



R# Rural Development  
Dp Partners

## REC Investments, LLC



**NATIONAL Tribal Development ASSOCIATION**  
*Dedicated to empowering American Indian and Alaskan Native communities by creating socio-economic opportunities.*

June 20, 2007

NMTC Program Manager,  
CDFI Fund  
U.S. Department of the Treasury  
601 13<sup>th</sup> Street, NW.  
Suite 200 South  
Washington, D.C. 20005

To the NMTC Program Manager and CDFI Fund Staff:

The Boards of Directors and Managing Directors of the rural Community Development Entities identified below, would like to take this opportunity to express our deepest appreciation to the NMTC staff for the efforts that are being undertaken to adopt regulations and operational policies pertaining to implementation of the "rural allocation" provisions set forth in Section 102(b) of the Tax Relief and Health Care Act of 2006. The purpose of this transmittal is to formally provide our collective feedback in response to the May 22, 2007, Advanced Notice of Proposed Rulemaking, specifically requesting comments and suggestions related to implementation of that 2006 legislation. As you may be aware, our CDEs represent and serve thousands of rural LIC constituencies, many of which were heavily involved in the sponsorship of that legislation, and as such, we wish to offer our perspective within the context and constructive spirit of that original effort:

### 1. Allocations of QEIs

When considering how best to ensure non-metropolitan allocations, we strongly favor option (1.d), as set forth in the Federal Register notice—that the CDFI Fund should endeavor to achieve the non-metropolitan allocation objectives by focusing on where the actual investment (QLICI) is made.

Location of investors should definitely not be utilized as any form of evaluative criteria. For many decades the absence of sufficient local rural equity capital has been a primary causal factor in the depressed state of many low-income communities. The principal value of the NMTC Program for rural LICs is that the incentive can be used to attract vital external risk capital for highly distressed rural communities that would not otherwise have the wherewithal to attract it. Many of the very investors that are needed by rural communities, are not headquartered within our rural areas.

Second, we are of the belief that the headquarters location of a CDE is of no consequence in determining whether a commitment truly exists to make rural investments.

Third, as a practical matter, we do believe that CDEs with a commitment to “principally serve” rural service territories are, in fact, more apt to achieve the program objectives for rural QLICI placement. Our collective group of respondents has consistently pledged to place over 75% of our received allocations for QLICIs in rural LICs, and shall remain committed to that cause. On the surface, it may be tempting to self-servingly argue that a proportionate share of rural allocations could simply be set aside for those CDEs that have pledged to principally serve rural areas. However, from an objective point of view, this may not reflect the best long-term public policy, or may not best meet the needs of rural LIC persons. The stated service focus of the CDE is only one criteria in determining the extent to which QLICIs can successfully be placed in rural LICs. At the end of the day, if the ultimate Program goal is to stimulate rural investment, other criteria such as the following must also receive priority consideration:

- The CDE's actual track record of serving rural LICs
- The historic proportion of the CDE's rural investment as compared to its overall investment
- Access to committed investors who are willing to make rural investments
- Proven management capabilities, coupled with a comprehensive understanding of rural LIC risk factors, needs and cultures
- The CDE's rural outreach commitment and depth of relationships and networks with others that focus on serving rural LICs
- Depth of available resources to serve remote rural communities
- Adequacy of pipelines of eligible rural projects

Just because CDEs have a predominant rural service focus, doesn't necessarily mean that they should have a preferred allocation entitlement. Service area focus should be elevated as a more important consideration in the Applicant scoring process, but in and of itself, should not be the main determinant of allocation. Likewise, just because a large financial institution may maintain a rural service territory and make rural QLICIs, does not mean that it has a material commitment to serving Rural America.

Therefore, in conclusion, it is our recommendation that the CDFI Fund keep its primary focus on ensuring that a desired proportion of QLICs are provided to rural LICs, without consideration for the CDE's location or the location of its investors (1d). At the same time, we believe that service area focus should be an added and important consideration in the overall application scoring and approval process when making a final determination of how to prioritize allocations among any CDEs deemed qualified to serve Rural America.

## **2. Proportionality**

We favor a proportion methodology that centers on the percentage of LICs that exist in Rural America. In that regard, we strongly support use of the USDA information that defines as much as 25% of rural census tracts to consist of LICs (per the 2000 Census information).

The CDFI Fund has already acknowledged severe rural outmigration as one of the primary indicia of "distressed" LIC status. In point of fact, many rural communities throughout the Midwest, Plains and Mountain states have exhibited severe population declines of over 20% over the last two decades. Simply basing proportionality upon population counts at this point would seem to ignore or actually conflict with our Country's rural outmigration dilemma. To the contrary, public policy needs to be aimed at reinvigorating more rural states, counties, and LICs where population is disappearing, or where it has already disappeared due to unsatisfactory local economic conditions. The aim and focus of the program must stay on LICs and LIC persons.

When assessing QLICI proportionality pursuant to the allocation approach set forth in Issue (1d), we feel strongly that the dollar amount of QLICs are the most important metric for measurement, rather than the number of QLICs made by a CDE. A commonly held myth is that rural economic development projects tend to be smaller in size and scale, or that rural communities need financing for more small projects. But over the past decade, some of the most important economic development in rural LICs has come from large-scale projects involving the need for major external capital. Examples include the creation of locally owned bio-energy plants, value-added agricultural processing businesses, large service businesses, cooperatives, etc. Such businesses can create a larger numbers of jobs, pay higher wages, provide local wealth creation for many people, and added value to many other businesses.

## **3. Review Process**

We endorse the concept of assigning priority points to applicants that have demonstrated a track record of successfully serving rural LICs.

We give little credence to “forward looking statements”, or expressed intentions to serve rural LICs in the future, by those who have not engaged in rural investment or lending activities in the past. Assigning priority points for mere intentions is bad policy. Simply put, it is far too easy for an Applicant to simply express an intention. And the best intentions often have little to do with capabilities or performance.

To be perfectly candid, the reason our group was such a strong proponent of the 2006 legislation, is that rural constituents had become disillusioned that many of the early round Allocatees had expressed an intent to place a small percentage of their allocations in rural QLICs, but were not responsive to the needs of some of the most distressed LICs in some of America's most remote rural areas. The perception was that large urban financial entity CDEs that had expressed an intention of placing 5-10% of their allocations in rural areas, ended up placing their allocations in non-metro bedroom communities, suburbs or areas that many of us wouldn't truly deem “rural”. Technically, the activities met all of the regulatory requirements. But in the end analysis, there were few QLICs available for rural ag communities, Indian reservations, or other remote rural LICs.

Subsequent to the completion of the initial scoring process, we do support the concept of re-ranking applicants, and advancing lower scoring applicants based upon the CDFI Fund staff's subjective analysis of the Applicant's track record and service commitment (relative to other Applicants). Obviously, we still believe that the Applicant must have proven itself worthy on other evaluative criteria in order to warrant that treatment—otherwise, the integrity of the selection process and the Program itself will be jeopardized. We do not believe that our position on this matter represents a material change in the CDFI Fund's policy or practice. In its final Allocatee selection process, the CDFI Fund has always endeavored to create a mix of allocatees that reflect different constituencies and different public needs—within that mix, CDEs have always exhibited different capabilities. The CDFI Fund's ability to subjectively prioritize rural Allocatees in order to achieve the rural proportionality test should be assumed as a necessary requisite to successfully advance the objectives of the NMTC legislation.

#### **4. Compliance**

Applicants that intend to originate rural QLICs must be held accountable—Allocation Agreements should clearly stipulate a dollar amount of QLICs that will be extended to rural LICs.

#### **5. Other**

Although not solicited for comment, we also want to applaud the efforts of the Program Manager to further assess how more QLICs can be focused on our most

troubled rural communities, through further modification of the indicia criteria for "distressed" LIC status. Many of the existing definitions are oriented to urban communities. We also have many rural states where the overall median income is significantly lower than in urban states, and where the census tracts may cover entire counties, thereby precluding the eligibility of specific low-income communities within those counties (and where targeted population data may not exist). In many Midwestern and Plains states, there are few urban cities, and income levels across the state tend to exhibit less deviation from the median, meaning that fewer rural areas qualify as LICs, even though their relative income level may be less than in some states with large urban centers. In summation, it continues to be very difficult to satisfy the current distressed definitions, despite the fact that a rural community within a census tract may indeed be highly distressed pursuant to the CDFI Fund's intent. This situation can be ameliorated by allowing rural LICs to automatically meet the distressed definitions. We don't believe that such a change would compromise the NMTC Program, insofar as an Applicant's track record and commitment to truly distressed communities is evident through the application process.

Once again, we extend our deepest appreciation for being able to comment on the proposed rules, and thank you in advance for your consideration of our input. Regardless of the specific outcomes, rest assured that you will receive our utmost ongoing support for your efforts as you implement changes for the benefit of Rural America. Please do not hesitate to call any of us for additional information or to discuss any of these matters in greater depth as you proceed with promulgation.

Most sincerely,

Beth Davis, Managing Director  
on behalf of Dakotas America, LLC

Ronnie Joe Henry, Manager  
on behalf of the National Tribal Development Association, Inc./Sunchild Development Services

Don Hofstrand, Managing Director  
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Linda Salmonson, Director  
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