

§ 120.972

13 CFR Ch. I (1–1–14 Edition)

§ 120.972 Third Party Lender participation fee and CDC fee.

(a) *Participation fee.* For loans approved by SBA after September 30, 1996, SBA must collect a one-time fee equal to 50 basis points on the Third Party Lender's participation in a Project when the Third Party Lender occupies a senior credit position to SBA in the Project.

(b) *CDC fee.* For loans approved by SBA after September 30, 1996, SBA must collect an annual fee from the CDC equal to 0.125 percent of the outstanding principal balance of the Debenture. The fee must be paid from the servicing fees collected by the CDC and cannot be paid from any additional fees imposed on the Borrower.

[68 FR 57988, Oct. 7, 2003]

AUTHORITY OF CDCs TO PERFORM LIQUIDATION AND DEBT COLLECTION LITIGATION

§ 120.975 CDC Liquidation of loans and debt collection litigation.

(a) *PCLP CDCs.* If a CDC is designated as a PCLP CDC under §120.845, the CDC must liquidate and handle debt collection litigation with respect to all PCLP Loans in its portfolio on behalf of SBA as required by §120.848(f), in accordance with subpart E of this part. With respect to all other 504 loans that a PCLP CDC makes, the PCLP CDC is an Authorized CDC Liquidator and must exercise its delegated authority to liquidate and handle debt-collection litigation in accordance with subpart E of this part for such loans, if the PCLP CDC is notified by SBA that it meets either of the following requirements to be an Authorized CDC Liquidator, as determined by SBA:

(1) The PCLP CDC has one or more employees who have not less than two years of substantive, decision-making experience in administering the liquidation and workout of defaulted or problem loans secured in a manner substantially similar to loans funded with 504 loan program debentures, and who have completed a training program on loan liquidation developed by the Agency in conjunction with qualified CDCs that meet the requirements of this section; or

(2) The PCLP CDC has entered into a contract with a qualified third party for the performance of its liquidation responsibilities and obtains the approval of SBA with respect to the qualifications of the contractor and the terms and conditions of the contract.

(b) *All other CDCs.* A CDC that is not authorized under paragraph (a) of this section may apply to become an Authorized CDC Liquidator with authority to liquidate and handle debt collection litigation with respect to 504 loans on behalf of SBA, in accordance with subpart E of this part, if the CDC meets the following requirements:

(1) The CDC meets either of the following criteria:

(i) The CDC participated in the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996 prior to October 1, 2006; or

(ii) During the three fiscal years immediately prior to seeking such authority, the CDC made an average of not less than ten 504 loans per year; and

(2) The CDC meets either of the following requirements:

(i) The CDC has one or more employees who have not less than two years of substantive, decision-making experience in administering the liquidation and workout of defaulted or problem loans secured in a manner substantially similar to loans funded with 504 loan program debentures, and who have completed a training program on loan liquidation developed by the Agency in conjunction with qualified CDCs that meet the requirements of this section; or

(ii) The CDC has entered into a contract with a qualified third party for the performance of its liquidation responsibilities and obtains the approval of SBA with respect to the qualifications of the contractor and the terms and conditions of the contract.

(c) *CDC counsel.* To perform debt collection litigation under paragraphs (a) or (b) of this section, a CDC must also have either in-house counsel with adequate experience as approved by SBA or entered into a contract for the performance of debt collection litigation with an experienced attorney or law firm as approved by SBA.