

process, SBA is proposing to delete the requirement that a multi-state CDC have at least three members from each State on its board. SBA believes that the general membership requirements (*see* § 120.822) and loan committee requirements (*see* § 120.823) for the State into which it is expanding are sufficient to demonstrate the CDC's commitment to local economic development in that State. Additionally, SBA is proposing to delete the requirement for public notice and for direct notice to all other CDCs in the proposed area of operations since SBA is permitting the marketplace to determine the optimum number of CDCs that can be supported.

Section 120.836, public notice, and opportunity for response, would be deleted. SBA believes that the requirement would not be needed for the same reasons discussed in § 120.811.

Section 120.837, SBA decision on application for a new CDC or for an existing CDC to expand an area of operations, proposes to streamline the process by changing the paragraph on a multi-state CDC to permit any unilateral authority that a CDC has in its State of incorporation to be carried over into the additional State in which it is approved to operate as a multi-state CDC and clarifying SBA's decision process.

Section 120.838, expiration of existing, temporary expansions, was a short-term regulation to manage the conversion of existing temporary expansions into permanent expansions by March 1, 1996. Because of the changes proposed to the rules covering areas of operation, SBA believes this section is no longer required and proposes its removal.

Section 120.839, case-by-case extensions, proposes to give a district office the authority to make a decision concerning whether SBA will allow a CDC to make a 504 Loan outside of its area of operations, and by adding as a new basis for such decision the situation in which a State may not have a CDC. (For example, currently Alaska has no CDC.) In addition, SBA is proposing to delete the exception that would require the Associate Administrator for Financial Assistance ("AA/FA") to approve because the exception has never been used and SBA's experience indicates that it is unnecessary.

In section 120.840, accredited lenders program, SBA proposes to substantially revise this section to describe the ALP, the benefits a CDC will receive through the ALP, how to apply for the ALP, and how SBA will process the application.

In new § 120.841, SBA proposes to establish more detailed qualifications

for the ALP. The standards will be consistent with section 507 of the Act and coordinate with eligibility requirements for CDC participation in the PCLP (*see* § 120.845 discussion below). These changes will make it easier for SBA to provide consistent and objective evaluation of a CDC application to participate in the ALP.

Section 120.845, premier certified lenders program, would be revised. The PCLP is now a permanent program pursuant to section 508 of the Act. SBA proposes to add considerably more detail to § 120.845 and move some of its revised and expanded provisions to new §§ 120.846–120.848. Since CDCs participating in the PCLP must be approved to participate under the ALP or be "ALP qualified," SBA proposes to add some of the PCLP requirements to § 120.841.

The PCLP is designed to take advantage of the proven loan processing and servicing skills of SBA's most proficient and most active CDCs. It is a relatively new program (started in 1994 as a pilot program) with a somewhat limited operating history. Because SBA transfers substantial additional authority to CDCs, the PCLP carries potentially significant risk to SBA and the 504 Program. Therefore, SBA intends to closely monitor and control its implementation and expansion. As a result, SBA will continue to work with the CDC industry to develop and publish enhanced operating policies and procedures as experience with the PCLP develops. While SBA intends to transfer as much authority and responsibility to PCLP CDCs as reasonably prudent, the extent of that delegation will continue to be refined over time. These refinements likely will address such issues as the type of 504 Loans eligible for the PCLP, the amount of prior SBA review applicable to each loan, program participation criteria, and other factors.

For example, while SBA believes that the PCLP may be most appropriately applied to routine 504 Loans and that particularly complex or problematic loans may need to be processed through standard 504 Program procedures, SBA will continue to study and analyze this issue and develop further guidance as appropriate. With respect to SBA's prior review of a 504 Loan at the loan approval stage, SBA is interested in limiting/minimizing its involvement in reviewing 504 Loans. While initially SBA expects to continue to review loan eligibility while delegating virtually all credit decisions to PCLP CDCs, SBA will consider expanding or reducing that authority as warranted by the results of the program.

Participation in the PCLP, pursuant to section 508(b) of the Act, is limited to those CDCs that are active in the 504 Program; are in good standing with SBA; have demonstrated the ability to properly analyze, close and service 504 Loans; and have been active as ALP CDCs. Section 508(b)(2)(A) of the Act allows SBA to waive the requirement for those non-ALP CDCs that meet the ALP participation criteria. However, rather than developing a waiver process, SBA proposes incorporating the ALP participation criteria into the PCLP participation criteria (*see* § 120.845(c)(1)).

Based on the guidance in the statute, and following extensive discussion with the CDC industry, SBA developed more specific factors to be used in evaluating a CDC's level of activity; ability to properly analyze, close, service and liquidate 504 Loans; and good standing. Each factor represents a major and essential CDC function, and each carries significant risk to SBA and the 504 Program. Because SBA delegates substantial authority and autonomy to PCLP CDCs, it considers each factor important, and a substantive deficiency in any one may preclude participation in the PCLP. SBA will use information from onsite compliance reviews, operational reviews and other program management and oversight activities, including the review of 504 loan applications to SBA, to make the determination regarding eligibility for PCLP status.

Congress, SBA and the CDC industry recognize that the success of the PCLP is highly dependent on the extent to which PCLP CDCs are familiar with SBA's credit and eligibility standards and its loan processing, closing, servicing and liquidation policies and procedures. These policies and procedures are highly complex and require processing a substantial volume of 504 Loans over an extended period of time to remain proficient. Also, SBA needs access to a significant number of a CDC's loans to evaluate its proficiency. SBA notes that the ALP requires that its participants must have processed at least 20 504 Loans in the most recent three years (*see* proposed § 120.841(b)). When considering the minimum 504 Loan volume requirement for participation in the PCLP, SBA considered the concern of smaller and rural CDCs that a high minimum 504 Loan volume requirement could exclude them from being a PCLP CDC. SBA discussed those concerns with the CDC industry and concluded that proficiency in 504 Loan policies and procedures can only be developed and maintained from regularly processing a significant