

industry and concluded that proficiency in 504 Loan policies and procedures can only be developed and maintained from regularly processing a significant number of 504 Loans. In addition, one of the main purposes of the PCLP was to improve the efficiency and expedite the loan processing of higher volume CDCs, which were being disproportionately impacted by the longer turn-around time in SBA's district offices. Also, for low volume CDCs, any potential efficiency benefits from participating in the PCLP would more than likely be offset by the cost and effort required to develop and maintain the high level of 504 Loan proficiency required in a staff that rarely processes an SBA 504 Loan. (About half of all CDCs process less than six 504 Loan applications per year.) After considering these issues, SBA proposes to require that ALP and PCLP applicants must have received approval for at least 20 504 loans in the most recent three years and have a portfolio of at least 30 active 504 loans. (SBA defines an "active" 504 Loan as a loan that was approved and closed by the CDC and has a status of either current, delinquent, or in liquidation.)

To assist in determining the proficiency of a PCLP applicant to effectively process and administer 504 Loans, SBA is requiring that SBA-conducted oversight reviews of a PCLP applicant must have found the applicant to be substantially in compliance with SBA's regulations, policies and procedures. In addition, SBA will need to assess the applicant's current proficiency, so these reviews must be relatively recent (within the past 12 months). While SBA has policy and procedural guidance in place generally requiring annual SBA oversight review, CDCs may occasionally request a postponement of those reviews. Applicants to the PCLP must recognize the need for current SBA review data and coordinate with their Lead SBA Office to ensure that the CDC is available and prepared for any required oversight reviews.

SBA has developed comprehensive management information systems to timely track and analyze the performance of a CDC's 504 Loan portfolio. As a result of an extensive examination and analysis of these performance data, SBA has determined that portfolio currency, delinquency, default, liquidation and loss rates are important measures of the quality of a CDC's portfolio and the effectiveness and diligence of its loan analysis, closing and servicing. Therefore, SBA has established benchmarks for each of these measures and SBA will use such

portfolio benchmarks as an indication or measure of the CDC's compliance with 504 program requirements.

SBA and the CDC industry recognize that the training and experience of the PCLP applicant's staff are critical determinants of the quality and effectiveness of its 504 Loan program administration as well as its diligence in applying SBA's 504 Loan credit and eligibility standards. As a result, the CDC industry has developed appropriate credit, packaging, loan closing and loan servicing training programs, which the staff of many CDCs attend. As a result, SBA is requiring that the principal staff of PCLP applicants possess adequate 504 Loan training and experience.

Under the PCLP, SBA delegates authority and a certain level of autonomy to PCLP CDCs to process, close and service 504 Loans with only limited prior SBA review. As a result, SBA is requiring that applicants to the PCLP must demonstrate a particularly thorough understanding of and an applied diligence to SBA's 504 Loan credit and eligibility standards and its 504 Loan processing, closing and servicing policies and procedures. A failure to consistently apply appropriate credit analyses and standards and loan processing, closing and servicing policies or procedures exposes SBA and the taxpayer to excessive risk of loss and negatively impacts the availability of SBA financing to the small business community. A CDC's failure to adequately apply SBA's 504 Loan eligibility standards could result in 504 Loan approvals to small businesses that are expressly prohibited by statute or regulation from receiving SBA loans.

Section 508(b)(2)(A) requires that PCLP CDCs be in good standing with SBA. SBA interprets that requirement to mean both in good standing with the State in which the CDC is incorporated (as discussed in § 120.820), and in substantial compliance with the 504 Program requirements imposed by statute, regulation, SOP, policy and procedural notice, loan authorization, debenture, or any agreement between SBA and the CDC. Under the PCLP, due to the higher level of authority delegated to the PCLP CDCs and the potential risk to the Agency, SBA expects a significantly higher level of compliance with both of these requirements by PCLP CDCs.

The Lead SBA Office will consider the CDC's initial application to the PCLP, and will forward the application package, including a recommendation regarding the applicant's qualifications, to SBA's PCLP Processing Center, which then will forward the package with its

recommendation to the AA/FA for final action. PCLP applicants are expected to coordinate with their Lead SBA Office early in their consideration of the PCLP to realistically assess its program requirements and their prospects for admission. When officially applying for the PCLP, an applicant will need to provide certain essential information and documentation to assist SBA in ascertaining its qualifications, including a resolution from its Boards of Directors; resumes on key staff for 504 Loan processing, servicing, liquidation, and litigation; documentation of any required insurance; and information about the qualifications of its closing attorney. While SBA will generally confer PCLP status for a period of two years, under appropriate conditions SBA may approve a lesser period.

Section 120.846, requirements for maintaining and renewing PCLP status, is added. Pursuant to section 508(b)(3) of the Act, in order to retain its PCLP status, a PCLP CDC must continue to meet the eligibility requirements of the PCLP, as described in § 120.845. While level of activity is one of those criteria, section 508(i) of the Act requires that PCLP CDCs establish a goal of processing a minimum of 50 percent of their 504 Loan applications using PCLP procedures. SBA considered establishing a requirement that PCLP CDCs process at least 30 percent of their 504 Loans using PCLP procedures immediately after becoming a PCLP CDC and gradually increasing that requirement as the PCLP CDC matures. However, following discussions with the CDC industry, SBA determined that immediately establishing such an absolute minimum could discourage participation in what is a developing program with a variety of relatively new concepts and procedures. Nevertheless, SBA recognizes that the legislation authorizing PCLP mandates that PCLP CDCs be active CDC lenders and establish a goal of processing a minimum of 50 percent of their 504 Loans using PCLP procedures. As a result, while SBA still expects PCLP CDCs to process a substantial proportion of their 504 Loans using PCLP procedures and strive to reach their 50 percent goal as mandated by statute, SBA is not immediately requiring an absolute minimum. Thus, as the PCLP matures, SBA intends to publish procedural guidance gradually incorporating and increasing the minimum number and percent of 504 Loans that PCLP CDCs must process using PCLP procedures.

Due to the delegation of authority under the PCLP, and the associated risk of loss, SBA expects PCLP CDCs to