certificate
  - Macro Loans: standard commitment fee of ½% principal amount plus all closing costs *(generally capped at 1% of the loan amount for legal fees).*
  - WBE/MBE: responsible for credit reports *(will vary based upon number of borrowers),* $100 flat for processing

- Consolidate ALL RDC Loan Programs to include only Micro Loans and Macro Loans. It should be noted that preferred terms will be provided to disadvantaged sectors including Women and Minority Owned Businesses.
- Clarify maximum term for an interest only period to 36 months.
- Extend loan terms to include a maximum loan amortization to 20 years.
- Remove "Excess Cash Flow Clause" from loan requirements.
- Introduce new Line of Credit product offering with a max line of $350,000.
- Implement financing ceiling for segments of the RDC Loan Portfolio for Lines of Credit, Micro Loans and Start Up Businesses. Currently there are no formal ceilings established for portfolio concentrations. Caps are generally to be set as follows:
  - Lines of Credit *($10k-$350)*: not to exceed 20% of portfolio
  - Micro Loans: not to exceed 10% of portfolio
  - Start-Ups over $100k: not to exceed 20% of portfolio
- Increase the in-house, micro loan committee approval amount from $50,000 to $75,000.
- Increase Board of Director Approval requirement from $350,000 to $500,000
- Implement tiered interest rates for loan products that are tied to the Prime Interest Rate.
  - Micro: *Prime Rate +1% (fixed)
  - Macro: *Prime Rate+1% (fixed)
  - M/WBE: *Prime Rate (fixed)
- Change new job requirement ratio from 1 job per $50,000 to 1 job for every $75,000 financed.
- Change minimum loan amount from $5,000 to $10,000.

**As of 4/30/2017, Prime Interest Rate is 4.0%*

ADMINISTRATION PLAN
FOR
Revolving Loan Fund
OF THE
Buffalo and Erie County Regional Development Corporation

Board Adoption Date:

Part I: Revolving Loan Fund Strategy

A: Economic Adjustment Overview

1. Economic Adjustment

The recently updated **2016 Comprehensive Economic Development Strategy (CEDS)** includes many of the guiding principles, industry sector targets and strategic directives of the 2011 strategy which remain valid today. Additionally, significant advances in terms of regional strategic planning and economic development have occurred in the few short years since the **2011 CEDS** was released. Accordingly, the 2016 CEDS incorporates the findings and strategic initiatives derived from three recent major regional planning and economic development efforts including the Western New York Regional Economic Development Council (WNYREDC) Strategy for Prosperity in Western New York, The Buffalo Billion Investment Development Plan and One Region Forward — A New Way to Plan for Buffalo Niagara.

In addition to the above mentioned regional strategies, several other relatively recent county and local plans and strategic documents were reviewed and, where relevant, incorporated into this CEDS update.

THE ECONOMY OF ERIE COUNTY

Its strategic location on Lake Erie, bordering Canada and being midway between Chicago and New York, has made Erie County and its surrounding area a major trade center from the mid 1880's onward. Early in its development, the area owed its prosperity to industrial development combined with a strong agricultural base.

For approximately the past 40 years, Erie County's economy has been in a state of continuing transition from a manufacturing based economy to a service and trade based economy. During the 1970's there were significant employment losses in both durable and nondurable goods manufacturing. Between 1971 and 1981 the area lost over 18,000 manufacturing jobs, 70% of which were in primary metals production. During the first half of the 1980's, structural shifts in the area's economy resulted in both high unemployment and outmigration (adding further to a decline in population resulting from lower birth rates). An increase in service sector and trade sector jobs in Erie County during the 1980's partially offset the loss of manufacturing jobs.

Net overall job growth in the latter part of the 1980's (15.4% between 1982 and 1989) was dampened by the recession of 1990 - 1992 which saw unemployment rates once again on the rise. There were 18,400 jobs lost in Erie County during this two-year period. Nonetheless, during the recession, the impact on Western New York was not as severe as in other parts of the State and employment declines here were only 40% of the State as a whole.

Erie County's economy experienced some recovery in the latter part of the 1990's, but with few exceptions, average annual employment continued to decline between 2000 and 2014. Between 2000 and 2014, employment decreased by approximately 25,000 (over 32,000 since 1990). The average annual unemployment rate in Erie County in 2000 was 7.8%, significantly higher than statewide. Unemployment in the County rose to 8.3% in 2010 (not dissimilar to what was occurring in NYS and the U.S. as a whole) but has since decreased to 5.5 (now lower than NYS unemployment rates).

Historically, the area's economy was built on railroad commerce, steel manufacturing, automobile production, Great Lakes shipping and grain storage. The automotive industry, despite reductions in employment, had, nevertheless, made significant investments in local plants between 1998 and 2005. These included the Ford Stamping Plant in Hamburg and General Motors Powertrain in Tonawanda. The County continued to be a large rail center, as a result, is an attractive location for warehousing, storage and distribution facilities. Traditionally a "blue collar" industrial community, the area now has an economy characterized by a mix of industrial, light manufacturing, high technology and service companies. Because the economy is now far more diversified, it was thought to be more resilient to economic dislocations, unlike the situation prior to 1980 when manufacturing employment was largely concentrated in the primary metals and transportation equipment sectors.

The nature and scale of the region's economic adjustment problems and economic distress can be summarized as follows:

- The County's largest city, Buffalo, which is also the second largest city in the State of New York and serves as the County seat, faces great challenges, including: the long-term decline in population and jobs, deterioration in housing and neighborhoods, public schools under stress, and environmental damage.
- Between 1970 and 1980, Erie County's population fell by almost 100,000; population decline between 1980 and 1990 (46,940), however, was only about half as great as during the previous decade. Population again declined between 1990 and 2000 (-1.8%) and between 2000 and 2010 (-3%).
- The City of Buffalo's population loss over the same thirty-year period has been severe; the City's population declined by 35,475 (a nearly 11% drop in population) between 1990 and 2000, a trend that continued between 2000 and 2010, during which, the City of Buffalo's population declined by an additional 10.7% (31,338).
- The population of Erie County (as that of the region) has also aged over the past thirty years, a trend that appears to be continuing.
- As per the 2010 Census, median income for a household in the County is $47,372 and

median income for a family is $63,404 (in 2010 inflation adjusted dollars) (lower than the statewide median income for both households and families).

- Estimated 2014 median earnings for males in Erie County are 20.5% higher than for females at $50,790 (males) v. $40,346 (females).
- About 10.1% of Erie County families and 13.6% of the County population were below the poverty line in 2010 (about the same percentage as for families in 2000, but higher by 1.7% for the total County population). Estimates for 2014 indicate additional increases in the number of families and individuals living below the poverty level in Erie County.
- Although the manufacturing sector remains an important part of Erie County's economic base, overall manufacturing employment was reduced by 33.55% between 2000 and 2014.

The nature and scale of the region's economic opportunities can be summarized as follows:

- More than half the population of the U.S. and Canada (160 million people), 75% of Canada's manufacturing activity, 55% of U.S. manufacturing activity, and 52% of personal income in the two countries, are within a 500-mile radius of Erie County.
- The City and region possess a variety of both natural and man-made assets including an expansive waterfront location on Lake Erie, a wealth of arts, culture, historic sites, entertainment, advanced technology, research and educational institutions.
- During the period between 2000 and 2010 New York State had a modest overall population increase of 1.3% with most of the growth in downstate counties. In contrast to the overall drop in population, the County's minority population has been rising (both in absolute and relative terms) over the past four decades and is currently estimated at 20.8% of total population.
- Although population loss has continued, it has slowed in pace with the exception of the 18-24-year cohort, which had a modest increase between 2000 and 2010 (a trend estimated to continue in the short term).
- Recent data indicates that the gap between male and female earnings is narrowing (in 2007 it was estimated that the median earnings of female workers were 36% lower than that of males in Erie County).
- Notwithstanding the dramatic losses in employment in manufacturing since 2000, average annual wages have increased in all manufacturing subsectors with the exception of Transportation Equipment Manufacturing (which employed 3,364 people in 2014).

2. Plans and Strategies to deal with the economic adjustment problem

In preparing the 2016 CEDS, numerous recently published studies and plans, including several of a regional scope, were used as "building blocks" to inform and update the County's earlier economic development strategy. The Goals and Actions of the major regional and local strategies and plans were examined and chronicled with respect to the three "enablers" of economic development — i.e., workforce, physical infrastructure/Smart Growth, and capital/entrepreneurship. The chart revealed significant overlap and synergy between and among the goals and actions listed, although there may be variation in terminology and specificity by virtue of the geographic areas covered or the functional responsibilities of the implementing organizations sponsoring the plans. Nevertheless, all the newer documents included in the 2016 CEDS have an expressed or implied acknowledgment of consistency with regional level plans

such as the WNYREDC Strategy for Prosperity and/or related regional planning documents including One Region Forward and the Buffalo Billion Investment Development Plan. The principles expressed in the newer plans are also consistent with the common four principles above from the earlier (2016) CEDS document. Among the common "Principles" that can be extracted from the recent set of plans, both regional and local, are the following:

• **Principle #1:** Preparation of a **stronger workforce**, though, among other actions, expanding training and apprenticeship programs (and making them more inclusive), aligning skills training with the current and future job market and promoting better connections between schools and job readiness;
• **Principle #2**: Apply "smart growth" considerations to infrastructure investment - recycle, renew, remediate, revitalize existing development (avoid additional "sprawl"), protect the natural environment; and
• **Principle #3**: Foster, fund and support entrepreneurs and small to mid-size businesses.

In line with these principles, the WNYREDC **Strategy for Prosperity** outlined "threshold" criteria for evaluating projects that will advance economic development in the region. These are:

• ***Inclusive*** *— A project should promote diversity and reduce disparities within the Region;*
• ***Promotes Smart Growth*** *— A project should integrate economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments;*
• ***Oriented to Young Adults*** *— A project should try to attract and retain young adults (ages 18 — 35) to counteract a lack of in-migration to the region;*
• ***Builds Upon Strengths*** *— A project should enhance the region's existing strengths to achieve the largest impact with limited resources;*
• ***Regional Impact*** *—A project that has an impact (jobs, investment or visitors) in three or more counties; and,*
• ***Improves the Region's Image*** *—A project should enhance the perception of the region to grow businesses and attract and retain workers*

3. How the RLF will be used to support specific economic adjustment activities identified in the CEDS.

The strategic purpose of the Buffalo & Erie County Regional Development Corporation Revolving Loan Fund (RDC RLF) is to enhance the competitiveness of local businesses, promote local ownership of firms employing local residents, and assist with the formation and expansion of new companies especially in the targeted industry sectors. Specifically, the RDC RLF will support projects consistent with the CEDS and other regional documents as follows:

Provide Gap Financing to Create and Retain Jobs Locally - Assist in creating new and retaining existing jobs for a range of the highly skilled and low skilled individuals. To accomplish this, the RDC RLF is positioned to "fill the gap" between the amount of conventional financing available, and the amount needed to develop a job-creating business expansion. Established, proven, quality businesses will be most successful at creating and keeping jobs in the region.

Act as a Community Development Partner- RDC staff continuously work to establish, maintain and grow relationships with public and private partners to build awareness regarding RDC RLF programs to ensure consideration when financing is needed for projects. This is done through ongoing involvement in all planning projects with a wide range of community partners. RDC staff also recruit a variety of public and private sector citizens to be involved with the various loan review committees and boards. Many of these people are different from the CEDS board and strategy committee members. Involving a variety of people will help the RDC connect to a large network within the community. The availability of the program funds will also be made known through various channels to ensure that all potential borrowers are aware of the program. The loan fund availability is publicized in a variety of regional media, one on one meetings with local lenders, RDC presentations and outreach efforts through regional and local events, and through partnerships with other agencies such as chambers, cities and economic development organizations with outreach to lenders and private investors.

Provide support for Startup, New, and Emerging Businesses- Smaller dollar loans may be made for new or start-up businesses. New or start-up businesses will be required to submit a business plan showing feasibility and marketability of their product. The RDC RLF has access to microloan funds (not EDA RLF related) that will help with the startup or new businesses within the regions that range from $500 to $50,000.

Provide a Support Mechanism to the Regional CEDS' Economic Adjustment Activities/Strategies- RDC staff will ensure that the RLF will be used to support specific economic adjustment activities identified in the CEDS by approving loans that are consistent with the efforts and strategies of the region. The RDC will work to grow and maintain relationships throughout the region to guarantee that the RLF is considered an option as often as possible and that staff will be included in the planning process when financing is needed for potential projects throughout the community. The RDC RLF seeks exposure to public and private entities regularly to ensure that it is considered as a viable financing option.

B: Business Development Strategy

1. Objectives:

The purpose of the business development strategy is to enhance the business climate and the local economy by providing local businesses and private entities a financing source to grow, maintain and/or sustain their operations locally that will result in the addition of jobs and investment in the region.

Specific objectives include:

- To provide gap financing for businesses that seek to relocate or expand within the region, and to create or retain a wide variety of jobs in various industries.
- To expand business employment and ownership opportunities for Erie County residents through economic development that is compatible with and will enhance the area's existing regional strategies and build on our assets and target industries.

- To promote the economic well-being of the region by helping to finance projects which maximize private sector investment; assist businesses owned and operated by minorities, women and members of other disadvantaged groups; offer benefit to low and moderate income people; and continually add value to the economic base of the region.
- To collaborate with the commercial lenders and business assistance organizations in the region to offer alternative funding and support to businesses unable to secure traditional loans.

2. Targeted Businesses:

The RDC RLF extends credit to companies in target businesses and in target areas of Erie County. Targeted industries include: innovation/technology, advances in health and life sciences, advanced manufacturing, export assistance, and agribusiness. The RLF targets areas that have suffered from disinvestment, which include distressed census tracts, areas contiguous to distressed census tracts, the City of Buffalo, and rural areas. Qualified borrowers may be a proprietorship, partnership, or corporation located in Erie County. Loans are generally made for permanent working capital, equipment purchases, pollution control improvements and/or loans to effect changes in local ownership when the employment base of the company would otherwise be at risk.

Samples of recent project characteristics include:

- Create or retain jobs;
- Business development, including start-up or expansion;
- Encourage entrepreneurship and innovation;
- Support industries in highly distressed areas;
- Assist in the development of businesses owned and operated by minorities, women, and other disadvantaged groups;
- Support projects that enhance local and regional goals; and
- Finance projects that rehabilitate or revitalize older facilities.

3. Business Needs:

The most common business needs listed below were identified from various sources including: meetings with potential clients, interaction with local small business lenders, and participation with regional business assistance organizations. Typically, the types of assistance needed by targeted businesses for our region are:

- Access to knowledge/services available through other community members (mentorship, technical assistance, legal help, accounting/cash flow projections, patent services, procurement & exporting, etc.);
- Access to potential investors/partners for their projects;
- Access to a variety of funding sources (startup financing, inventory, working capital, equipment, real estate, construction, etc.); and,
- Access to services for women-owned and minority businesses.

RDC staff work with many economic development and business assistance organizations regularly to identify potential clients as well as support these organizations in providing services needed by local businesses. A variety of programs and activities are offered by public and private sector economic development organizations to address the needs of targeted businesses, including:

Business Assistance

- SBA
- SCORE
- SBDC
- Chambers of Commerce

Entrepreneurship & Capital

- Launch New York
- 43 North
- Start-Up-NY
- Excelsior Jobs Program Credit

Alternative Lending Options

- Westminster Economic Development Initiative (WEDI)
- Urban League Minority & Women RLF
- Erie County Microenterprise Loan
- ECIDA Microloan
- RDC Loan
- Pathstone
- NYS Bridge to Success
- National Development Council

Services for Women-Owned & Minority Businesses

- Beverly Gray Center
- WEDI
- Canisius College Women's Business Center

C: Financing Strategy

1. Financing Needs:

The Buffalo and Erie County Regional Development Corporation (RDC) is the administrator of the area's EDA-funded Industrial Expansion Revolving Loan Fund (IERLF). The RDC, as noted above, is a member of the ECIDA's Financing and Development Group. The RDC is a not-for-profit local development corporation, established to provide financial assistance to growth oriented firms in Erie County. The Erie County RLF administered by the RDC is one of the oldest and largest, EDA-assisted RLFs in the country. The RDC/RLF began in 1979 and, since its inception, has funded (through December 2016 loans) in excess of $118 million, which has leveraged private local investment of over $832 million and created/retained over 2,465 jobs. The primary use of RLF funds in support of retention and expansion has been through the provision of

working capital for both existing and startup businesses since fixed asset financing has been more widely available in the local financial marketplace.

In addition to a pronounced concentration on working capital loans, most of RLF's past financings have been subordinated to private lenders so that borrowers can use their assets to leverage the maximum amount of private funds. Additionally, loans have traditionally been at fixed rates to give borrowers a predictable level of debt service. Principal payments are sometimes deferred at the beginning of a loan (particularly for leveraged buyouts, larger expansions and M/WBE startups) to help preserve company cash flow. The RLF has been successful at addressing the problem of inadequate local working capital financing. The RLF has not been able to reverse the national trend of loss of manufacturing jobs and replacement by service sector employment, however, the RLF has stabilized the loss of local manufacturing firms by assisting the financing of start-up and growth stage manufacturers.

2. Local Capital Market:

Statistics for the period from 2010 – 2015 reveal that RDC/ILDC lending activity has decreased somewhat from the previous five-year period - possibly because conventional lenders have been more aggressive in lending since 2011/12 and interest rates in the private sector are near or even below the lowest interest rate (4%) that can be offered by these public sources of funding. The RDC and ILDC have, however, been particularly attractive to smaller businesses which may find it harder or costlier to access bank or even SBA financing.

The 2016 CEDS identified several challenges with respect to the availability of capital for economic growth. Among them were the following:

1. No in-place mechanism, such as Jump Start in Cleveland, to facilitate technologies developing out of our universities into commercially viable opportunities.
2. A dearth of venture capital generally in New York State.
3. Seed and early stage funding remains a problem for companies because the available solutions are local angel networks since the State is absent. The lack of professional funding sources also means a lack of experienced professionals who staff such firms.
4. New York State is among the **costliest** states in which to do business which only compounds the difficulty of economic development in Western New York and Erie County. Despite the incentives that can be offered locally, there is a pressing need for:
5.
    - Additional capital and technical assistance for seed and second stage, technology-based companies;
    - Accelerated levels of conventional, private lending activity;
    - Additional public lending capacity;
    - Additional State and federal funding for brownfield and greyfield remediation efforts;
    - Additional incentives for adaptive reuse projects; and
    - Tiered incentives targeted towards growth sectors and to the more distressed parts of the community.

Since 2011, several significant new, largely state-funded, initiatives have been set in place to address at least some of these challenges to entrepreneurship and new business development, however, to a large extent, many of the above listed challenges are still valid today, notwithstanding a more positive lending environment for established businesses.
Erie County and Western New York have other avenues of public financing directed toward disadvantaged publics with varying terms and rates. These public financing options include:

WEDI SBA Loan: Micro loan program offers small (up to $25,000), targeted loans for business creation or expansion in the west side area of the City of Buffalo that can directly result in increased income and wealth generation. WEDI also provides technical training for inexperienced borrowers.

Erie County Microenterprise Loan: A "Microenterprise" is a business having five or fewer employees, one or more of whom owns the business. The Microenterprise Loan can be for as little as $5,000 and up to $35,000. The loan can be used for working capital or the purchase of machinery & equipment. Loans are restricted to businesses located in Erie County's block grant consortium community.

Pathstone: Provide guidance to low-to-moderate income individuals who wish to start or expand their business and provide credit to businesses that provide jobs to low-to-moderate income individuals in New York State.

NYBDC Excelsior Program: Excelsior Growth Fund (EGF) promotes economic development and job creation in New York State by providing streamlined access to small business loans and business advisory services. EGF is a not-for-profit 501(c)(3) and certified by the U.S. Department of Treasury as a Community Development Financial Institution (CDFI). The mission of Excelsior Growth Fund is to help businesses grow. EGF provides innovative financial solutions and business advisory services to underserved small businesses and markets in New York State. The signature EGF SmartLoan™ product is available through a secure online portal and has a maximum loan amount of $100,000. EGF and its affiliates offer a number of other lending products for businesses seeking higher loan amounts.

NYS Bridge to Success: Bridge to Success is a loan program designed to give MWBE-certified businesses in New York state the best chance possible of securing and performing on government contracts. If you are a qualified company looking for short term capital to fund the early stages of a contract, or to demonstrate the financial stability needed to submit a bid, NYBDC and Bridge to Success can help. By accessing Bridge to Success, an Empire State Development program, through NYBDC, you'll work with an experienced lender with more than 60 years of experience helping entrepreneurs access the capital needed to grow.

National Development Council: The NDC Grow America Fund is a national small business lending program, working with individual community partners, to provide financing to growing small businesses throughout the country. NDC operates as a community development lender to support the creation of jobs and the expansion of eligible small businesses in underserved communities, particularly minority and women-owned businesses. Loans are partially guaranteed

by the U.S. Small Business Administration under NDC Grow America Fund's Small Business Lending Company license. NDC has Preferred Lender status nationwide.

The RDC's RLF is designed to be a tool which fills the gap that exists in local financing programs; therefore, it is expected to be a last resort or final stop for enterprises seeking to obtain financing. The RDC works well with private and public financing agencies in the region to provide support for business expansion and new start-ups. Most projects require a public-private partnership to underwrite loans. In response to local economic conditions, RDC works with public and private lenders to leverage resources and share risks in an effort to support business expansion and attraction, provide employment opportunities and ensure continued economic advancement.

3. RLF Financing Niche

The niche for the Industrial Economic Revolving Loan Fund ("IERLF") is still important and viable. The number of financial institutions in the area has shrunk since 2000. Several large and locally headquartered banks have merged providing fewer financing options for small businesses. The Savings & Loan Crisis (2008-2012) has reinforced a focus on credit quality and aversion for certain loans such as to those to start-up companies, advanced technology and bio-technology as these industries have historically been under capitalized. The improving local economy has resulted in the increased demand for short term working capital to assist with the competition of contract specific investments. As a result, the RDC will be implementing line of credit offerings to better address the needs of the current business climate.

RDC's subordinate lending position has continued to leverage private funds at a rate exceeding 7:1. Although lenders are more willing to extend credit, policy prevents many from lending to the emerging life sciences and technology startups which is where the RDC is able to step in and assist. Additionally, there has been a recent surge in the craft brewing and distilling industry both on a national and local level. As most of the businesses are startups and require considerable capital investments, many traditional lenders have struggled with providing sufficient financing to properly capitalize their production facilities. As a result of the capital shortfall, the RDC has identified a niche for gap financing which has promoted further economic development within the surrounding communities. Per IBIS reports, this growth trend is expected to continue for the next 4-5 years both locally and nationally.

With the recent expansion of advanced manufacturing in Western New York, the RDC has seen an increased demand for working capital requests and fixed asset financing for production equipment. Interest rates continue to remain stable at a 4% floor and will vary dependent on industry. Additional considerations will be made to better align with lead bank loan conditions by offering extended terms to fund major equipment and real estate purchases. There are significant and an increasing number of challenges with respect to the provision of financial incentives to businesses in Erie County. New York State is among the costliest states in which to do business which only compounds the difficulty of economic development in Western New York and in Erie County. In particular, we have recently identified a significant, pressing, and growing need for the following:

- Additional capital and technical assistance for late stage, technology-based companies;
- Additional public lending capacity;
- Increased need for short term financing resources, such as lines of credit;
- Additional State and Federal funding for Brownfield and Greyfield remediation efforts;
- Financing for adaptive reuse projects;
- Tiered incentives targeted to growth sectors and to the more distressed areas of Erie County; and
- Better coordination of all local loan programs to ensure adequate collaboration.

D: Financing Policies

1. Eligible Lending Area:

The Buffalo and Erie County Regional Development Corporation's lending footprint includes businesses located within the borders of Erie County in Western New York with priority given to those located in and contiguous to highly distressed census tracts.

2: Eligible Borrowers Include:

a. For profit entities *(Corporations, S-Corps, Limited Liability Corporations, Partnerships, Sole Proprietors)* including start-ups and established businesses.
   - Ineligible borrowers include not for profits, religious organizations, political organizations or any other businesses prohibited by the Small Business Administration.

b. Eligible sectors include all NAICS codes, excluding those prohibited by federal guidelines and/or Small Business Administration.

The basis for selecting the target sectors for IERLF assistance remains as it has been since the IERLF was established in 1979. That is, IERLF assistance continues to be warranted for the following general types of businesses:

a. Growth (expansion) sectors and targets for attraction - those that have been identified through various studies and analysis as growing or likely to grow within the State, region and/or County or as likely candidates for attraction (e.g., from Canada);
b. Retention targets - industries which, although not specifically identified as growth industries, historically and currently represent significant sectors of the Buffalo area economy (i.e., transportation equipment) and which may require assistance to stabilize, stem losses, increase competitiveness, modernize, etc.;
c. Smaller, younger and/or disadvantaged (M/WBE) companies within target sectors should be given high priority for IERLF assistance. These businesses have relatively greater difficulty accessing conventional capital markets. The majority of firms assisted will have fewer than 250 employees. These firms have historically been targeted by the IERLF, however, the IERLF must also consider assisting very small (under 10 employees) and early stage businesses to the extent that the overall portfolio will permit an increased level of risk. Small, start-up manufacturing companies in public industrial incubator facilities and

companies located or locating in designated Economic Development Zones are examples of operations to be targeted by the IERLF;

d. Local Buy-Outs - the IERLF will continue to assist with acquisitions or buy-outs of going concerns in order to retain operations in the County. Assistance will be offered to those companies in which immediate closure is apparent or there is a threat of jobs relocating elsewhere;

e. Micro lending — small, start-up businesses have difficulty obtaining conventional bank financing. The majority of these companies require less than $50,000 of financing and must rely on personal (not bank) financing and other high cost options. The ability of the RLF to assist small businesses is critical to the growth of new business in the area. Micro lending will enable these growing businesses to obtain up to 100% of project financing requirements and match business financing with business assets;

f. Minority Entrepreneurs - Minority-owned businesses have historically found it difficult to access capital for start-up and/or business expansion. As such, the number of successful minority- owned businesses in the area is lower than average. The RLF has identified a need to provide long term, patient capital to support these businesses to foster minority business development; and;

g. R & D/Innovation - High tech and other firms involved in research and development warrant RLF support. Given the long process of product development, traditional commercial financing is unavailable for early stage businesses.

3. Eligible Use of Proceeds:

- Working capital
- Machinery and equipment purchase
- Pollution control and related equipment
- Site Remediation
- Real estate
- Key man hiring/salary expenses
- To effect change in ownership where employment base is in jeopardy from closure or relocation.

4. Loan Size:

Loans generally range in amounts from $10,000 to $2,000,000 with no single loan exceeding 25% of the RLF capital base as mandated by EDA.

- Micro Loans: range from $10,000 - $50,000
- Macro Loans: Range from $50,001 - $2,000,000

5. Interest Rate:

- Micro Loans: P+1% fixed *(floor of 4%)*
- Macro: P+1% fixed *(floor of 4%)*
- M/WBE: Prime Interest Rate *(floor of 4%)*

6. **Terms:**
   - RLF Loan term will generally not exceed 10 years (120 months).
   - Generally, loan amortization will not exceed 20 years (240 months)

7. **Fees:** *(Subject to change based on complexity of loan request)*
   - *Micro Loans $50,000 and less:*
     -Closing Costs: Applicant responsible cost of credit reports, filing fees and good standing certificate
     M/WBE Loans: (same as above)
   - *Macro Loans $50,000.01 - $2,000,000:*
     -Application Fee: $250 (Fee is generally applied to Commitment Fee upon approval)
     -Generally, commitment Fee: ½% of Approved Loan Amount
     -Generally, closing costs: 1% of approved loan amount for legal fees in addition to associated filing fees and other costs.

8. **Equity & Collateral:**
   - **Equity:** Minimum equity contribution to project from borrower is generally 10%.
   - **Collateral:** The RDC will generally require a lien on all business assets. Best efforts will be made to adequately collateralize the loan request and may include liens on assets including but not limited to personal property, real estate, assignment of financial accounts/pending tax credits, life insurance policy assignment. Generally, the RDC is participating with a lead lender and will be in a subordinate position.

9. **Moratoria:**
   In an effort to diminish RLF losses and avoid imminent closure of the business, RLF principal payments generally can be deferred for up to 36 months (at lenders discretion) and will be applied on a case by case basis. The minimum monthly payment will default to interest accrued on the outstanding principal balance.

10. **Start-Ups:**
    Lending Policy has been expanded to include start-up businesses (less than 2 years of operation) and will be considered at lenders discretion.

11. **Working Capital:**
    Working Capital financing is an eligible use of the RLF proceeds.

12. **Credit Not Otherwise Available:**

The RLF cannot be used to substitute for available private capital. Applicants must demonstrate that credit is not otherwise available and provide a letter from a traditional lender advising they are unable to provide the loan amount requested or only a portion of the requested amount.

E: Portfolio Standards and Targets:

1. Target Percentages:

To achieve the economic objectives of the CEDS and have a positive impact on the regional economy, the following industries will be the focus of business development efforts. Detailed below are the targeted industries identified for the RLF program:

- **Advanced Manufacturing**
- **Agriculture/Agribusiness**
- **Logistics/Distribution**
- **Life Sciences**
- **Back Office/Professional Services**
- **Regional/Cultural Tourism**
- **Other**

Industry concentrations will be limited to no greater than 25% of the outstanding portfolio loan balance.

Advanced Manufacturing: Among the target manufacturing industries for which the Buffalo area has or could have a significant competitive advantage and which have the potential to take advantage of innovation and technology are: medical devices, pharmaceuticals, automotive, aerospace and defense, food processing and machinery. The enabling technologies that are likely to "drive innovation that promotes competitive advantage" have been identified as "biotechnology, nanotechnology, information technology and advanced materials".

Agriculture/Agribusiness: There are over 1,000 food and food processing companies in the WNY region. It is also noted that, in general, it is the locational advantage of Western New York relative to large population centers versus other competitive (food and agriculture) regions of the county coupled with a strong commitment to the food and agricultural industry within the region that recommends agribusiness as a desirable target sector for economic development within the Buffalo Niagara region.

Logistics/Distribution: The Buffalo Niagara region's location makes it a natural shipping and logistics hub. The region as a whole has eight international ports of entry (4 auto, 3 rail, 1 water), facilitating $81 billion in annual trade between Canada and the U.S. (which equates to 30% of the total trade conducted between the world's two largest trading partners), and, according to Invest Buffalo Niagara (formerly known as the Buffalo Niagara Enterprise), the volume has been growing by approximately 20% annually. The region is within one day's travel of 55% of U.S. population (including nine million consumers in New York City; 65% of the Canadian population, including four million consumers in Toronto; and 70% of Canadian manufacturing firms). Within the region, there are 5 interstates including the I-90, the longest interstate in the country, which runs between Boston and Seattle.

Life Sciences: As recognized in the **2016 CEDS,** the Buffalo region was already home to world-recognized research and diagnostic institutions such as the State University of Buffalo, the New York State Center of Excellence in Bioinformatics and Life Sciences, Roswell Park Cancer Institute and the Hauptmann Woodward Medical Research Institute. The region is also a location for a growing number of companies which supply or produce life sciences products and services. Collectively the companies in the life sciences sector in the Buffalo-Niagara region employ approximately 6,500 people and the sector has grown nationally and locally during the past decade. Development of new facilities at the Buffalo Niagara Medical Campus, significant investments in life sciences activities at the University of Buffalo and education related initiatives focused on developing a workforce capable of supporting innovation-based industries all, support an expanded presence of this sector in the local economy.

Back Office/Call Centers/Professional Services: *Resources for Back Office & Customer Contact Centers,* indicates a strong presence of back office operations in Western New York and factors which made the region attractive to back office and call center operations. Among these local assets were the area's labor resources, low operating costs and a strong work ethic. The **2016 CEDS** further stated that there were an estimated 16,000 back office sector employees in the region and that the labor pool could support continued growth in this sector.

Regional/Cultural Tourism: This business sector generated $155.29 million in local economic activity and supported approximately 4,740 full-time equivalent jobs and there are several indications that the area is receiving national recognition as a travel destination, not only because of its proximity to Niagara Falls, but because of its arts and cultural offerings.

2. Private Sector Leverage:

Private Sector Funds will generally be leveraged at a rate of 2:1 and is judged on the portfolio as a whole.

3. Job Cost Ratio:

The RLF will generally lend $75,000 for every full time equivalent job created over a 3-year period. Subject jobs rate of pay will adhere to minimum wage standards and Davis Bacon Act as applicable.

F: RLF Selection Criteria:

1) All proposed loans adhere to guidelines of the approved RLF Plan and 13 CFR 307.17(a).;
2) Proposed loans will capitalize on the regional assets of WNY and Erie County;
3) All proposed loans will generally support and advance innovation as well as increase productivity in targeted industries and sectors of the economy;
4) Potential borrowers will generally be a part of an existing or emerging industry cluster;
5) Potential borrowers will generally maximize private investment *(at a rate of 2:1 minimally)* that would otherwise not have come to fruition without RFL's assistance;
6) Proposed/Approved loans will generally result in creation/retention of skilled, higher wage jobs.

G. Performance Assessment Process:

The Loan Administration Plan will be reviewed and periodically updated as warranted in response to one or more of the following:

- Changes in the ECIDA's CEDS, if the changes involve the area's business and financing strategy and the RLF "niche";
- Local surveys of businesses and lenders which uncover new needs and gaps in available funding sources and programs;
- Studies and analyses conducted by various institutes and government agencies that indicate a need for plan modification. For example, a study indicating a new set of growth industries not previously targeted by the RLF plan;
- Strategic Loan Programs (special targeted funds under the larger RLF) shall be reviewed for performance at least every three years and shall be expected to meet or exceed specific performance goals established for the Strategic Loan Program. SLP's which do not meet performance goals shall be dissolved or modified;
- Every five (5) years as per Section 307.9 of the EDA Regulations.

1) Performance is evaluated on an annual basis and is performed by an unaffiliated third party law firm to ensure the RDC is in compliance with all regulatory statutes and standards. Audit findings are reviewed by both the RDC Loan Committee and the Board of Directors with recommendations as needed.

2) The Loan Administration Plan is reviewed and revised as needed, or minimally every five years. The completed LAP including any/all revisions are sent to the EDA for final review and acceptance.

Part II: Revolving Loan Fund Operational Procedures

A: Organizational Structure

1. Critical Operational Functions

- Loan Closings are prepared/administered by RDC Loan Counsel and executed by lending staff.
- Organizational administration is performed and maintained by in house RDC staff. Specifically, bookkeeping is administered by the accounting and finance departments. Maintaining compliance with EDA requirements is overseen by the internal RDC Compliance Officer.

The Buffalo and Erie County Regional Development Corporation ("RDC"), an affiliate of the ECIDA administers the RLF. The RDC was established under Section 402 of the Not-For-Profit Corporation Law of New York and is a local development corporation under Section 1411 (see Appendix 1 for RDC Corporation of Incorporation and By-laws). The RDC has 501(c)(3) tax-exempt status under the IRS Tax Regulations.

- ***Marketing:***

Marketing is coordinated/executed by the RDC Marketing Manager, Business Development and Lending Staff. Active participation in local business events, chambers of commerce, business associations, SBA Events and presentations to local area lenders are conducted throughout the fiscal year with hopes of gaining quality leads and referrals.

The RLF recruit's borrowers in many ways, including:

- The area's major financial lending institutions refer companies to the RLF for assistance;
- Companies seeking assistance through the ECIDA's other financing and technical assistance programs are internally referred to the RLF program;
- Referrals come from other economic development organizations including municipal business outreach officials and the area's regional marketing entities;
- The Business Development staff of the ECIDA provide program information to prospective companies and their professional advisors through its marketing and outreach efforts;
- ECIDA staff are actively involved in the Western New York Venture Capital Association and other groups which seek to fund early-stage technology companies.

- ***Business Assistance and Advisory Services to Prospective Borrowers:***

The Buffalo and Erie County Regional Development Corporation has partnered with several key organizations to offer guidance, mentoring and support services to prospective and current borrowers. Examples of such partnerships and services offered include, but are not limited to:

- The Small Business Development Center: Business Plan Development, Research, Mentoring;
- The Small Business Administration: Financial Assistance, Mentoring, Research, Training;
- SCORE: Business Development, Mentoring, Training;
- Workforce Investment Board: Staffing, Training;
- Local Chambers of Commerce: Networking, Research, Training;
- Beverly Gray Business Exchange Center: Training, Access to Capital

- ***Environmental Review***

Environmental impacts must be considered by the RDC in their decisions whether or not to (1) Approve a proposal for federal assistance;(2) Approve the proposal with mitigation; (3) Approve a different proposal having less adverse environmental impacts. The recipient and sub-recipients must comply with all applicable federal environmental statutes, regulations, executive orders and in accordance with the requirements of the National

Environmental Policy Act (NEPA 1969). If any environmental concerns are noted, a third party environmental consulting firm will be engaged to assess any impacts the potential project may have on the environment including measures to remediate the concerns noted.

- ***Loan Processing (Application Review):***

Loan Processing is performed by the RDC Lending Staff with the following actions:

- Reviewing Applications
- Credit Analysis
- Preparing Loan Write Up/Analysis
- Recommendations to Loan Committee
- Closing/Funding of loans
- Servicing the loan throughout the duration of the term. Actions include but are not limited to payment processing, loan servicing requests, modifications to loan terms, collections and liquidation.

- ***Loan Closings:***

Loan closings are administered by the RDC Lending Staff in conjunction with approved RDC Loan Counsel.

- ***Loan Servicing:***

Loan servicing is performed by RDC Lending Staff and includes payment management, restructures, administering loan collections on delinquent accounts, foreclosures and collateral liquidations.

- ***Organizational Administration:***

Organizational Administration, including financial record keeping, ensuring compliance with EDA requirements, etc. are administered by ECIDA Accounting and Finance Departments.

2. Loan Administration Board:

RDC Staff

- Market the RLF by identifying and developing opportunities to reach target industries;
- Provide business assistance and advisory services to prospective and actual borrowers;
- Monitor regulatory compliance;
- Process loan review applications, conduct credit analysis, prepare loan analysis and recommendation;
- Loan closing;
- Loan servicing (collection, reporting, loan default); and
- Organizational administration *(financial record keeping, EDA compliance and reporting).*

Loan Committee

- Internal Loan Committee (staff): has authority to approve loans up to $100,000;
- External Loan Committee: has authority to approve loans ranging from $100,001-$500,000. Additionally reccomends decision to Board of DIrectors for loans ranging $500,001-$2,000,000;
- Both internal and external loan committee provides policy guidance where applicable to RDC Loan Staff;

RDC Board of Directors

- Acts as loan administration board;
- Review, ammends, and adopts the RDC Loan Administration Plan;
- Provide policy guidance to the RDC loan committee and staff;
- Appoint and/or replaces members of the RDC loan committee; and
- Make final decisions on all loans $500,001 and above.

RDC Staff:
The primary responsibilities of the RDC Lending Staff include the following:
• Market the RLF (identifying and developing appropriate financing opportunities);
• Business assistance and advisory services to prospective and actual borrowers (identify the types and sources of services available);
• Regulatory compliance assurance;
• Loan processing (reviewing applications, conducting credit analysis, preparing loan write- ups and recommendations);
• Loan closings;
• Loan servicing (administering loan collections, handling defaulted loans and foreclosures);
•Organizational administration (financial record keeping, ensuring compliance with EDA requirements)

RDC Internal Loan Committee:
- Reviews has authority to approve loan requests up to $100,000.
- RDC Internal Loan Committee Composition: RDC CEO, Executive Vice President, Treasurer, Assistant Treasurer and one member appointed by the RDC CEO.

RDC External Loan Committee:
The primary activities of the External Loan Committee and subcommittee of the RDC Board of Directors are as follows:
- Has authority to approve loans ranging from $100,001-$500,000
- Make final recommendations to the RDC Board for loans ranging $500,001-$2,000,000.
- Initiate and approve all procedural changes in day-to-day fund operations documentation.
- Advises and recommends policy guidance and changes as needed.

RDC Loan External Committee Composition: The RDC Loan Committee is comprised of a maximum of seven members, including: no more than five members of the RDC Board of Directors; two members appointed by the Mayor of the City of Buffalo; one member of the corporation appointed and designated by the Erie County Executive; and such individuals as may be appointed by the Board from time to time. The Board may also establish or appoint other Loan Committee members with specific commercial lending or business experience to approve strategic loans and other designated loan programs. The Internal Loan Committee (comprised of RDC/BUDC staff) has authority to approve loans up to and including $100,000. Loans ranging from $100,001 up to and including $500,000 are approved/declined by the external loan committee (comprised of local bankers and partner lenders) with loans over $500,000 needing approval from both the external loan committee and RDC Board of Directors.

Terms, Vacancies, and Organizations: Loan Committee members serve at the pleasure of the RDC Board. An External Loan Committee member who misses two consecutive meetings without reasonable cause may be relieved of this responsibility. All members of the External Loan Committee will be re-appointed or newly appointed at the Joint Annual Board of Directors and Membership meeting.

Meetings, Quorum, and Voting of Members: The Loan Committee will hold meetings on an as need basis as determined by loan application volume. Special meetings may be called by the

RDC's Executive Director with the concurrence of the Loan Committee. A quorum is required to approve/decline all loan requests.

RDC Board: The RDC is governed by a 19 member Board of Directors, which also serves as the ECIDA Board. The composition of the Board was designated by New York State when the ECIDA was established. The current ECIDA/RDC Board will serve as the Loan Administration Board. The Board, in accordance with this management plan, is duly empowered to receive and disburse funds, provide and contract for services, and otherwise administer the loan program. Rules, duties, and authority are thereby established and delegated by the Board. Changes and other delegations may be made as deemed necessary.
The principal activities of the RDC Board, with respect to the RLF, are as follows:

- Reviews, amends, and adopts RDC/RLF Management Plan.
- Provides overall policy guidance to the RDC/RLF Loan Committee and staff.
- Appoints and/or replaces members of the RLF Loan Committee.
- Makes final decisions on all loans ranging from $500,001-$2,000,000.

3. Conflicts of Interest:

In the event a commercial bank/small business owner or government agency representative has a separate financial interest in an applicant for a RDC loan, the representative/board member/Loan Committee member shall so notify RDC Board and be excused from its review function with respect to the proposed RDC/RLF loan for that applicant. No loans shall be made to a business entity if the owner of such entity or any owner of an interest in such entity is related by blood, marriage, law, or business arrangement to any officer or employee of the ECIDA/RDC staff or Board of Directors, or member of the LAC, or any other person or entity which advises, approves, recommends, or otherwise participates in decisions concerning loans or the use of RLF funds. No person or entity referred to above shall receive any benefits resulting from the use of loan funds, unless that person or entity first discloses, in writing, the proposed or potential benefit and receives written determination that the benefit involved is not so substantial as to affect the integrity of the application decision process and the services of said person or entity. Former board members and others involved in the decision process are ineligible to apply for or receive loan funds for a period of one year from the date of termination of his or her services.

B: Loan Processing Procedures

1. Standard Loan Application Requirements:

Items required to apply for RDC Financing include, but are not limited to:

- RDC Loan Application;
- Personal Financial Statement(s) for each guarantor;
- Most recent 3 years of personal tax returns for each guarantor;
- Interim financial statements for the subject business;
- Most recent 3 years business tax return for subject company (as applicable);
- Business plan addressing (company history, ownership, key

management/experience, description of products/services, description of facility, primary suppliers, target market, competition etc.);
- Decline letter from traditional lender; and
- Federal Regulations Acknowledgment form.

2. Credit and Financial Analysis:

- **Credit Reports:** Credit Reports are generated for each borrower/guarantor(s), subject business and corporate guarantor(s) with a detailed summary included in the applicant's loan analysis.
- **Standard Collateral Requirements:** Generally, the RDC will make best efforts to secure loan requests. Collateral considerations include but are not limited to liens on business assets, collateral mortgage on real property (personal and commercial), assignment of life insurance policy, motor vehicles, personal assets and personal guarantee of each guarantor. Generally, the RDC is a subordinate lender and will have a junior lien on all business assets.
- **Standard Equity Requirement:** Borrowers are generally required to contribute a minimum 10% equity to the total project cost. Equity contributions will be confirmed prior to disbursement of loan proceeds and generally include but are not limited to proof of purchase(s), bank statements, receipts, etc.
- **Appraisal Reports:** Appraisal reports are generally required for any commercial real estate being held as collateral to ensure property values are within reason and confirm available equity. Appraisals may also be required for residential property on a case by case basis.
- **Proof Credit is not Otherwise Available:** As mandated by the EDA, the RDC will require proof that requested credit is not available through traditional lenders. Unavailability will be confirmed with the required "bank decline letter" indicating that all, or partial amount of funding request has been declined.

3. Environmental Reviews: *(performed only when collateralizing loan with commercial real estate)*

Procedure for Ensuring Environmental Review Compliance: The RDC will engage a third party environmental firm to perform environmental assessments as applicable for commercial properties being considered as collateral. The review ensures compliance with National Environmental Policy Act of 1969 and other Federal Environmental mandates. The following are the minimum requirements of compliance.

- A determination needs to be made whether the project will result in a significant adverse environmental impact. The applicant may be asked to submit additional documentation as necessary to make the determination. No activity shall be financed which would result in a significant adverse environmental impact unless that impact is to be mitigated to the point of insignificance. When necessary to ensure compliance, any required mitigation shall be made part of the loan conditions.

- A determination of whether the project involves new, above-ground development within a floodplain based on a review of the proposed development against FEMA Flood Insurance Rate Maps. No activity shall be financed which would result in new above-ground development in a 100-year floodplain, per E.O.11988. This determination will be made by reviewing the proposed development against FEMA Flood Insurance Rate Maps.
- A determination of whether the project will be located within, or adjacent to any wetland area. The applicant may be required to provide wetland delineation information as necessary. No activity shall be financed which would result in alteration of any wetland or in an adverse impact on any wetland without consultation with the U.S. Department of the Interior Fish and Wildlife Service and, if applicable, a Section 404 Permit with the Army Corps of Engineers shall be obtained.
- An applicant shall notify the State Historic Preservation Office (SHPO) of each approved loan that involves significant new construction and expansion, and request and receive comments on the effect of the proposed activity on historic and archaeological resources prior to closing of the loan. In cases where SHPO has recommended actions or has determined an adverse impact, the recipient and loan applicant must work with SHPO and EDA to address any issues identified before the loan is closed.
- All loan applicants are required to provide information regarding whether or not there are hazardous materials such as EPA listed hazardous substances (see 40 CFR 300), leaking underground storage tanks, asbestos, polychlorinated biphenyls (PCB), or other hazardous materials present on or adjacent to the affected property that has been improperly handled and have the potential of endangering public health. If deemed necessary, loan applicant may be required to perform or provide evidence of performance of a Phase I Site Assessment to identify possible sources of contamination, a Phase II Site Assessment to test soil and/or groundwater samples, and a Phase III Site Remediation involving mitigation of applicable contaminants. No activity shall be financed which involve unresolved site contamination issues. Loan applicant shall be responsible for working with the appropriate state environmental agency office to resolve any outstanding issues before any loan can be approved for the affected site.

4. Loan Write-Up:

Staff will prepare a loan write-up which identifies the key aspects of the loan including risk(s), mitigant(s) and the public benefit reason(s) for RLF involvement in the project. Minimum analysis will include: firm's history, management/experience, product/service, market conditions, financing, project source and uses of funds, collateral, historical and projected financial condition including repayment ability, consistency with the RLF's financing policy including ratio of private to RLF funding and sub-fund criteria, environmental determinations associated with the project, and staff recommendations. The applicant's present bank (and new bank if applicant has identified an imminent change) will be clearly noted for loan committee and board members who may have a conflict of interest. In the event of such a conflict, the write-up will contain a standard notice and disclaimer and the conflicted member(s) of Loan Committee shall not vote on or participate in the discussion of the loan request. The write-up will clearly discuss how the proposed RLF loan is not replacing private lender funding sources. A collateral liquidation analysis will be included with the loan analysis.

5. Procedures for Loan Approvals:

Reviewing Applications:

Credit analysis and recommendations are provided to appropriate loan committee generally no less than 7 days prior to the scheduled review meeting. During the review meeting, lending staff will present findings/recommendation in person and address any questions/concerns/comments the committee may have. Upon commencement of dialogue regarding questions/concerns, approval/declination is voted upon by the appropriate loan committee.

Approval/Declination of the request is documented by way of recording the dialogue in meeting minutes which is prepared by RDC counsel and archived accordingly.

Loan Committee Levels:

Internal Loan Committee: $10,000-$100,000
External Loan Committee: $100,001-$500,000
External Loan Committee and Board of Director: $500,001-$2,000,000

C. <u>Loan Closing/Disbursement Procedure</u>

1. Required Loan Closing Documents:

- Loan Application
- Personal Financial Statement
- Loan Agreement
- Promissory Note
- Security Agreement
- Unlimited Guaranty
- Bank Decline Letter
- Inter-Creditor Agreement (as applicable)
- Collateral Mortgage Assignment (as applicable)
- Assignment of Insurance *(Property, Liability, Life, Mortgage)*
- ACH Agreement
- Internal Loan Committee Approval *(for loans up to $75k)*
- External Loan Committee Approval *(for loans over $75k)*
- Board of Director Approval *(for loans over $500k)*

2. <u>Loan Agreement Provisions</u>

- The RDC will ensure RLF Funds are used as intended by requiring borrowers to furnish invoices or an itemized list for purchases/expenditures made with loan proceeds. Failure to provide such documentation would generally be considered an event of default possibly causing the loan to be immediately payable in full.
- All RLF loan documents and procedures protect and hold the Federal government harmless as a result of providing financing. This protection/indemnification is

reiterated and acknowledged by the borrower in several loan closing documents including the Commitment Letter, Note and Security Agreement.

- Procedures for ensuring prospective borrowers are aware and comply with Federal Statutory and Regulatory statutes include but are not limited to full review and execution of Acknowledgment of Awareness of and Compliance with Federal Statutory and Regulatory Requirements. Failure to comply with regulations is considered an event of default and could cause the loan to be immediately payable in full.

3. Loan Disbursements Requirements:

The following will occur before any funds are disbursed to any applicant:

- For second and later draws/advances on an approved loan, the applicant must submit request in writing. If the loan is for specific equipment, a copy of the vendor's invoice will be attached to the request. Such invoice(s) should give a sufficient description of the equipment for proper UCC filing purposes. Advances for working capital may not always require an invoice.
- Loan officer verifies availability of the requested loan amount.
- Loan officer verifies that all required terms, collateral and other conditions of the approval have been, and remain, satisfied.
- Loan officer verifies to his/her satisfaction that there have been no significant changes which change the purpose, use or risk of the loan as approved by the Loan Board/Committee.
- Loans for the purchase of equipment may be paid by check, payable to the applicant and to the equipment supplier. Working capital loans will be paid by check or ACH directly to the applicant.
- Requests for interim draws for construction or renovation projects will be made (1) only after verification of the extent of project completion by staff, with possible use of third party assistance, (2) only to the extent agreed upon in the loan documents, and (3) only after satisfactory verification that the project complies with all applicable Federal and New York State laws, including the Davis-Bacon Act.
- Line of Credit disbursements will require a formal request from the borrower and generally have a minimum draw of $1,000.00. Requests will be considered and processed by RDC Lending Staff to ensure compliance with EDA standards in consideration of applicable use of funds.

D: LOAN SERVICING PROCEDURES

1. Loan Payment & Collection Procedures:

Each month (currently at the end of the month), a billing report is generated which lists each loan, the principal balance remaining, cumulative principal and interest payments made to date and the last payment received.

From the billing report, monthly invoices are generated and mailed the same day to the respective borrowers for payment. In addition, the monthly invoice indicates the current payment due, the current principal balance, the last payment received and any past due amounts.

Generally, payments are automatically debited from the borrower's pre-authorized bank account per the ACH forms signed at closing. At the direct request of a borrower or in the event of a workout, payments will be accepted via a check.

All payments received are immediately deposited in a commercial bank account and applied to borrower's loan as follows: past due interest, current interest, past due principal, and current principal.

2. Loan Monitoring Procedures:

- Annual site visits are conducted to all active loan customers on an as needed basis. Generally, all borrowers will receive 1 site visit per year.
- As part of the closing process, UCC financing statements securing collateral for loans are signed at closing and filed with the appropriate State and local offices. Tracking of continuation statements is on a tickler system maintained by RLF legal counsel.
- Basic loan agreements contain several sections which identify all applicable covenants. These covenants include, but are not limited to: (1) providing future financial statements, (2) payment of taxes, (3) maintaining adequate insurance, (4) continuance of business, and (5) compliance with all financial covenants including covenants imposed by the U.S. Economic Development Administration, United States Department of Commerce, Department of Housing and Urban Development and by federal, state and local laws.
- Receipt of annual financial statements, proof of insurance coverage and other documentation is tracked internally to assist with compliance of loan conditions.
- Employment levels are recorded at the time of application and certified at the end of each fiscal year with the execution of a certified Employment Survey to be completed by each borrower.
- Borrowers receive annual letters and calls to provide required documentation.

3. Loan Files:

Loan files are maintained electronically on an in-house server and periodically backed up offsite. Typical loan files generally include but are not limited to:

- Loan Application
- Personal Financial Statement(s)
- Approved Loan Analysis
- Loan Agreement
- Promissory Note
- Security Agreement
- Unlimited Guaranty

- Bank Decline Letter
- Inter-Creditor Agreement (as applicable)
- Collateral Mortgage Assignment (as applicable)
- Assignment of Insurance(s)
- ACH Agreement
- Loan Committee Approval
- Board of Director Approval (for loans over $350k)
- Applicable UCC Filings
- Collateral Mortgage Assignment (as applicable)
- Life Insurance Assignment (as applicable)
- Detailed use of Funds/Invoices
- Insurance Certificates (as applicable)
- Employment Survey(s)
- Tax Returns (personal and corporate)

In addition to the electronic file system, hard copies of loan closing binders are secured on site in the event they are needed for legal dispute.

4. Job Creation:

Employment levels are recorded at the time of application and updated each year with a Certified Employment Survey to be completed by each borrower.

5. Defaulted Loans:

Procedures applicable to the identification and follow-up of loans which are in arrears up to 90 days are covered in detail under Administrative Procedures. Lending staff and/or RLF Counsel will contact delinquent loan customers as necessary to facilitate payment of overdue balances.

RLF loans have a late payment penalty provision. The provision includes the following statement: If any payment due hereunder shall not be received within five (5) calendar days of its due date (or by the first business day thereafter if such date should not be a business day), a late charge of five percent (5%) of the amount of each overdue payment may be charged by the Lender to defray the expenses incident to handling such delinquency. This clause is acknowledged in both the Commitment Letter and the Note.

When proceeds are received on a defaulted loan that is not subject to foreclosure, proceeds shall be applied in the following order of priority:

- First, to the cost of collection
- Second, to the outstanding penalties and fees
- Third, any accrued interest to the extent due and payable/
- Lastly, any outstanding principal balance

6. Write-Off Procedures:

The decision to charge off a given loan is a matter of judgment on the part of RLF management. That decision is predicated on the facts and circumstances of each account reviewed and is discussed internally. The decision to charge off a loan may be triggered by a specific event, such as the conversion of a Chapter 11 Bankruptcy to Chapter 7 liquidation, or by the passage of time without change or improvement.

All loan charge-offs are documented by evaluating relevant factors including, but not limited to: amounts outstanding, payment history, collateral and collateral position, secured or unsecured guaranties, net worth of guarantor, senior debt balances, and most recent and historical financial information.

On a quarterly basis, all RLF loans are reviewed to determine risk of loss associated with each loan. Risk ratings range from 25% to 100% of the outstanding loan balance and is based on borrower's circumstances. Accordingly, a loan loss reserve is established and assets are set aside to cover estimated losses in the loan portfolio. At the end of each calendar year, the Controller of the RDC calls an internal loan review meeting to determine appropriate write off recommendations. The staff recommendations are then presented to the Loan Write Off Committee annually for approval.

The administrative accounting function of charging off a loan does not end the effort to collect on the loan. Most post-charge off recoveries, however, are from secondary or tertiary sources rather than from the original borrower's assets and operations. The possible sources of charge-off recoveries include personal guarantees, liquidation proceeds, mortgage payments on personal residences, sale of preferred stock taken in workouts, royalty payments on patent assignments and court ordered payments during and after bankruptcy. All loan write-offs are disclosed in the Semi-Annual Reports filed with the EDA.

E: ADMINISTRATIVE PROCEDURES

1. RLF has been operating since 1979 and has doubled its original investment.

2. Accounting:
   The RDC has created several separate interest bearing bank accounts for RLF funds so that repayment and interest income are clearly identifiable and auditable. It should be noted that each sub fund of the RLF will be housed in separate accounts and managed by Generally Accepted Accounting Principals (GAAP).

3. Administrative Costs:
   RLF administrative costs are sourced from dedicated bank accounts housing accrued interest income. It should be noted that RLF administrative costs will not exceed interest earned by the RLF Capital Base and associated fee income. Any eligible and reasonable administrative costs associated with the RLF operations in excess of RLF income will be covered by an affiliated entity (ECIDA). RLF administrative costs will be tracked through

proprietary accounting system and by maintaining adequate accounting records, source documentation to substantiate the amount and percent of the RLF income expended for eligible administrative costs. Records of expenses incurred for activities and equipment relating to administration of the RLF will be maintained for 3 years from the date of the last semi-annual report.

4. Capital Utilization and Sequestration:
   During the revolving phase, the RDC RLF will make best efforts to manage their repayment and lending schedules to ensure at all times at least 75% of RLF is loaned or committed to avoid sequestration of funds. For exceptions, please see *13 CFR 307.16.*

5. EDA Reporting:
   The RDC RLF files semi-annual reports to the EDA as required including income and expense statements as 50% or more of RLF has historically been used for administrative costs in a six-month period. *(refer to 13 CFR 307.14).*

6. Audits:
   The RDC RLF engages an independent third party public accounting firm to perform an annual audit of the entity's financial statements in accordance with Generally Accepted Accounting Practices (GAAP). In the event circumstances occur that result in the RLF being recognized as a "Major Federal Program", the auditors will perform appropriate federal audit procedures and issue related reports.