State contiguous to its State of incorporation beyond any contiguous Local Economic Areas.

*Net Debenture Proceeds* are the portion of Debenture proceeds that finance eligible Project costs (excluding administrative costs).

*Priority CDC* is a CDC certified to participate on a permanent basis in the program (see §120.812) that SBA has approved to participate 504 in an expedited 504 loan and Debenture closing process.

*Project* is the purchase or lease, and/or improvement or renovation of long-term fixed assets by a small business, with 504 financing, for use in its business operations.

*Project Property* is one or more long-term fixed assets, such as land, buildings, machinery, and equipment, acquired or improved by a small business, with 504 financing, for use in its business operations.

*Third Party Loan* is a loan from a commercial or private lender, investor, or Federal (non-SBA), State or local government source that is part of the Project financing.

*Underwriter* is an entity approved by SBA to form Debenture Pools and arrange for the sale of Certificates.

§120.810 Applications for certification as a CDC

(a) An applicant for certification as a CDC must apply to the SBA District Office serving the jurisdiction in which the applicant has or proposes to locate its headquarters (see §101.103 of this chapter).

(b) The applicant must apply for an Area of Operations. The applicant’s proposed Area of Operations must include the entire State in which the applicant is incorporated, and may include Local Economic Areas. An applicant may not apply to cover an area as a Multi-State CDC.

(c) The applicant must demonstrate that it satisfies the CDC certification and operational requirements in §§120.820, and 120.822 through 120.824.

The applicant also must include an operating budget, approved by the applicant’s Board of Directors, which demonstrates the required financial ability (as described in §120.825), and a plan to meet CDC operational requirements (without specializing in a particular industry) in §§120.821, and 120.826 through 120.830.

(d) The District Office will forward the application and its recommendation to the D/FA, who will make the final decision. SBA will notify the CDC in writing of its decision, and, if the petition is denied, the reasons for the decision.

§120.812 Probationary period for newly certified CDCs.

(a) Newly certified CDCs will be on probation for a period of two years from the date of certification, at the end of which the CDC must petition the Lead SBA Office for:

(1) Permanent CDC status; or

(2) A single, one-year extension of probation.

(b) SBA will consider the failure to file a petition before the end of the probationary period as a withdrawal from the 504 program. If the CDC elects withdrawal, SBA will direct the CDC to transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA.

(c) The Lead SBA Office will send the petition and its recommendation to the D/FA, who will make the final decision. SBA will determine permanent CDC status or an extension of probation, in part, based upon the CDC’s compliance with the certification and operational requirements in §§120.820 through 120.830. To be considered for permanent CDC status or an extension of probation, the CDC must have satisfactory SBA performance, as determined by SBA in its discretion. The CDC’s Risk Rating, among other factors, will be considered in determining satisfactory SBA performance. Other factors may include, but are not limited to, on-site review/examination assessments, historical performance measures (like default rate, purchase rate and loss rate), loan volume to the extent that it impacts performance measures, and other performance related measurements and