



**Billing Code: 8025-01**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 120**

#### **504 Loan Program Rural Initiative - Waiver of Limitation on Lending Authority**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notification of 504 Loan Program Rural Initiative Pilot Program and impact on regulatory provisions.

**SUMMARY:** The U.S. Small Business Administration (SBA) announces the 504 Loan Program Rural Initiative Pilot Program (504 Rural Pilot), as described in this document, and its impact on Agency regulations. The 504 Rural Pilot waives the restrictions on the authority of Certified Development Companies (CDCs) to make 504 loans outside their Area of Operations to allow each CDC to make loans for 504 Projects with an address located in any rural county if the 504 Project is located in the same SBA Region in which the CDC is incorporated. This pilot will provide rural small businesses with increased opportunities to access capital and will further the statutory public policy goal of the 504 Loan Program to achieve rural development impact.

**DATES:** The 504 Rural Pilot, including the waiver of the restrictions in 13 CFR 120.839 on CDCs' authority to make loans outside their Area of Operations, will be available from July 19, 2018, through July 20, 2020.

**FOR FURTHER INFORMATION CONTACT:** Linda Reilly, Chief, 504 Program Branch, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, D.C. 20416; Telephone (202) 205-9949; email address: [linda.reilly@sba.gov](mailto:linda.reilly@sba.gov).

**SUPPLEMENTARY INFORMATION:** The 504 Loan Program is a financing tool authorized under title V of the Small Business Investment Act of 1958 (SBIAct) to provide small businesses with long-term, fixed-rate financing to help acquire major fixed assets for expansion or modernization. A Certified Development Company (CDC) is typically a private, nonprofit corporation set up to contribute to the economic development of its community. CDCs work with SBA and private sector lenders to provide financing to small businesses under the 504 Loan Program. In general, a 504 project includes: a loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC with a junior lien covering up to 40 percent of the project cost (backed by a 100 percent SBA-guaranteed debenture); and a contribution from the Borrower of at least 10 percent of the project cost.

Under 13 CFR 120.821, a CDC is required to operate only within its designated Area of Operations approved by SBA, except as provided in 13 CFR 120.839. Each CDC's approved Area of Operations includes the entire State in which it is incorporated (see 13 CFR 120.810(b)). A CDC also may apply and be approved to expand its Area of Operations into a Local Economic Area under 13 CFR 120.835(b) or by becoming a Multi-State CDC under 13 CFR 120.835(c). Under 13 CFR 120.839, a CDC may submit a request to the Sacramento Loan Processing Center (SLPC) to make a 504 loan for a 504 Project outside its Area of Operations. In such case, the CDC must demonstrate that it can adequately fulfill its 504 program responsibilities for the 504 loan, including proper servicing, and have satisfactory SBA performance, as determined by SBA in its discretion. The SLPC may approve the application if, in addition to other requirements,

(1) the CDC has previously assisted the business to obtain a 504 loan, (2) the existing CDC or CDCs serving the area agree to permit the applicant CDC to make the 504 loan, or (3) there is no CDC within the Area of Operations in which the 504 Project is located.

One of the statutory public policy goals of the 504 Loan Program is to achieve rural development. See section 501(d)(3)(D) of the SBI Act. Since 2013, a significant number of rural CDCs have voluntarily decertified, while SBA has approved only two new rural CDCs. SBA has historically found that increasing the CDC operating service area results in more 504 loan activity. However, in accordance with 13 CFR 120.835, CDCs are only permitted to expand their Area of Operations by requesting Local Economic Area expansion or Multi-State authority. This authority limits CDC expansion to areas and States contiguous to a CDC's Area of Operations.

In order to address this issue and increase lending in rural areas, SBA has developed the 504 Rural Pilot. This Pilot allows CDCs to make loans for 504 Projects with an address located in any county classified as "rural" by the U.S. Census Bureau if the 504 Project is located in the same SBA Region in which the CDC is incorporated. SBA expects that the expansion of a CDC's authority to process rural loans anywhere within their SBA-defined Region will result in increased lending and economic growth in rural markets.

Specifically, for purposes of the 504 Rural Pilot, SBA is waiving the following requirements in 13 CFR 120.839 (i.e., these requirements will not apply to 504 Rural Pilot loans):

(1) The CDC must apply to the Sacramento Loan Processing Center in order to make the 504 loan for the 504 Project outside of its Area of Operation;

- (2) The CDC must demonstrate that it can adequately fulfill its 504 program responsibilities for the 504 loan;
- (3) SBA must determine that the CDC has satisfactory SBA performance; and
- (4) The CDC must have previously assisted the business to obtain a 504 loan, the existing CDC or CDCs serving the area agree to permit the outside CDC to make the 504 loan, or there is no CDC within the Area of Operations in which the 504 Project is located.

Under the 504 Rural Pilot, a CDC may make a 504 loan for a 504 Project located outside the CDC's Area of Operations only if the 504 Project address is located in a rural county that is in the same SBA Region in which the CDC is incorporated. For purposes of the 504 Rural Pilot, rural counties are those counties classified as "mostly rural" or "completely rural" by the U.S. Census Bureau in its most recent decennial census report, and are identified in the County Classification Lookup Table that can be downloaded at [www.sba.gov/about-sba/sba-initiatives/sba-rural-lending-initiative](http://www.sba.gov/about-sba/sba-initiatives/sba-rural-lending-initiative) or on the Welcome Screen for the Capital Access Financial System (CAFS). (CDCs must use the U.S. Census Bureau table for purposes of identifying rural counties for the 504 Rural Pilot, which may not be the same as the rural areas identified by the U.S. Department of Agriculture.) SBA Regions are defined as follows:

- Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
- Region II: New York, New Jersey, Puerto Rico, and The U.S. Virgin Islands

- Region III: Delaware, Maryland, Pennsylvania, Virginia, Washington, DC, and West Virginia
- Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
- Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
- Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
- Region VII: Iowa, Kansas, Missouri, and Nebraska
- Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
- Region IX: Arizona, California, Guam, Hawaii, and Nevada
- Region X: Alaska, Idaho, Oregon, and Washington.

In making, closing, servicing, or liquidating a 504 Rural Pilot loan, CDCs must follow all other Loan Program Requirements under the 504 Loan Program, except that 504 Rural Pilot loans cannot be made using the CDC’s delegated authority (i.e., PCLP or ALP authority). Although, as described above, CDCs will not be required “to demonstrate” that they can adequately fulfill their 504 program responsibilities for each 504 Rural Pilot loan before making the loan, CDCs will still be expected to fulfill all such program responsibilities with respect to these loans.

Unlike a Multi-State CDC, a CDC making a loan under this pilot will not be required to establish a separate loan committee to cover the State in which the rural 504 Project is located. In addition, the CDC must advise the local District Counsel where the 504 Project is located which Designated Attorney, or other attorney, will be closing the loan. (The attorney must be licensed in the State where the loan is being made.) CDCs

should note that the CDC may not close the loan as an expedited loan unless the attorney is a Designated Attorney licensed to practice in the State where the 504 Project is located. The CDC is responsible for notifying the SLPC that a 504 loan application is being submitted under the 504 Rural Pilot.

SBA's waiver of the above requirements is authorized by 13 CFR 120.3 of its regulations, which provides that the SBA Administrator may suspend, modify or waive rules for a limited period of time to test new programs or ideas. The 504 Rural Pilot will be available for a two year period beginning today.

SBA will limit the number of loans made under the 504 Rural Pilot to not more than ten percent of the total number of 504 loans guaranteed by SBA in any fiscal year. While SBA does not expect the number of 504 Rural Pilot loans to reach that limit, SBA will provide public notice of the need to suspend lending under the 504 Rural Pilot for the remainder of the fiscal year if SBA determines that the number of pilot loans is approaching the limit.

SBA will be using the following criteria to evaluate the 504 Rural Pilot to determine how well it is achieving its objectives and other aspects of performance: (1) the measurable objectives to be achieved through the 504 Rural Pilot, including the number of small business concerns served, and the delinquency and default rates on the 504 Rural Pilot loans compared to regular 504 loans; (2) the number of CDCs that participate in the 504 Rural Pilot and their performance in making and servicing 504 Rural Pilot loans; and (3) the costs and standards of performance which, in order to be acceptable, must not impact the overall subsidy rate for the 504 Loan Program. For data

collections to evaluate the effectiveness of this pilot, SBA will use ETran, SBA's electronic system for loan submission and servicing.

**Authority:** 13 CFR 120.3.

Dated: July 6, 2018.

**Linda E. McMahon,**

*Administrator.*

[FR Doc. 2018-15312 Filed: 7/18/2018 8:45 am; Publication Date: 7/19/2018]