

Small Business Administration

§ 120.823

information (such as contribution toward SBA mission).

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

[68 FR 57980, Oct. 7, 2003, as amended at 73 FR 75517, Dec. 11, 2008]

REQUIREMENTS FOR CDC CERTIFICATION AND OPERATION

§ 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.

(c) Must have satisfactory SBA performance, as determined by SBA in its discretion. The CDC's Risk Rating, among other factors, will be considered in determining satisfactory SBA performance. Other factors may include, but are not limited to, on-site review/examination assessments, historical performance measures (like default rate, purchase rate and loss rate), loan volume to the extent that it impacts performance measures, and other performance related measurements and information (such as contribution toward SBA mission).

[68 FR 57980, Oct. 7, 2003, as amended at 73 FR 75518, Dec. 11, 2008]

§ 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.

[68 FR 57980, Oct. 7, 2003]

§ 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:

(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.

[68 FR 57980, Oct. 7, 2003]

§ 120.823 CDC Board of Directors.

The CDC must have a Board of Directors chosen from the membership by the members, and representing at least three of the four membership groups. No single group shall control. No person who is a member of a CDC's staff may be a voting member of the Board except for the CDC manager. The Board Members must be responsible officials of the organizations they represent and at least one member other than the CDC manager must possess commercial lending experience. The Board must meet at least quarterly and shall be responsible for CDC staff decisions and actions. A quorum shall require at least 5 Directors authorized to vote.