

§ 22.23

Corporation (CDC), or Community Development Financial Institution (CDFI), for at least five (5) years;

(b) It must demonstrate a philosophy and history of lending to small, disadvantaged and women-owned businesses in their communities. Information will be requested by the Director on the number of short-term loans made to companies listed in paragraph (a)(5) of § 22.11. The Participating Lender shall submit information showing its efforts in relationship to its overall portfolio;

(c) It must demonstrate experience in administering monitored lines of credit, such as construction loans, accounts receivable financing, and/or contract financing for at least two years. Such experience should be held by any Participating Lender representative managing, reviewing or authorizing STLP loan portfolios;

(d) It must have at least two (2) years experience with other federal government lending programs such as U.S. Small Business Administration (SBA), Agriculture Rural Development, Bureau of Indian Affairs (BIA), Economic Development Administration (EDA), Department of Housing and Urban Development (HUD), Export Import Bank of the United States and/or state loan programs.

(e) It must have at least a satisfactory or better Community Reinvestment Act (CRA) rating;

(f) It must designate a Participating Lender representative to effectively administer the STLP loan portfolio;

(g) It must have the ability to evaluate, process, close, disburse, service and liquidate STLP loans;

(h) It must demonstrate the ability to implement, monitor and manage a two-party payee check system, in which the Participating Lender and borrower are joint payees of any checks paid to the borrower for performance under the assigned contract(s);

(i) It must not currently be debarred or suspended from participation in a government contract or delinquent on a government debt. The Participating lender must submit a current form DOT F 2309-1 Certification Regarding Debarment, Suspension. The certification form is available at [http://](http://www.osdbu.dot.gov/financial/docs/Cert_Debarment_DOT_F_2309-1.pdf)

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www.osdbu.dot.gov/financial/docs/Cert_Debarment_DOT_F_2309-1.pdf.

(j) It must be a drug-free workplace. The Participating Lender must execute current form DOT F 2307-1 Drug-Free Workplace Act Certification For A Grantee Other Than An Individual. The certification form is available at http://www.osdbu.dot.gov/financial/docs/Cert_Drug-Free_DOT_F_2307-1.pdf;

and

(k) It must certify that no Federal funds will be utilized for lobbying by executing a current form DOT F 2308-1 Certificate Regarding Lobbying For Contracts, Grants, Loans, and Cooperative Agreements in compliance with section 1352, title 21, of the U.S. Code. The certification form is available at http://www.osdbu.dot.gov/financial/docs/Cert_Lobbying_DOT_F_2308-1.pdf.

§ 22.23 Agreements.

(a) DOT OSDBU may enter into a cooperative agreement with a lender that meets the criteria defined in § 22.21 in order for the lender to become a Participating Lender in the STLP. Such an agreement does not obligate DOT OSDBU to participate in any specific proposed loan that a lender may submit. The existence of a cooperative agreement does not limit the rights of DOT OSDBU to deny a specific loan or establish general policies. The current cooperative agreement is available at http://www.osdbu.dot.gov/financial/docs/Coop_Agreement.pdf.

(b) The cooperative agreement is generally for a minimum period of twenty-four (24) months. DOT OSDBU will consider the cooperative agreement for renewal at the end of the designated term. If a cooperative agreement has expired, no further applications for the STLP shall be submitted to DOT OSDBU by the Participating Lender until a new cooperative agreement is executed by both parties.

(c) Unless instructed otherwise by DOT OSDBU, after the expiration of the cooperative agreement, the Participating Lender will complete the documentation of any loans which have been given final DOT OSDBU approval prior to expiration of the cooperative agreement.

(d) Following the expiration of the cooperative agreement, the Participating Lender may, subject to the written concurrence of DOT OSDBU, sell its STLP loans to another bank or to another Participating Lender that assumes the original rights and responsibilities to fund, service and collect the loan or loans.

§ 22.25 Lender deliverables and delivery schedule.

All Participating Lenders must adhere to certain required periodic reports, submissions, and other actions that are outlined in the cooperative agreement and the loan guarantee agreements, as well as to the required due dates to DOT OSDBU.

§ 22.27 Eligible reimbursements to participating lenders.

Participating Lenders will be reimbursed by DOT OSDBU for reasonable expenses and costs that are incurred in the processing, administration, and monitoring of a STLP loan. The Participating Lender will be reimbursed as follows:

(a) *Processing/Underwriting Fee.* A fee, as specified in the cooperative agreement will be reimbursed by DOT OSDBU, with a minimum fee of not less than one thousand (\$1,000), per approved STLP loan guarantee, provided that DOT OSDBU receives proper notification of the activation date of the STLP loan.

(b) *Additional Administrative Fee:* For total loan amounts of \$150,000.00 or less, the Participating Lender can request an additional one-half (½) percent administrative fee for the increased loan monitoring and administrative assistance required to process the loan. The request must be supported with the information specified in the cooperative agreement.

(c) *Travel Expenses.* For any pre-approved travel expenses, the Participating Lender will be reimbursed for certain costs, provided that paragraphs (c)(1) and (2) of this section are met:

(1) A written request for travel, along with a statement of the purpose of the travel and proposed cost estimate, is submitted for DOT OSDBU for its approval no less than ten (10) business days prior to travel; and

(2) A travel invoice accompanied by a written report explaining the findings of the travel is submitted to DOT OSDBU no later than thirty (30) days following the approved travel. Payment or reimbursement for travel shall be in accordance with the Joint Travel Regulations, Federal Travel Regulations and DOD FAR 31.205.46.

(d) *Attorney Fees.* Legal fees incurred by the PL may be eligible for reimbursement. Prior written approval from DOT OSDBU is required. Attorney fees will be reimbursed on a pro-rata basis in proportion to the percentage of the government loan guarantee in relation to the total loan amount.

§ 22.29 DOT access to participating lenders files.

A Participating Lender must allow the authorized representatives of DOT OSDBU, as well as representatives of the Office of Inspector General (OIG) and General Accountability Office (GAO), access to its STLP loan files to review, inspect, and copy all records and documents pertaining to DOT OSDBU guaranteed loans. Record retention of all relevant documents and other materials is specified in the cooperative agreement between DOT OSDBU and the Participating Lender.

§ 22.31 Suspension or revocation of eligibility to participate.

(a) DOT OSDBU may suspend or revoke the eligibility of a Participating Lender to participate in the STLP by giving written notice in accordance with the terms and conditions cited in the cooperative agreement. Such notice may be given because of a violation of DOT OSDBU regulations; a breach of any agreement with DOT OSDBU; a change of circumstance resulting in the Participating Lender's inability to meet operational requirements; or a failure to engage in prudent lending practices. A suspension or revocation will not invalidate a loan guarantee previously approved by DOT OSDBU, providing that the specific loan was handled in accordance with its guarantee agreement, the cooperative agreement and/or these regulations.

(b) The written notice to suspend or revoke participation in the STLP will