

Sixth Round of New Markets Tax Credit Competition Opens

By Alex Ruiz, Managing Editor, Novogradac & Company LLP

On December 18, the U.S. Department of the Treasury announced the opening of the sixth round of competition for tax credits on \$3.5 billion of equity investments under the New Markets Tax Credit (NMTC) program. This year's NMTC allocation round will include an emphasis on placing investments in underserved rural communities. The allocation application deadline is March 5, 2008.

The Community Development Financial Institutions (CDFI) Fund reports that to date, the organizations awarded NMTCs on \$12.1 billion in equity investments in the first four rounds have already raised \$8.84 billion in equity from investors. "I am very impressed with how this program is making significant impact in low-income communities across the nation," said CDFI Fund Director Donna Gambrell. "Capital is being raised and invested into projects many thought of as just a dream – from critically needed community facilities and charter schools to grocery stores and other businesses."

The CDFI Fund says that through fiscal year 2006 all allocatees have reported deploying a total of \$5.45 billion in qualified loans and investments in low-income communities across the nation. Since the program's inception, these allocatees have reported:

- Developing or rehabilitating more than 46 million square feet of commercial real estate;
- Creating 146,000 full-time construction jobs;
- Creating or maintaining 20,000 full-time jobs through loans or investments supporting businesses operating in low-income communities; and
- Providing financial counseling and other related services to 1,200 businesses.

Targeted Populations

Section 102(b)(6) of the Tax Relief and Health Care Act of 2006 amended the NMTC regulations in Internal Revenue Code Section 45D(i)(6) to provide that the Treasury Secretary shall prescribe regulations to ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments (QEIs). In May 2007, the CDFI Fund solicited comments from the public regarding this requirement and the 2008 notice of allocation availability (NOAA) incorporates that requirement.

The CDFI Fund reports that commentators were nearly unanimous in the opinion that:

1. the CDFI Fund should focus its efforts on ensuring that a proportional allocation of QLICs are made in non-metropolitan areas, and that the location of the investor is not pertinent;
2. the proportionality test should be based upon the total dollar amount of QLICs made, rather than the total number of QLICs made; and
3. applicants should be required to specify the percentage of investments they intend to make in non-metropoli-

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tan areas, and then be held to achieving this benchmark through their allocation agreements.

The CDFI Fund adopted all three of these positions for the purposes of the 2008 NOAA. In addition, the CDFI Fund selected 20 percent as the appropriate benchmark for ensuring a proportional allocation of QLI-CIs in non-metropolitan areas, which approximates the percentage of the U.S. population that CDFI Fund data indicates resides in non-metropolitan counties.

Allocatees will be held to their application commitments to invest in non-metropolitan counties as a condition of their allocation agreements. The CDFI Fund says it will ask each applicant to indicate both a minimum and maximum percentage of its requested allocation that it would commit to deploying in non-metropolitan counties. Applicants will be held to a designated percentage (no less than the stated minimum and no greater than the stated maximum) through their allocation agreements.

Maximum Allocation Amount Lowered

The CDFI Fund also announced that it anticipates that it will not provide an allocation award of more than \$125 million per applicant. This is down from \$150 million for the fifth round, but the NOAA says this amount was reduced, due in part to the lower allocation authority available for distribution in 2008. In order to receive an allocation in excess of the \$125 million cap, the CDFI Fund says, an applicant would likely need to demonstrate, for example, that no part of its strategy can be successfully implemented without an allocation in excess of the applicable cap or that its strategy will produce extraordinary community impact.

Workshops and More Information

Guidance and application materials on the sixth round of the NMTC program are available on the CDFI Fund's web site at www.cdfifund.gov. The CDFI Fund also announced on December 18 that it would conduct six application workshops this month. During those workshops, CDFI Fund staff will describe how the NMTC program works, including how to apply for certification

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as a community development entity (CDE) and how to apply for an allocation of NMTCs in the upcoming round.

Novogradac & Company LLP also presents two intensive one-day workshops this month — on January 3 in San Francisco and on January 8 in Washington, D.C. These workshops will offer a comprehensive look at the NMTC application process and how to submit a competitive application. In addition to these workshops, the sixth round of allocation applications and particularly the focus on underserved rural communities will be discussed at Novogradac & Company LLP's New Markets Tax Credit Conference January 24-25, 2008 in San Diego, Calif. Secure online registration is available at www.novoco.com/events.

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