



National Housing & Rehabilitation Association

New Markets Tax Credit Steering Committee

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Sent Via Mail, E-Mail and Facsimile

Mr. Matt Josephs
NMTC Program Manager
Community Development Financial Institutions Fund
U.S. Department of Treasury
601 13th Street, N.W., Suite 200 South
Washington, DC 20005

Dear Matt:

The following comments and recommendations reflect the consensus of the undersigned members of the National Housing & Rehabilitation Association (NH&RA) NMTC Council Steering Committee. These comments and recommendations are a response to the May 22, 2007 “Request for Public Comments” (“Request”) inviting suggestions for how the Community Development Financial Institutions (“CDFI”) Fund should “ensure that non-metropolitan counties receive a proportional allocation of QEIs” consistent with the New Markets Tax Credit (“NMTC”) extension legislation passed late 2006.

Introduction

We assume the premise behind the new congressional non-metropolitan counties (“Non Metro”) requirement is that the NMTC program is not adequately serving a geographic portion of the country that Congress intends to be served. Whichever definition of Non Metro is used, other targeting aspects of the program should also be considered. Most notably, it would be valuable to understand how many census tracts are encompassed by the non-metropolitan counties definition and how many of such census tracts meet the basic low-income criteria of the NMTC Program and also meet the Areas of Higher Economic Distress (“AHED”). If few census tracts simultaneously fit all three of these definitions, it is likely that applicants will be forced to choose between serving non-metropolitan counties and serving AHEDs. To eliminate such a problem, investments in non-metropolitan counties could be considered the highest level of AHEDs similar to poverty, unemployment and median income statistics. Described another way, a business located in a non-metropolitan county that does not meet any other AHED criteria would be deemed to meet all AHED requirements specified in an Allocatee’s allocation agreement.

More generally, we advocate strategies that will not overemphasize the non-metropolitan counties to the detriment of many important metropolitan county businesses that will lose access to the benefit of the NMTC Program. Instead, we recommend a reallocation approach that is described in the Review Process section below. For your convenience, the headings in this letter correspond to the four key issues identified in the Request.

Allocations of QEIs

The Request contemplates basing decisions on the location of the QEI investor, the location of the headquarters of the CDE, the principal service area of the CDE or the location of the QLICIs. We assume that the intent for the Non Metro Areas language was to proportionally deliver the benefits of capital

deployed through the NMTC program to people in non-metropolitan counties. We believe the most direct method of meeting this intent is to base decisions on the location of the QLICIs.

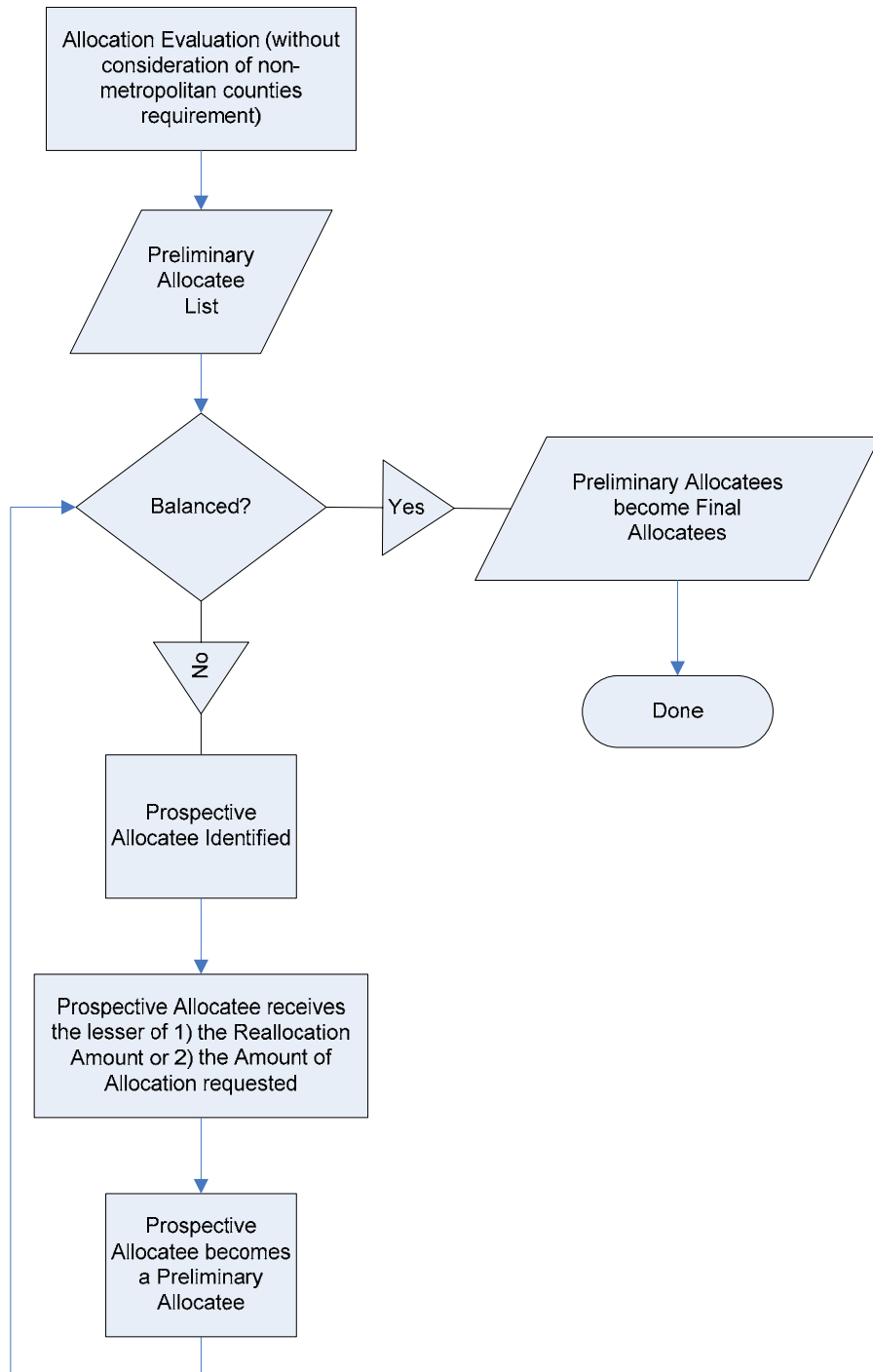
Proportionality

Consistent with the assumption and recommendation discussed in the Allocations of QEIs section above, the term “proportional” should be considered to indicate the dollar amount of the QLICIs deployed in Non Metro Areas relative to the dollar amount of QLICIs deployed in Metro Areas.

Review Process

We recommend that the NMTC application process remain the same as it has been in the past, but with an added reallocation feature to ensure that the final list of NMTC Allocatees are committed to serving non-metropolitan counties at a percentage equal to or greater than the percentage of the US population residing in non-metropolitan counties (approximately 17.4%). This reallocation feature would require that the application include a question asking the applicant how much allocation they would agree to commit to non-metropolitan counties and would involve an iterative allocation process. Once the list of Allocatees as a group meets this 17.4% Non Metro commitment the list will be considered “Balanced.” The process could work as follows:

- 1) The allocation process is executed as it would have been done prior to the Non Metro requirements to establish a list of “Preliminary Allocatees.”
- 2) The proportion of allocation the Preliminary Allocatees as a group have committed to Non Metro Areas is determined.
- 3) If the Preliminary Allocatees as a group are not Balanced then a reallocation process is undertaken as follows:
 - a. The NMTC applicant (or applicants in the case of equal commitments and application scores) that 1) was not chosen as a Preliminary Allocatee, 2) has the highest Non Metro commitment and 3) meets the minimal scoring criteria to receive an allocation, is identified (“Prospective Allocatee”).
 - b. The amount of allocation the Prospective Allocatee would need to receive to create Balance is determined (“Reallocation Amount”).
 - c. If the Reallocation Amount is greater than the Prospective Allocatee’s allocation request
 - i. Each Preliminary Allocatee’s allocation amount is decreased (by the same percentage of their allocation amount) to deliver the Prospective Allocatees full allocation request.
 - ii. The list of Preliminary Allocatees is modified to reflect the changed allocation amounts and the addition of the Prospective Allocatee to the list of Preliminary Allocatees.
 - d. Begin process again at step (a) above using the new allocations and the new list of Preliminary Allocatees
 - e. If the Reallocation Amount is less than or equal to the Prospective Allocatee’s allocation request
 - i. Each Preliminary Allocatee’s allocation amount is decreased (by the same percentage of their allocation amount) to deliver the Reallocation Amount to the Prospective Allocatee.
 - ii. The list of allocatees is finalized using the list of Preliminary Allocatees at their revised allocation amounts and the Prospective Allocatee with an allocation that equals the Reallocation Amount.
- 4) The list of Preliminary Allocatees has been balanced and is deemed to be the list of final allocatees. Since a description doesn’t tend to be as clear as a diagram the following process flow diagram has been included.



Compliance

We recommend that the allocation agreement for each Allocatee hold such allocatee to the percentage of allocation they committed to deploy in Non Metro Areas. However, the allocation agreement should allow for the following:

1. Non Metro Areas should not be considered in the minimum allocation utilization required to apply for a future round of NMTCs.
2. Non Metro Areas percentage should be measured at such time that the Allocatee has made 100 percent of its QLICs or 5 years from the date the allocation agreement was signed, whichever is earlier.
3. Non Metro Areas percentage should not apply to reinvestments.

Conclusion

This letter has attempted to suggest a complete solution for this issue, but has also considered the value of brevity. As a result, we would be happy to provide clarification and/or additional feedback through future correspondence, telephone conference or a meeting. Please direct inquiries for further information to Thom Amdur, NH&RA Associate Director at (202) 939-1753 or tamdur@dworbell.com.

Thank you for the time and effort that the CDFI Fund has taken to invite public comment on this important new dimension of the NMTC Program.

Sincerely,

Peter Bell
Executive Director

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