FEMA Program Support Material

Safeguarding Tomorrow through Ongoing Risk Mitigation Revolving Loan Fund Program – Loan Requirements and Administration

The Safeguarding Tomorrow through Ongoing Risk Mitigation Revolving Loan Fund (Safeguarding Tomorrow RLF) program allows entities to establish or manage loan funds when receiving capitalization grant funding. This document offers best practices and information on how to develop and manage loan agreements with local governments.

Loan Requirements and Administration

Eligible Loan Recipients

FEMA generally requires that entities receiving a Safeguarding Tomorrow RLF grant must use it to give loans to local governments. For eligible tribal governments, this can be any component within their tribal government structure or an authorized tribal organization. Loan recipients must have an approved Hazard Mitigation Plan the entity's Intended Use Plan (IUP) should describe a way to confirm that the local government is an eligible loan recipient.

> Entities should think about how their fund can help local governments meet the program requirements. Entities can also focus on their priorities for the program by adding more loan eligibility rules than the baseline Safeguarding Tomorrow RLF program requirements if doing so helps their program.

For example, they may focus on giving loans for projects in areas with a high risk of hazards, focus on certain project or activity types, work with local governments that haven't had many grants, or support disadvantaged communities.

Loan Agreement

A loan agreement is a legally binding contract between a lender and a borrower that outlines the terms and conditions of a loan. The specifics of a loan agreement may vary depending on factors like the type of loan, the location where it's issued, and any applicable regulations. Typically, a complete loan agreement generally includes the following:

Table 1. Key Elements of a Loan Agreement

Loan Agreement Sections	Description
Parties to the Agreement	▪ The official names and contact details of both the entity loan fund and local government.
Loan Purpose	▪ States why the loan is needed and how the project or activity will reduce risk or increase resilience.
Loan Terms	▪ Explains the specific terms of the loan, including: ▪ The principal amount (the initial loan amount). ▪ The interest rate. ▪ The loan term (the length of the loan). ▪ The repayment schedule (e.g., monthly, quarterly, or annually). ▪ The first payment due date.
Loan Fund Access	▪ Describes how the loan recipient will access the funds (e.g., through a state's online banking portal) and in relationship to the project(s) financed through the loans (e.g., can the municipality draw down funds at will, or based on progress payments to contractors?).
Repayment	▪ Describes how the local government will repay the loan, including details such as the number of payments, frequency, and the amount of each installment. Also, specifies whether there is a grace period before payments begin and whether interest accrues during this period. Also, repayment logistics if known (e.g., existing fund transfer portals).
Interest and Fees	▪ Outlines the interest rate calculation method, any late payment fees, origination fees, or other charges associated with the loan.
Revenue Source	▪ Identifies the dedicated funding source the local government will use for loan repayments.
Default and Remedies	▪ Outlines the entity loan fund's definition of a default (e.g., missed payments) and explains the consequences of default, which may include late fees, collection efforts, or legal action. Additionally, specifies any grace period or opportunities for the borrower to resolve default challenges.
Prepayment and Early Repayment	▪ Addresses whether the local government can make extra payments or pay off the loan early.
Conditions Precedent	▪ Outlines any conditions that must be met before the loan is disbursed, which may include documentation detailing local government revenue for repayment, approved hazard mitigation plan, and other relevant conditions established by the entity loan fund.
Reporting Requirements	▪ Details the responsibilities of both parties for creating, gathering and communicating financial reporting requirements and outputs and outcomes of the funded project.

Loan Agreement Sections	Description
Governing Law and Jurisdiction	▪ Specifies the jurisdiction whose laws will govern the agreement and the location where disputes will be resolved (e.g., through mediation or lawsuit).
Notices	▪ Provides information on how official notices and communications between the parties will be sent and received.
Amendment and Waiver	▪ Describes the process for amending the agreement or waiving specific terms and conditions. Typically, amendments require written consent from both parties.

Loan Conditions

Loan conditions refer to the terms and conditions established by the entity loan fund to describe the details of the loan and are documented in the loan agreements with local governments. The Safeguarding Tomorrow RLF program must follow some basic rules for federal grant programs, like following environmental and historic preservation regulations and 2 CFR 200 requirements, but each entity can decide if they would like to include extra details for specific loans. The terms and conditions of the capitalization grant award agreement from FEMA sets the program-specific requirements that apply to all loans issued directly from the grant funding. The program will also provide requirements for loans issued from repayments and interest repaid to the fund.

LOAN AMOUNT

Loans issued under this program cannot equal or exceed $5 million. While this may limit the money available, entities are encouraged to think about how loans can be part of overall funding for projects. This might involve accepting phased projects or using loans as a match for other Hazard Mitigation Assistance grants.

LOAN INTEREST RATES

Interest rates cannot be more than 1%. Entities can choose different rates for different projects, up to 1%, or even decide not to apply any interest. Entities need to decide and specify the interest rate(s) in their Intended Use Plan and the loan agreement with each loan recipient.

Entities can set interest rates in different ways, at their discretion. An example of this would be applying different interest rates for disadvantaged communities and low-income geographic areas to reduce burden on those communities. They could also change rates for different kinds of projects to encourage more hazard mitigation projects and activities. Another example is setting lower interest rates to promote certain project types that align with the entity's goals for their program.

Intended Use Plan Example Language:

Projects in low-income geographic areas receive an amplified consideration since they are included multiple times in the ranking criteria for prioritization. For those projects, the RLF will provide a .05% interest rate. Standard loans will have a 1% interest rate.

DEDICATED SOURCE OF REVENUE FOR LOAN REPAYMENT

Before awarding a loan, the entity must make sure the local government receiving the loan has a reliable way to repay the loan. Entities should work with local governments to identify different repayment sources. Since mitigation projects typically don't generate revenue, the repayment source does not have to be directly related to the project. The local government just needs to show they have some funding mechanism to repay the loan. Potential loan repayment sources should be included in the Intended Use Plan and Project Proposal List. Ways to repay loans could include but are not limited to:

- Property taxes
- Sales and use taxes (e.g., corporate income taxes, hotel taxes, business license taxes, capital project sales tax, valorem tax, etc.)
- Fees and permits (e.g., hospitality, water, sewerage, and parking meter fees)
- Other state or federal grant programs where such a use would be eligible

LOAN REPAYMENT

For an entity loan fund to work well, there must be clear loan repayment timelines. When loans are repaid (including both the principal and interest), the money can be used for more projects. This way, the fund can keep giving loans and covering its costs. All the interest paid on loans must go back into the fund.

Loan repayments must begin within a year after the project is finished. Standard loans from the loan fund need to be repaid within 20 years. For projects in low-income geographical areas, loans need to be repaid within 30 years. In addition to these limits, no loan repayment timeline should go beyond the project's design life.

Entities can decide the rules for repaying loans that work best for their program (e.g., reducing payment timelines). Repayment conditions, such as payment amounts, due dates, late fees, and other details need to be explained in the loan agreement. The repayment terms should fit the local government's situation and avoid any undue burden. This helps make sure payments are on time and don't cause too much financial stress.

Entities should include a review of loan recipients' ability to repay in their project selection process. Entities might look at any funding the local government owes them already or ask the government to go through an underwriting process.

FLEXIBLE REPAYMENT TERMS

Flexible repayment terms mean local governments have options in how they pay back the loan. When writing their Intended Use Plan, entities consider including these options in loan agreements. Flexible terms let local governments have more control, including:

- How long they take to pay back the loan. Paying faster means higher monthly payments but less overall interest. Paying slower means lower monthly payments but more interest in total.
- How often they make payments. They can choose monthly or every three months. More often means they pay off the loan faster.

- If they can delay payments for a while. This could happen in tough times, like during financial hardships.

ADJUSTING LOAN TERMS

Entities can change some loan terms, but the length is typically not easily changed after it has been finalized in a loan agreement. One option to address this is to lower the interest rate to reduce the amount of debt owed, which can allow for a faster repayment of the loan. This process may hurt the longevity of the entity loan fund because future loan amounts come from repayments and interest. The more interest that is collected on current loans, the more funds are available to be disbursed and collected in future loans.

Loan Distribution

Entities have control over the schedule for disbursing loans. After selecting projects for funding, entities will first promise loans to local governments through a loan agreement. Then, entities can either disburse loans immediately or in portions. For example, a loan agreement may include providing portions of the loan on a regular schedule (e.g., monthly). Another example is that the entity may request the loan recipient to submit requests for review and approval prior to portions of the loan being disbursed. Some entities may choose to disburse loans in full at the time the loan agreement is completed.

The entity should include their process for loan disbursement in their Intended Use Plan. This should also include the entity loan funds' utilization rate. The loan utilization rate can be calculated by dividing the amount of executed loans (the total value of loans that have been promised to recipients through loan agreements) by cumulative funds available (all funds that are held by the entity loan fund, including those that have been disbursed as loans). FEMA suggests that entities set utilization goals near or above 100%. Entities should also consider setting other goals related to fund distribution such as distributing funds within a certain period (e.g., 12 months) after receiving the capitalization grant from FEMA.

Analyzing their previous loan distribution activities can also allow an entity to implement advanced loan commitment, which means committing loans based on the future availability of capitalization grant funds. Entities can also compare actual loan disbursements to projections to support financial trend analysis. Tracking loan disbursement trends will also help entities inform loan recipients of the availability of funds for the next loan application cycle.

Project Monitoring

Entities are responsible for monitoring loan projects. They should make sure the funds are being used for their intended purpose and that program goals are met. Entities must make sure that loan recipients are following the program requirements. This includes making sure that loan recipients are following all relevant federal laws, regulations, the terms of the capitalization grant award, and any entity requirements. Entities can choose how often loan recipients make reports. Examples of reporting approaches used by entities in the program include quarterly, annual, or specific to the loan recipient based on the calculated risk level of the recipient.

Loan Repayment Monitoring

Entities need a system to track that local governments are paying back loans on the schedule set in the loan agreement. Repayment monitoring is important because the local government's financial situation might change throughout the loan term. Repayment monitoring may include a more detailed check of loan recipient finances, like how much they earn and spend. Entities can check this information through requiring loan recipients to submit information such as audited financial statements, an Annual Comprehensive Financial Report (ACFR), credit reports, or tax payments. Site visits may also be helpful. Checking this kind of information is not required but is helpful to make sure that loan recipients can continue repaying loans. Entities should include anything they plan to do for loan repayment monitoring in their Intended Use Plan.

LOAN DEFAULT AND DELINQUENCY

Entities need to have clear policies for tracking payments and flagging when a loan is at risk for default, meaning the recipient will not be able to repay it. Loan defaults limit the fund’s ability to continue and grow. Entities should have clear plans for managing overdue loan repayments.

> The first step to avoiding loan default is making sure before the loan is issued that the loan recipient can pay it back. Entities can also change the loan terms, like lowering the interest rate, creating a period where the recipient only pays interest, giving more time to repay, or other changes, to avoid defaults.

Regular check-ins with loan recipients and requiring financial reporting can help avoid late payments. Technical assistance can also be used to help loan recipients who are struggling with loan repayment.

Entities can decide the loan default management process that works best for them. All their plans and tools for managing default should be documented in the Intended Use Plan. Loan default will be part of the information FEMA tracks as part of the overall program monitoring. If entities are not able to prevent most of their loans from defaulting, FEMA may work with the entity to create better plans for preventing default.

Loan Forgiveness

The Safeguarding Tomorrow RLF program does not include loan forgiveness, as the mission of the program is to recycle funds for more loans. If an entity wants to forgive a loan, they need to make sure the total fund balance stays the same. This means the forgiven amount should be repaid into the fund from a different source to keep the balance. Entities can decide when to forgive loans and set conditions for it. If entities can't afford forgiveness, they should use other ways to manage finances for those struggling to repay.

Additional Information

FEMA continues to engage stakeholders and incorporate best practices learned to inform future funding opportunities and ensure the long-term viability and success of the program at all levels. For additional information and resources, visit the Safeguarding Tomorrow RLF webpage.