

NMTC MONTHLY REPORT

A MONTHLY PUBLICATION ON THE NEW MARKETS TAX CREDIT INDUSTRY

December 2005 Volume IV, Issue XII, Published By Novogradac & Company LLP

Final Allocation Agreement Template for 2005 Awards Available

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In late October, the Community Development Financial Institutions (CDFI) Fund posted the final version of the NMTC Allocation Agreement for 2005 awards. The final allocation agreement includes some changes from the draft document. (For a discussion of the draft agreement, please see the October 2005 *NMTC Monthly Report*.)

The template for the final allocation agreement provides boilerplate provisions of the terms and conditions that may be entered into between the CDFI Fund and an allocatee; the exact terms and conditions of each specific NMTC allocation will be set forth in the allocation agreement that is executed by the CDFI Fund and each allocatee.

The primary changes contained in the allocation agreement template from the version used in the second round of the NMTC Program are:

1. Definitions: The agreement template adds provision to the definition of "subsidiary allocatee," requiring the allocatee to at least control the investment decisions of the subsidiary allocatee.
2. Section 3.2(d): A provision was added that the requirements of the subsection will not apply if the allocatee becomes related to a business due to unforeseen financial difficulties of the business.
3. Section 3.2(f): This section was amended, requiring that community development entity (CDE) qualified low-income community investment (QLICI) recipients to make loans or investments using more flexible rates and terms as listed in Section 3.2(f).
4. Section 3.2(h): The new agreement adds a provision requiring CDE QLICI recipients to make loans or investments using criteria or programs listed in Section 3.2(h).
5. Section 3.2(j): A new provision requires allocatees that intend to use more than 85 percent of (quali-

fied equity investment) QEI proceeds to make QLICIs to meet the designated percentage set forth in their allocation application.

6. Section 3.3(h): Certain restrictions were added related to loans or investments in qualified active low-income community businesses (QALICBs) whose principal business activity is the rental of real property.
7. Section 3.3(i): The final allocation agreement requires that allocation uses generally must be consistent with the proposed strategies set forth in the CDE's allocation application.
8. Section 6.9(f), (g) and (h): Changes were made regarding controlling entity, key management officials and debarment status as material events.
9. Section 6.11: A restriction was added concerning the formation of common enterprises.
10. Section 8.1(e): Material events were added as potential events of default.

A copy of the final allocation agreement template can be downloaded from www.cdfifund.gov. ❖

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