

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 108

#### Loans to State and Local Development Companies Accredited Lenders Program for Certified Development Companies

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** On October 22, 1994, the President signed Public Law 103-403, The Small Business Administration Amendments Act of 1994. Section 212 of that act added a new section 507 of the Small Business Investment act, 15 U.S.C. 695 et seq. That new section authorizes the Small Business Administration (SBA) to establish an Accredited Lenders Program. This final rule, published in accordance with Public Law 103-403, implements this new program.

**EFFECTIVE DATE:** This rule is effective on April 26, 1995.

**FOR FURTHER INFORMATION CONTACT:** LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development Small Business Administration, 409 3rd Street S.W., Suite 8300 Washington, D.C. 20416, 202-205-6485.

**SUPPLEMENTARY INFORMATION:** Public Law 103-403, enacted October 22, 1994, required SBA to establish an Accredited Lenders Program for Certified Development Companies, which provides for expedited processing of loan applications and servicing actions by SBA field offices for qualified development companies. The Accredited Lender Program (ALP) is intended to build upon the successful Certified Lenders Program (CLP) for the SBA's General Business Loan program and the pilot Accredited Lenders Program for Certified Development

Companies which has been administered by SBA since 1991.

During 1991, SBA established an "Accredited Lender Program" for Certified Development Companies (CDCs) on a demonstration program basis with selected development companies through the United States. During the Demonstration program, SBA Field Offices worked with the selected development companies to expedite processing of requests for guarantee approval and servicing actions submitted by them. The program was premised upon rewarding CDCs which have developed a good partnership with their SBA Field Office in promoting local economic development and have demonstrated a good track record in the submission of documentation needed for making and servicing of sound loans. The positive experience of the demonstration program led to its statutory authorization which makes the Accredited Lender Program a permanent tool for the improvement of the program.

The concept of the ALP demonstration program was based on a similar program developed for lenders participating with the SBA 7(a) General Business Loan program (CLP) which has also been authorized by statute. Under that program, CLP lenders are required to submit a complete loan package as well as a draft loan authorization ready for SBA review of eligibility, credit analysis and legal sufficiency. In consideration for the receipt of a completed loan application package, SBA agrees to issue an approved loan authorization to a CLP lender within three working days.

Similar to the CLP lender in the General Business Loan program, under these regulations if adopted in final form, an ALP-CDC will be required to submit complete loan applications and draft loan authorizations to SBA in order to expedite SBA's review of eligibility, credit analysis and legal sufficiency and enable SBA to quickly authorize a guaranty; and completely documented requests for a loan servicing action which will enable SBA to expedite processing of such a request. In exchange SBA will agree to provide three business day processing for such submissions. Notwithstanding a requester's ALP status, SBA will retain the right to reject incomplete packages or requests, thereby denying ALP

consideration to individual actions on a case by case basis.

In order to attain ALP status a CDC will be required to meet minimum standards with regard to lending activity and demonstrated proficiency in quality of its loan packaging, closing and servicing. An ALP-CDC and an SBA field office will function as a team for purposes of the ALP program. SBA's agreement to expedite approval of loans and servicing actions will be premised upon the SBA confidence in the judgment and quality of work of the ALP-CDC which is based upon a good relationship and good communication between the SBA field office and ALP-CDC staffs.

In that regard, under these regulations, if adopted, SBA field offices will nominate CDCs for ALP status. SBA's Director of Economic Development and Rural Affairs will be the deciding official for admission to the program and for suspension or revocation of the status of a company once admitted. Criteria for nomination which are expressed in the proposed regulations reflect the intent that only successful CDCs which demonstrate a high degree of program proficiency will attain ALP status. ALP status will be granted for periods of two years and will be renewable based on request by the CDC and favorable review by SBA.

#### Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

SBA certifies that this rule will not constitute a significant regulatory action for purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of \$100 million or more.

SBA certifies that this rule will not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

SBA certifies that this rule will not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this rule is drafted, to the extent practicable, in accordance

with the standards set forth in Section 2 of Executive Order 12778.

This rule is published as a final rule in conformity with the statutory deadline established in section 212 of Public Law 103-403.

(Catalog of Federal Domestic Assistance Program Nos. 59.036, Certified Development Company Loans (503 Loans); 59.041, Certified Development Company Loans (504 Loans).

**List of Subjects in 13 CFR Part 108**

Loan programs—business, Small businesses.

For the reasons set forth above, SBA is amending part 108 of title 13 of the Code of Federal Regulations as follows:

**PART 108—[AMENDED]**

1. The authority citation for part 108 continues to read as follows:

**Authority:** 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.2 is amended by adding definitions of the following terms in the appropriate alphabetical order: “Accredited Lender” and “ALP” to read as follows:

**§ 108.2 Definitions.**

\* \* \* \* \*

*Accredited Lender* means a 503 Company which has met the eligibility requirements of § 108.508-3 and which has executed with SBA the ALP Agreement.

*ALP* means the Accredited Lenders Program as provided for in § 108.508.

\* \* \* \* \*

3. A new undesignated center heading and §§ 108.508-1 through 108.508-5 are added to read as follows:

**Accredited Lenders Program**

**§ 108.508-1 Objective and characteristics of Certified Lenders Program.**

(a) *Purpose.* The purpose of this subpart is to authorize for designated 503 companies, hereinafter called Accredited Lenders, expedited approval by SBA of loan processing, closing and servicing functions on specified terms and conditions.

(b) *Objective of Accredited Lender Status.* SBA will process an application for authorization of a guarantee or a loan servicing action submitted by an Accredited Lender within three business days from receipt of a complete application for authorization or a fully documented request for a loan servicing action, as the case may be. SBA reserves the right to reject any such application or request for incompleteness or other regulatory deficiency.

**§ 108.508-2 Application procedure.**

In order to be designated an Accredited Lender, a 503 company shall apply for designation to the SBA District or Branch Office where responsible for the area in which its headquarters is located by submitting a statement of its eligibility demonstrating satisfaction of the criteria contained in § 108.508-3. The relevant District or Branch Office will review all such applications using SBA’s “rule of two procedure” and forward only favorable recommendations to the Director, Office of Rural Affairs and Economic Development for final determination. The Director will advise all relevant District or Branch Office of his or her final decision on any such recommendation. Favorable decisions by the Director will be followed by accreditations by the relevant District or Branch Office. Unfavorable decisions by the Director will be communicated to the applicant by the Director.

**§ 108.508-3 Eligibility.**

In evaluating the application of a 503 Company to become an Accredited Lender, SBA must make a favorable determination based upon its consideration of the following factors:

(a) The 503 Company must have been an active participant in the development company loan program for not less than the preceding 12 months;

(b) The 503 Company must have well-trained, qualified loan officers who are knowledgeable concerning SBA’s lending policies and procedures for the development company loan program;

(c) The 503 Company must have demonstrated the ability to process, close, and service loans under the development company program;

(d) The 503 Company must have had a loss rate on its portfolio of loans made under the development company program that is reasonable and acceptable to the SBA;

(e) The 503 Company must have demonstrated to SBA’s satisfaction a history of submitting to SBA complete and accurate debenture guaranty application packages;

(f) The 503 Company must have demonstrated the ability to work with the sponsoring SBA office in a cooperative and constructive manner; and

(g) The 503 Company must have demonstrated to SBA’s satisfaction the ability to serve small business credit needs through the development company program.

**§ 108.508-4 Term of designation.**

Any designation of a 503 Company to be an Accredited Lender shall be for a

term of two years, renewable for additional two year terms at the discretion of SBA upon the application of the 503 Company.

**§ 108.508-5 Suspension or revocation.**

The Director may suspend or revoke the accreditation of an Accredited Lender for good cause by forwarding a written statement of suspension or revocation to the Accredited Lender. Such statement shall specify the nature of the sanction and the reasons therefore. The decision to suspend or revoke accreditation may be appealed to the Associate Deputy Administrator for Economic Development whose decision on any such appeal shall be the final decision of SBA. Examples of good cause for purposes of these regulations include but are not limited to:

(a) The 503 Company has not continued to meet the criteria for eligibility under § 108.508-3; or

(b) The 503 Company has failed to adhere to the SBA’s rules and regulations or is violating any other applicable provision of law.

Dated: March 2, 1995.

**Philip Lader,**

*Administrator.*

[FR Doc. 95-10179 Filed 4-25-95; 8:45 am]

BILLING CODE 8025-01-M

**13 CFR Part 108**

**Loans to State and Local Development Companies; Premier Certified Lenders Program for Certified Development Companies**

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Interim final rule.

**SUMMARY:** On October 22, 1994, the President signed Public Law 103-403, the Small Business Administration Reauthorization and Amendments Act of 1994. Section 217 of that Act added a new section 508 to the Small Business Investment Act, 15 U.S.C. 695 et seq. This new section authorizes the Small Business Administration (SBA) to establish a Premier Certified Lenders Program. This rule, published in accordance with Public Law 103-403, is intended to implement this new program.

**DATES:** This rule is effective on April 26, 1995; however, SBA will accept comments submitted by May 26, 1995.

**ADDRESSES:** Comments should be sent to LeAnn M. Oliver, Acting Director, Office of Rural Affairs & Economic Development, Small Business Administration, 409 Third Street SW., suite 8300, Washington, DC 20416.