

and to generate the support and participation of local financial institutions;

(5) *Capital Base Management Strategy*: to develop and allocate the financial resources of the fund in the most effective possible way to meet the need or demand for financing; and

(6) *Accountability Strategy*: to develop policies and mechanisms to hold borrowers accountable for providing the public benefits promised (e.g. jobs) in return for financing; to ensure that, until expenditure, loan proceeds are held by the borrower in secured, liquid financial instruments; to hold borrowers accountable for upholding the commitments made prior to the loan; and to develop the methods used by the RLF to enforce these commitments.

**§ 1336.65 Staffing and organization of the Revolving Loan Fund: Responsibilities of the Loan Administrator.**

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the RLF's organization table, including:

(a) The structure and composition of the Board of Directors of the RLF;

(b) The staffing requirements for the RLF, with position descriptions and necessary personnel qualifications;

(c) The appointments to the advisory loan review committee; and

(d) The roles and responsibilities of the Board, staff and loan review committee.

**§ 1336.66 Procedures and criteria for administration of the Revolving Loan Fund: Responsibilities of the Loan Administrator.**

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the following procedures:

(a) *Preapplication and loan screening procedures*. Some factors to be considered in the loan screening process are:

- (1) General eligibility criteria;
- (2) Potential economic development criteria;
- (3) Indication of business viability;
- (4) The need for RLF financing; and
- (5) The ability to properly utilize financing.

(b) *Application process*. The application package includes forms, instructions, and policies and procedures for the loan application. The package must also include instructions for the development of a business and marketing plan and a financing proposal from the applicant.

(c) *Loan evaluation criteria and procedures*. The loan evaluation must include the following topics:

- (1) General and specific business trends;
- (2) Potential market for the product or service;
- (3) Marketing strategy;
- (4) Management skills of the borrower;
- (5) Operational plan of the borrower;
- (6) Financial controls and accounting systems;
- (7) Financial projections; and
- (8) Structure of investment and financing package.

(d) *Loan decision-making process*. Decision-making on a loan application includes the recommendations of the staff, the review by the loan review committee and the decision by the Board.

(e) *Loan closing process*. The guidelines for the loan closing process include the finalization of loan terms; conditions and covenants; the exercise of reasonable and proper care to ensure adherence of the proposed loan and borrower's operations to legal requirements; and the assurance that any requirement for outside financing or other actions on which disbursement is contingent are met by the borrower.

(f) *Loan closing documents*. Documents used in the loan closing process include:

- (1) *Term Sheet*: an outline of items to be included in the loan agreement. It should cover the following elements:
  - (i) Loan terms;
  - (ii) Security interest;
  - (iii) Conditions for closing the loan;
  - (iv) Covenants, including reporting requirements;
  - (v) Representations and warranties;
  - (vi) Defaults and remedies; and
  - (vii) Other provisions as necessary.