

■ 2. Amend § 120.10 by adding a definition of “SOP” to read as follows:

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SOPs are SBA Standard Operating Procedures, as issued and revised by SBA from time to time.

Subpart A—Policies Applying to All Business Loans

■ 3. Revise the first sentence of the introductory text of § 120.140 to read as follows:

§ 120.140 What ethical requirements apply to participants?

Lenders, Intermediaries, and CDCs (in this section, collectively referred to as “Participants”), must act ethically and exhibit good character. * * *

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Subpart H—Development Company Loan Program (504)

■ 4. Revise the heading of § 120.800 to read as follows:

§ 120.800 The purpose of the 504 program.

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■ 5. Revise the heading of § 120.801 to read as follows:

§ 120.801 How a 504 Project is financed.

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■ 6. Amend § 120.802 by removing the definition of “Associate Development Company”; revising the definition of “Area of Operations”; adding definitions of “Designated Attorney”, “Lead SBA Office”, and “Priority CDC”; and revising the first sentence of the definition of “Local Economic Area”, to read as follows:

§ 120.802 Definitions.

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Area of Operations is the geographic area where SBA has approved a CDC’s request to provide 504 program services to small businesses on a permanent basis. The minimum Area of Operations is the State in which the CDC is incorporated.

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Designated Attorney is the CDC closing attorney that SBA has approved to close loans under an expedited closing process for a Priority CDC.

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Lead SBA Office is the SBA District Office designated by SBA as the primary liaison between SBA and a CDC and with responsibility for managing SBA’s relationship with that CDC.

Local Economic Area is an area, as determined by SBA, that is in a State other than the State in which an existing CDC (or an applicant applying to become a CDC) is incorporated, is

contiguous to the CDC’s existing Area of Operations (or the applicant’s proposed Area of Operations) of its State of incorporation, and is a part of a local trade area that is contiguous to the CDC’s Area of Operations (or applicant’s proposed Area of Operations) of its State of incorporation. * * *

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Priority CDC is a CDC certified to participate on a permanent basis in the 504 program (see § 120.812) that SBA has approved to participate in an expedited 504 loan and Debenture closing process.

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■ 7. Revise § 120.810 to read as follows:

§ 120.810 Applications for certification as a CDC.

(a) An applicant for certification as a CDC must apply to the SBA District Office serving the jurisdiction in which the applicant has or proposes to locate its headquarters (see § 101.103 of this chapter).

(b) The applicant must apply for an Area of Operations. The applicant’s proposed Area of Operations must include the entire State in which the applicant is incorporated, and may include Local Economic Areas. An applicant may not apply to cover an area as a Multi-State CDC.

(c) The applicant must demonstrate that it satisfies the CDC certification and operational requirements in §§ 120.820, and 120.822 through 120.824. The applicant also must include an operating budget, approved by the applicant’s Board of Directors, which demonstrates the required financial ability (as described in § 120.825), and a plan to meet CDC operational requirements (without specializing in a particular industry) in §§ 120.821, and 120.826 through 120.830.

(d) The District Office will forward the application and its recommendation to the AA/FA, who will make the final decision. SBA will notify the CDC in writing of its decision, and, if the petition is declined, the reasons for the decision.

§ 120.811 [Removed]

■ 8. Remove § 120.811.

■ 9. Revise § 120.812 to read as follows:

§ 120.812 Probationary period for newly certified CDCs.

(a) Newly certified CDCs will be on probation for a period of two years from the date of certification, at the end of which the CDC must petition the Lead SBA Office for:

- (1) Permanent CDC status; or
- (2) A single, one-year extension of probation.

(b) SBA will consider the failure to file a petition before the end of the probationary period as a withdrawal from the 504 program. If the CDC elects withdrawal, SBA will direct the CDC to transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA.

(c) The Lead SBA Office will send the petition and its recommendation to the AA/FA, who will make the final decision. SBA will determine permanent CDC status or an extension of probation, in part, based upon the CDC’s compliance with the certification and operational requirements in §§ 120.820 through 120.830.

(d) SBA will notify the CDC in writing of its decision, and, if the petition is declined, the reasons for the decision.

■ 10. Revise § 120.820 to read as follows:

§ 120.820 CDC non-profit status and good standing.

A CDC must be a non-profit corporation, except that for-profit CDCs certified by SBA prior to January 1, 1987 may retain their certifications. An SBIC may not become a CDC. A CDC must be in good standing based upon the following criteria:

(a) In good standing in the State in which the CDC is incorporated and any other State in which the CDC conducts business.

(b) In compliance with all laws, including taxation requirements, in the State in which the CDC is incorporated and any other State in which the CDC conducts business.

■ 11. Revise § 120.821 to read as follows:

§ 120.821 CDC Area of Operations.

A CDC must operate only within its designated Area of Operations approved by SBA except as provided in § 120.839.

■ 12. Revise § 120.822 to read as follows:

§ 120.822 CDC membership.

(a) *CDC Membership*. A CDC must have at least 25 members (or stockholders for for-profit CDCs approved prior to January 1, 1987). The CDC membership must meet annually. No person or entity can own or control more than 10 percent of the CDC’s voting membership (or stock). No employee or staff of the CDC can qualify as a member of the CDC for the purpose of meeting the membership requirements. The CDC membership must include representatives from all the groups listed in paragraph (b) of this section.

(b) *Membership groups*. Members must be responsible for actively supporting economic development in the Area of Operations and must be from one of the following groups: