

NMTC Working Group Update: Comment Letters and Other Projects

By Brad Elphick, CPA, Novogradac & Company LLP

The NMTC Working Group update is a new feature in the *New Markets Tax Credit Monthly Report* that will inform readers on the efforts the NMTC Working Group. The Working Group was established to provide a platform for industry participants to work together to resolve various technical and administrative issues related to the New Markets Tax Credit (NMTC) program. It has been actively and successfully involved in the NMTC industry by providing comments and suggestions directly to the Internal Revenue Service (IRS) and to the Community Development Financial Institutions (CDFI) Fund on technical and administrative NMTC program issues. Additional information about the NMTC Working Group and its activities can be found online at www.nmtcworking-group.com.

Proposed NMTC Regulations

The IRS recently issued new proposed regulations for the NMTC program and the NMTC Working Group is currently preparing comments in response. Those comments will respond directly to proposed regulations as well as address other issues that the Working Group would like to see addressed in future revisions to the regulations. The IRS is also holding a public hearing on December 12, 2008 to allow individuals and groups to express their concerns about the proposed regulations. Michael Novogradac, managing partner of Novogradac & Company, will be attending that hearing to represent the concerns of the Working Group. The opportunity to provide comments to the IRS is invaluable and we strongly encourage others to submit their comments by the November 10, 2008 deadline and to attend the public hearing. It is expected that regulations related to targeted populations will be issued sometime this year. As soon as the targeted population regulations are released, the Working Group will respond to them as well.

Recommended Practices

In addition to providing comments and making suggestions to the IRS and the CDFI Fund, the Working Group is also developing recommended practices for the NMTC industry related to issues on which there is little guidance available. The goal is to create practices that satisfy the commonly understood intent of the statute. For example, the group developed recommended borrower/investee certifications and loan covenants that community development entities (CDEs) may find useful in compliance monitoring. The recommended practices that are being developed include defining substantial rehabilitation, meeting the 20 percent affordable housing requirement, meeting the requirements for the portions of a business rule, defining reasonable amounts of working capital, defining intangibles, and determining the revenue treatment for assisted living facilities and nursing homes. When they are finalized, recommended practices are posted on the Working Group's web site.

Mapping Tools

In addition, the Working Group has developed an NMTC Mapping Tool that uses the Google Earth and Google Maps platforms. The Working Group is also collecting information about qualified active low-income community businesses, or QALICBs, in an effort to map as many NMTC projects as possible. Users will be able to search an area for QALICBs and access information about the projects, as provided by the QALICBs. We believe this will be a valuable tool to assist in the efforts to promote the impact that the NMTC has had in communities across the country. The mapping tools and more information about the Working Group are available for free at www.nmtcworkinggroup.com.

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Other Projects

Other items being addressed by the NMTC Working Group include providing comments to the CDFI Fund about the most recent version of the allocation application, allocation agreement, and debriefing letter in advance of their next release, as well as comments on the newly released Community Investment Impact System (CIIS) version 6.0. The Working Group's goal is to submit

comment letters as early as possible so that the CDFI Fund has time to consider the comments.

If you have information about a project that you have completed and would like it included as part of this project, and/or are interested in becoming a member of the NMTC Working Group, please send an email to brad.elphick@novoco.com. ❖

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