

(1) Government organizations responsible for economic development in the Area of Operations;

(2) Financial institutions that provide commercial long term fixed asset financing in the Area of Operations;

(3) Community organizations dedicated to economic development in the Area of Operations such as chambers of commerce, foundations, trade associations, colleges, universities, or small business development centers (as defined in section 21(a)(1) of the Act, 15 U.S.C. 648(a)(1)); and

(4) Businesses in the Area of Operations.

(c) A CDC that is incorporated in one State and is operating as a Multi-State CDC in another State must meet the membership requirements for each State.

■ 13. Amend § 120.823 by revising paragraph (b) to read as follows:

§ 120.823 CDC Board of Directors.

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(b) If a CDC is incorporated in one State and is approved as a Multi-State CDC to operate in another State, the CDC must have a Loan Committee for each State.

■ 14. Amend § 120.824 by revising the third sentence in the introductory text and paragraph (a) to read as follows:

§ 120.824 Professional management and staff.

* * * CDCs may obtain, under written contract, management, marketing, packaging, processing, closing, servicing or liquidation services provided by qualified individuals and entities under the following circumstances:

(a) The CDC must have at least one salaried professional employee that is employed directly (not a contractor or an Associate of a contractor) full-time to manage the CDC. The CDC manager must be hired by the CDC's board of directors and subject to termination only by the board. A CDC may petition SBA to waive the requirement of the manager being employed directly if:

(1) Another non-profit entity that has the economic development of the CDC's Area of Operations as one of its principal activities will contribute the management of the CDC, and the management contributed by the other entity also may work on and operate that entity's economic development programs, but must be available to small businesses interested in the 504 program and to 504 loan borrowers during regular business hours; or

(2) The CDC petitioning SBA for such waiver is rural; has insufficient loan volume to justify having management

employed directly by the CDC; and has contracted with another CDC located in the same general area to provide the management.

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■ 15. Revise § 120.826 to read as follows:

§ 120.826 Basic requirements for operating a CDC.

A CDC must operate in accordance with all 504 program requirements imposed by statute, regulation, SOPs, SBA policy and procedural notices, loan authorizations, Debentures, and agreements between the CDC and SBA. In its Area of Operations, a CDC must market the 504 program, package and process 504 loan applications, close and service 504 loans, and if authorized by SBA, liquidate and litigate 504 loans. It must supply to SBA current and accurate information about all certification and operational requirements, and maintain the records and submit the reports required by SBA.

■ 16. Revise § 120.827 to read as follows:

§ 120.827 Other services a CDC may provide to small businesses.

A CDC may provide a small business with assistance unrelated to the 504 loan program as long as the CDC does not make such assistance a condition of the CDC accepting from that small business an application for a 504 loan. An example of other services a CDC may provide is assisting a small business in applying for a 7(a) loan (as described in § 120.2). A CDC is subject to part 103 of this chapter when providing such assistance.

■ 17. Revise § 120.828 to read as follows:

§ 120.828 Minimum level of 504 loan activity and restrictions on portfolio concentrations.

(a) A CDC is required to receive SBA approval of at least four 504 loan approvals during two consecutive fiscal years.

(b) A CDC's 504 loan portfolio must be diversified by business sector.

■ 18. Amend § 120.829 by revising paragraph (a) to read as follows:

§ 120.829 Job Opportunity average a CDC must maintain.

(a) A CDC's portfolio must maintain a minimum average of one Job Opportunity per an amount of 504 loan funding that will be specified by SBA from time to time in a **Federal Register** notice. Such Job Opportunity average remains in effect until changed by subsequent **Federal Register** publication. A CDC is permitted two years from its certification date to meet this average.

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■ 19. Revise paragraphs (a) and (b) of, and add a new paragraph (g) to § 120.830 to read as follows:

§ 120.830 Reports a CDC must submit.

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(a) An annual report within 180 days after the end of the CDC's fiscal year (to include financial statements of the CDC and any affiliates or subsidiaries of the CDC), and such interim reports as SBA may require;

(b) For each new associate and staff, a Statement of Personal History (for use by non-bank lenders and CDCs) and other information required by SBA;

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(g) Other reports as required by SBA.

■ 20. Revise § 120.835 to read as follows:

§ 120.835 Application to expand an Area of Operations.

(a) *General.* A CDC that has been certified to participate in the 504 program may apply to expand its Area of Operations if it meets all requirements to be an Accredited Lender Program (ALP) CDC, as set forth in § 120.840(c), and demonstrates that it can competently fulfill its 504 program responsibilities in the proposed area.

(b) *Local Economic Area Expansion.* A CDC seeking to expand its Area of Operations into a Local Economic Area must apply in writing to the Lead SBA Office.

(c) *Multi-State CDC Expansion.* A CDC seeking to become a Multi-State CDC must apply to the SBA District Office that services the area within each State where the CDC intends to locate its principal office for that State. A CDC may apply to be a Multi-State CDC only if:

(1) The State the CDC seeks to expand into is contiguous to the State of the CDC's incorporation;

(2) The CDC demonstrates that its membership meets the requirements in § 120.822 separately for its State of incorporation and for each additional State in which it seeks to operate as a Multi-State CDC; and

(3) The CDC has a loan committee meeting the requirements of § 120.823.

§ 120.836 [Removed]

■ 21. Remove § 120.836.

■ 22. Amend § 120.837 by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 120.837 SBA decision on application to become a new CDC or for an existing CDC to expand its Area of Operations

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(b) SBA will notify the CDC of its decision in writing, and if the application is denied, the reasons for its decision.