

and/or to purchase and install machinery and equipment located on land leased to the Borrower by an unrelated lessor if:

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37. Revise the heading of § 120.871 to read as follows:

§ 120.871 Leasing part of Project Property to another business.

38. Amend § 120.880 by revising paragraph (b) to read as follows:

§ 120.880 Basic eligibility requirements.

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(b) Together with its Affiliates, meet one of the size standards set forth in § 121.301(b) of this chapter.

39. Revise paragraph (c) of § 120.882 to read as follows:

§ 120.882 Eligible Project costs for 504 loans.

* * * * *

(c) Professional fees directly attributable and essential to the Project, such as title insurance, opinion of title, architectural and engineering costs, appraisals, environmental studies, hazard and flood insurance, recording fees, and legal fees related to zoning, permits, or platting (see § 120.971(a)(2) for limitations on legal fees associated with 504 loan and Debenture closing); and

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40. Revise paragraph (d) of § 120.883 to read as follows:

§ 120.883 Eligible administrative costs for 504 loans.

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(d) Borrower's out-of-pocket costs associated with 504 loan and Debenture closing other than legal fees (for example, certifications and the copying costs associated with them, overnight delivery, postage, and messenger services) but not to include fees and costs described in § 120.882(c);

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41. Amend § 120.892(b) by revising the phrase "90 days" to read "120 days".

42. Revise the heading of § 120.900 to read as follows:

§ 120.900 Sources of permanent financing.

43. Revise the heading of § 120.910 to read as follows:

§ 120.910 Borrower contributions.

44. Revise § 120.911 to read as follows:

§ 120.911 Land contributions.

The Borrower's contribution may be land (including buildings, structures and other site improvements which will

be part of the Project Property) previously acquired by the Borrower.

45. Revise § 120.913 to read as follows:

§ 120.913 Limitations on any contributions by a Licensee.

Subject to part 107 of this chapter, a Licensee may provide financing for all or part of the Borrower's contribution to the Project. SBA will consider Licensee funds to be derived from Federal sources if the Licensee has Leverage (as defined in § 107.50 of this chapter). If the Licensee does not have Leverage, SBA will consider the investment to be from private funds. Licensee financing must be subordinated to the 504 loan and must not be repaid at a faster rate than the Debenture. (Refer to § 120.930(a) for additional limitations.)

46. Amend § 120.923 by revising the heading and redesignating § 120.924 as paragraph (c) of § 120.923 to read as follows:

§ 120.923 Policies on subordination.

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47. Revise § 120.925 by adding a parenthetical at the end to read as follows:

§ 120.925 Preference.

* * * (See § 120.10 for a definition of Preference.)

48. Revise § 120.926 to read as follows:

§ 120.926 Referral fee.

The CDC can receive a reasonable referral fee from the Third Party Lender if the CDC secured the Third Party Lender for the Borrower under a written contract between the CDC and the Third Party Lender. Both the CDC and the Third Party Lender are prohibited from charging this fee to the Borrower. If a CDC charges a referral fee, the CDC will be construed as a Referral Agent under part 103 of this chapter.

49. Revise paragraph (b) of § 120.930 to read as follows:

§ 120.930 Amount.

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(b) A 504 loan must not be less than \$25,000.

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50. Revise § 120.931 to read as follows:

§ 120.931 504 lending limits.

The outstanding balance of all SBA financial assistance to a Borrower and its affiliates under the 504 program covered by this part must not exceed \$1,000,000 (or \$1,300,000 if one or more of the public policy goals enumerated in § 120.862(b) applies to the Project).

51. Revise § 120.933 to read as follows:

§ 120.933 Maturity.

From time to time, SBA will publish in the **Federal Register** the available maturities for a 504 loan and the Debenture that funds it. Such available maturities remain in effect until changed by subsequent **Federal Register** publication.

52. Revise § 120.934 to read as follows:

§ 120.934 Collateral.

The CDC usually takes a second lien position on the Project Property to secure the 504 loan. Sometimes additional collateral is required. (In rare circumstances, SBA may permit other collateral substituted for Project Property.) All collateral must be insured against such hazards and risks as SBA may require, with provisions for notice to SBA and the CDC in the event of impending lapse of coverage.

53. Revise the heading of § 120.935 to read as follows:

§ 120.935 Deposit from the Borrower that a CDC may require.

§ 120.936 [Removed]

54. Remove § 120.936.

55. Revise § 120.960 to read as follows:

§ 120.960 Responsibility for closing.

(a) The CDC is responsible for the 504 loan closing.

(b) The Debenture closing is the joint responsibility of the CDC and SBA.

(c) SBA may, within its sole discretion, decline to close the Debenture; direct the transfer of the 504 loan to another CDC; or cancel its guarantee of the Debenture, prior to sale, if any of the following occur:

(1) The CDC has failed to comply with any requirement imposed by statute, regulation, SOP, policy and procedural notice, any agreement the CDC has executed with SBA, or the terms of a Debenture or loan authorization.

(2) The CDC has failed to make or close the 504 loan or prepare the Debenture closing in a prudent or commercially reasonable manner.

(3) The CDC's improper action or inaction places SBA at risk.

(4) The CDC has failed to use required SBA forms or electronic versions of those forms.

(5) The CDC, Third Party Lender or Borrower has failed to timely disclose to SBA a material fact regarding the Project or 504 loan.

(6) The CDC, Third Party Lender or Borrower has misrepresented a material fact to SBA regarding the Project or 504 loan.