

project and be subject to the same requirements as the original property.

**§314.4 Unauthorized use.**

(a) Except as provided in §314.3 (b), (c) or (d), whenever, during the expected useful life of the project, any property acquired or improved in whole or in part with grant assistance is disposed of without the approval of EDA, or no longer used for the authorized purpose of the project, the Federal Government shall be compensated by the grantee for the Federal share of the value of the property; provided that for equipment and supplies, the standards of the Uniform Administrative Requirements for Grants at 15 CFR part 24 and OMB Circular A-110 or any supplements or successors thereto, as applicable, shall apply.

(b) If property is disposed of without approval, EDA may assert its interest in the property to recover the Federal share of the value of the property for the Federal Government. EDA may pursue its rights under both paragraphs (a) and (b) of this section, except that the total amount to be recovered shall not exceed the Federal share, plus costs and interest.

**§314.5 Federal share.**

(a) For purposes of this part 314, the Federal share of the value of property is that percentage of the current fair market value of the property attributable to the EDA participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, incurred to put the property into condition for sale).

(b) Where the grantee's interest in property is a leasehold for a term of years less than the depreciable remaining life of the property, that factor shall be considered in determining the percentage of the Federal share.

(c) If property is transferred from the grantee to another eligible entity, as provided in §314.1(c), the Federal Government shall be compensated the Federal share of any money paid by or on behalf of the successor grantee to or for the benefit of the original grantee, provided that EDA may first permit the recovery by the original grantee of an amount not exceeding its investment in the project nor exceeding that

percentage of the value of the property that is not attributable to the EDA participation in the project.

(d) When the Federal Government is compensated for the Federal share of the value of property acquired or improved in whole or in part with grant assistance, EDA has no further interest in the ownership, use or disposition of the property.

**§314.6 Encumbrances.**

(a) Except as provided in §314.6(c), grantee-owned property acquired or improved in whole or in part with grant assistance may not be used to secure a mortgage or deed of trust or otherwise be used as collateral or encumbered except to secure a grant or loan made by a State or Federal agency or other public body participating in the same project.

(b) Encumbering such property other than as permitted in this section is an unauthorized use of the property requiring compensation to the Federal Government as provided in §§314.4 and 314.5.

(c) EDA may waive the provisions of §314.6(a) for good cause when EDA determines all of the following:

(1) All proceeds from the grant/loan to be secured by the encumbrance on the property shall be available only to the grantee, and all proceeds from such secured grant/loan shall be used only on the project for which the EDA grant was awarded or on related activities of which the project is an essential part;

(2) The lender/grantor would not provide funds without the security of a lien on the project property; and

(3) There is a reasonable expectation that the borrower/grantee will not default on its obligation.

(d) EDA may waive the provisions of §314.6(a) as to an encumbrance on property which is acquired and/or improved by an EDA grant when EDA determines that the encumbrance arises solely from the requirements of a pre-existing water or sewer facilities or other utility encumbrance which by its terms extends to additional property connected to such facilities. EDA's determination shall make reference to the specific requirements (for example, "water system and all accessions or additions or improvements thereto") which extend

the terms of the pre-existing encumbrance to the property which is acquired and/or improved by the EDA grant.

### Subpart B—Real Property

#### §314.7 Title.

(a) The grantee must furnish evidence, satisfactory in form and substance to EDA, that title to real property required for a project (other than property of the United States) is vested in the grantee, and that such easements, rights-of-way, state permits, or long-term leases as are required for the project have been or will be obtained by the grantee within an acceptable time. EDA may determine that, in lieu of title, a long-term leasehold interest for a period not less than the estimated useful life of the project will be acceptable, but only if fee title is not obtainable and the lease provisions adequately safeguard EDA's interest in the project.

(b) The grantee must disclose to EDA any liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the grantee's interest in the property. No such encumbrance or restriction will be acceptable if, as determined by EDA, the encumbrance or restriction will interfere with the construction, use, operation or maintenance of the project during its estimated useful life.

#### §314.8 Recorded statement.

(a) For all projects involving the acquisition, construction or improvement of a building, as determined by EDA, the grantee shall execute a lien, covenant or other statement of EDA's interest in the property acquired or improved in whole or in part with the funds made available under the award. The statement shall specify in years the estimated useful life of the project and shall include, but not be limited to disposition, encumbrance, and compensation of Federal share requirements of this part 314. The statement shall be satisfactory in form and substance to EDA.

(b) The statement of EDA's interest must be perfected and placed of record in the real property records of the ju-

risdiction in which the property is located, all in accordance with local law.

(c) Facilities in which the EDA investment is only a small part of a large project, as determined by EDA, may be exempted from the requirements of this section.

### Subpart C—Personal Property

#### §314.9 Recorded statement.

For all projects which EDA determines involve the acquisition or improvement of significant items of tangible personal property, including but not limited to ships, machinery, equipment, removable fixtures or structural components of buildings, EDA will require the grantee to execute a security interest or other statement of EDA's interest in the property, acceptable in form and substance to EDA, which statement must be perfected and placed of record in accordance with local law, with continuances refiled as appropriate.

#### §314.10 Revolving loan funds.

(a) With EDA's consent, grantees holding revolving loan fund (RLF) property (including but not limited to money, notes, and security interests) may sell such property or encumber such property as part of a securitization of the RLF portfolio in either case to generate money to be used for additional loans as part of the RLF project;

(b) When a grantee determines that it is no longer necessary or desirable to operate an RLF, the RLF may be terminated; provided that, unless otherwise stated in the award, the Federal Government shall be compensated the Federal share of the value of the RLF property. The Federal share shall apply proportionate to the percentage of the capitalization of the RLF contributed by EDA to all RLF property including the present value of all outstanding loans; provided that the grantee may use for other economic development purposes with EDA's approval that portion of such RLF property which EDA determines is attributable to the payment of interest on RLF loans and not used by the grantee for administrative or other allowable expenses.