

and supplies, the requirements at 15 CFR parts 14 or 24, as applicable, including any supplements or amendments thereto, shall apply.

(b) Additionally, prior to the release of EDA's interest, Real Property or tangible Personal Property acquired or improved with EDA Investment Assistance may not be used:

(1) In violation of the nondiscrimination requirements of §302.20 of this chapter or in violation of the terms and conditions of the Investment Assistance; or

(2) For any purpose prohibited by applicable law.

(c) Where the Disposition, encumbrance or use of any Property violates paragraphs (a) or (b) of this section, EDA may assert its interest in the Property to recover the Federal Share for the Federal government and may take such actions as authorized by PWEDA and this chapter, including but not limited to the actions provided in §§302.3 and 307.21 of this chapter. EDA may pursue its rights under paragraph (a) of this section and this paragraph (c) to recover the Federal Share, plus costs and interest. When the Federal government is fully compensated for the Federal Share, the Federal Interest is extinguished as provided in §314.2(b), and EDA will have no further interest in the ownership, use or Disposition of the Property.

#### §314.5 Federal Share.

(a) For purposes of this part, "*Federal Share*" means that portion of the current fair market value of any Property attributable to EDA's participation in the Project. The Federal Share shall be the current fair market value of the Property after deducting:

(1) Reasonable repair expenses, if any, incurred to put the Property into marketable condition; and

(2) Sales, commission and marketing costs.

(b) The Federal Share excludes that portion of the current fair market value of the Property attributable to acquisition or improvements before or after EDA's participation in the Project, which are not included in the total Project costs. For example, if the total Project costs are \$100, consisting of \$50 of Investment Assistance and \$50

of Matching Share, the Federal Share is fifty (50) percent. If the Property is disposed of when its current fair market is \$250, the Federal Share is \$125 (i.e., fifty (50) percent of \$250). If \$10 is spent to put the Property into salable condition, the Federal Share is \$120 (i.e., fifty (50) percent of (\$250 - \$10)).

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#### §314.6 Encumbrances.

(a) *General.* Except as provided in paragraph (b) of this section or as otherwise authorized by EDA, Recipient-owned Property acquired or improved in whole or in part with Investment Assistance must not be used to secure a mortgage or deed of trust or in any way otherwise encumbered, except to secure a grant or loan made by a Federal Agency or State agency or other public body participating in the same Project.

(b) *Exceptions.* Subject to EDA's approval, which will not be unreasonably withheld or unduly delayed, paragraph (a) of this section does not apply to:

(1) Recipient-owned Property that is subject to an encumbrance at the time EDA approves the Project, where EDA determines that the requirements of §314.7(b) are met;

(2) Encumbrances arising solely from the requirements of a pre-existing water or sewer facility or other utility encumbrances, which by their terms extend to additional Property connected to such facilities; and

(3) Encumbrances in cases where all of the following are met:

(i) EDA, in its sole discretion, determines that there is good cause for a waiver of paragraph (a) of this section;

(ii) All proceeds secured by the encumbrance on the Property shall be available only to the Recipient and shall be used only for the Project for which the Investment Assistance applies or for related activities of which the Project is an essential part;

(iii) A grantor/lender will not provide funds without the security of a lien on the Property; and

(iv) There is a reasonable expectation, as determined by EDA, that the Recipient will not default on its obligations. In determining whether an expectation is reasonable for purposes of