

## § 120.960

least 10 business days prior to the effective date of the suspension or revocation. A broker or dealer may appeal the suspension or revocation made under this section pursuant to the procedures set forth in part 134 of this chapter. The action of this official will remain in effect pending resolution of the appeal.

[73 FR 75519, Dec. 11, 2008]

### CLOSINGS

#### § 120.960 Responsibility for closing.

- (a) The CDC is responsible for the 504 loan closing.
- (b) The Debenture closing is the joint responsibility of the CDC and SBA.
- (c) SBA may, within its sole discretion, decline to close the Debenture; direct the transfer of the 504 loan to another CDC; or cancel its guarantee of the Debenture, prior to sale, if any of the following occur:
  - (1) The CDC has failed to comply materially with any requirement imposed by statute, regulation, SOP, policy and procedural notice, any agreement the CDC has executed with SBA, or the terms of a Debenture or loan authorization;
  - (2) The CDC has failed to make or close the 504 loan or prepare the Debenture closing in a prudent or commercially reasonable manner;
  - (3) The CDC's improper action or inaction places SBA at risk;
  - (4) The CDC has failed to use required SBA forms or electronic versions of those forms;
  - (5) The CDC, Third Party Lender or Borrower has failed to timely disclose to SBA a material fact regarding the Project or 504 loan;
  - (6) The CDC, Third Party Lender or Borrower has misrepresented a material fact to SBA regarding the Project or 504 loan; or
  - (7) SBA determines that there has been an unremedied material adverse change, such as deterioration in the Borrower's financial condition, since the 504 loan was approved, or that approving the closing of the Debenture will put SBA at unacceptable financial risk.

[68 FR 57988, Oct. 7, 2003]

## 13 CFR Ch. I (1-1-10 Edition)

#### § 120.961 Construction escrow accounts.

The CSA, title company, CDC attorney, or bank may hold Debenture proceeds in escrow to complete Project components such as landscaping and parking lots, and acquire machinery and equipment if the component or acquisition is a minor portion of the total Project and has been contracted for completion or delivery at a specified price and specific future date. The escrow agent must disburse funds upon approval by the CDC and the SBA, supported by invoices and payable jointly to the small business and the designated contractor.

### SERVICING

#### § 120.970 Servicing of 504 loans and Debentures.

- (a) In servicing 504 loans, CDCs must comply with Loan Program Requirements and in accordance with prudent and commercially reasonable lending standards.
- (b) The CDC is responsible for routine servicing including receipt and review of the Borrower's or Operating Company's financial statements on an annual or more frequent basis and monitoring the status of the Borrower and 504 loan collateral.
- (c) The CDC is responsible for assuring that the Borrower makes all required insurance premium payments and has paid all taxes when due.
- (d) The CDC is responsible for filing renewals and extensions of security interests on collateral for the 504 loan, as required.
- (e) The CDC must timely respond to Borrower requests for loan modifications.
- (f) For any 504 loan that is more than three months past due, the CDC must promptly request that SBA purchase the Debenture unless the 504 loan has an SBA-approved deferment or is in compliance with an SBA-approved plan to allow the Borrower to catch up on delinquent loan payments.
- (g) The CDC must cooperate with SBA to cure defaults and initiate work-outs.