

CDC Best Practices Guidance Jobs Created and Retained Reporting

This guide discusses best practices for Certified Development Company (CDC) compliance with certain 504 Loan Program Requirements. “504 Loan Program Requirements” include those imposed on CDCs by statute, SBA regulations (including 13 CFR Part 120), any agreement the CDC has executed with SBA, SBA’s Standard Operating Procedures (SOPs) (including 50 10 (Lender and Development Company Loan Programs) and 50 55 (504 Loan Servicing and Liquidation)), official SBA notices and forms, and loan authorizations, as such requirements are issued and revised by SBA from time-to-time. In the event of any conflict between this guide and the 504 Loan Program Requirements, the 504 Loan Program Requirements take precedence. SBA regulations (13 CFR 120.180) require all CDCs to comply and maintain familiarity with all 504 Loan Program Requirements as such requirements are revised from time-to-time.

A. Overview

The primary goal of the 504 Loan Program is to encourage economic development by enabling small businesses to create or retain jobs within their communities. A CDC’s portfolio must maintain a minimum average of one Job Opportunity (full time or equivalent permanent or contracted job created within two years of receipt of 504 funds, or retained in the community because of a 504 loan) for every \$65,000 of project debenture (\$75,000 for borrowers located in Special Geographic Areas (Alaska, Hawaii, State-designated enterprise zones, empowerment zones, enterprise communities, and labor surplus areas) and \$100,000 for Small Manufacturers). A CDC may choose to separate loans to borrowers located in Special Geographic Areas and must separate loans to Small Manufacturers from the remainder of its portfolio for the purpose of calculating the averages. While loans to borrowers meeting one of the 14 Community Development or Public Policy goals found in 13 CFR § 120.862 are not required to meet the Job Opportunity requirements, the CDC’s overall portfolio must still comply with the required Job Opportunity minimum averages.

SBA Form 1253 (Annual Report Guide) defines “Jobs Created” as full-time equivalent (8 productive hours per day/40 productive hours per week) permanent or contracted employment created within two years of financing. SBA Form 1253 defines “Jobs Retained” as jobs that otherwise would be lost to the community if the project was not done. A CDC must be able to reasonably show that such jobs would be lost, and cannot count all existing jobs as being retained if they were not at risk of being lost.

To allow SBA to monitor and manage this core objective of the 504 Loan Program, a CDC is required to verify, document and report on the actual number of jobs created and/or retained by its 504 loan borrowers as of each debenture’s two-year funding anniversary.

A CDC must have effective policies, procedures and internal controls in place to ensure that it requests and obtains required documentation from its borrowers verifying the actual number of full-time (or equivalent) permanent or contracted jobs that were created and/or retained by each borrower within two years of debenture funding and that the CDC accurately reports these job numbers to SBA in the CDC’s Annual Report. Tab 4 of SBA Form 1253 requires a CDC to collect this information in writing from a borrower on a document signed and dated by an authorized employee of the borrower.

B. Step-wise Approach

CDC best practices for requesting, collecting, verifying, and reporting on the actual number of jobs created and/or retained by each 504 loan are centered on four important steps:

Step 1: How and when should a CDC request the required documentation verifying the actual number of jobs created and/or retained from a borrower?

A CDC should make a request for a signed and dated document stating the actual number of jobs created and/or retained from a borrower within 60 days of a borrower’s two-year debenture funding anniversary.

A monthly tickler system identifying those 504 loans with two-year debenture funding anniversaries that occur during the next 60 days is extremely helpful in this process. A CDC can then send a request to each such borrower requesting submission of a document to the CDC signed and dated by an authorized employee of the borrower verifying the actual number of jobs created and/or retained “as of” the borrower’s two-year debenture funding anniversary.

Step 2: What is “adequate” documentation?

CDC best practices include obtaining signed and dated documentation from 504 borrowers that verify the actual number of full-time equivalent jobs that were created and/or retained as a result of the 504 loan “as of” the two-year debenture funding anniversary. As required by SBA Form 1253, the CDC must collect this information from the borrower in writing on a document signed and dated by an authorized employee of the borrower.

Some CDCs have created job creation/retention verification form documents that are mailed out to their borrowers at each debenture’s two-year funding anniversary. An authorized employee of the borrower then completes and signs the job creation/retention verification form document adding the actual number of jobs created or retained “as of” the 504 loan’s two-year debenture funding anniversary. Other CDCs send job creation/retention verification requests via email, and borrowers respond via email including a document signed and dated by an authorized employee of the borrower. In many cases, a phone call to the borrower can help to facilitate this process; however, the CDC must collect this information in writing on a document signed and dated by an authorized employee of the borrower.

Exhibit 1 to SBA Form 1253 requires a CDC to report CDC job creation and analysis of 504 economic impact in a certain format. The “Date Verified” column under “Debentures Funded 2 or More Years” must match the date on the document signed by the authorized employee of the borrower. The CDC should retain the documentation received from the borrower in its files.

Step 3: What are the CDC’s processes for following up with the borrower if the borrower does not respond?

CDCs should develop strategic procedures for following up with 504 borrowers to collect the jobs created/retained information in a timely manner.

CDC best practices include employing multiple strategies such as calling or emailing the borrower to follow up on the information request. If a borrower is non-responsive, then some CDCs conduct a site visit to the borrower’s business location and obtain the required job creation/retention documentation at that time. A CDC must be able to demonstrate to SBA that it has attempted to collect the required information from the 504 borrower in a timely manner.

If the CDC is unable to collect the required documentation from the 504 borrower, Exhibit 1 of the CDC’s Annual Report must state that “0” jobs have been created or retained for that loan as of the two-year debenture funding anniversary.

Step 4: How does the CDC ensure accurate reporting of the jobs numbers in its Annual Report?

A CDC must ensure that it has processes, procedures, and internal controls in place to ensure that the CDC accurately includes in its Annual Report the actual number of jobs created and/or retained as a result of each 504 loan as of the two-year debenture funding anniversary.

Note: Regardless of the type of 504 loan (regular 504 loans, 504 loans that meet Public Policy goals, 504 loans to borrowers located in Special Geographic Areas, or 504 loans to Small Manufacturers), CDCs must report on the actual number of jobs created and retained for all loans as of the two-year debenture funding anniversary.

Best practices also include maintenance of accurate records for each type of 504 loan and the specific requirements for job creation/retention averages.