TRAVOIS NEW MARKETS, LLC

NMTC Program Manager
CDFI Fund, U.S. Department of the Treasury
601 13th Street, NW, Suite 200 South
Washington, DC 20005

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Dear sir or madam,

The CDFI Fund's recent request for public comments on non-metropolitan QEIs presents an excellent opportunity to extend the benefits of the NMTC program ever further into rural America. I represent a CDE—Travois New Markets, LLC—that serves the national Native American community. Native Americans are this nation's poorest citizens and reside, almost exclusively, in rural areas. I encourage the fund to seize the opportunity to tailor this program so that rural communities get their fair share of QEIs. I believe the best way to ensure proportionality is through the use of the allocation application and allocation agreement. **NMTC allocation applicants should receive priority points in exchange for commitments to invest in non-metro communities. The Fund should have the ability to hold them to those commitments through the use of the allocation agreement.** The following letter responds, in detail, to issues raised in the announcement of proposed rulemaking that was issued May 22, 2007.

The Federal Register notice (Vol. 72, No. 98) laid boundaries for this discussion that constitute the form of this letter. I will address the allocation of QEIs, the term "proportionality", the review process and compliance.

Allocation of QEIs

The best way for the Fund to ensure a proportional share of QEIs for CDEs serving rural areas is to guarantee that a proportional level of NMTC allocations goes to CDEs principally serving non-metro areas in each round. The Fund should use the NMTC allocation application and allocation agreements as instruments to ensure proportional allocations of QEIs. Generally, the Fund could accomplish this goal by requiring CDEs to state their intentions to invest in non-metro areas in the application and holding CDEs to these statements as a condition of each allocation agreement. Specifically, the fund could accomplish this goal through the use of question 11 on the round five NMTC allocation application. The question asks the applicant to estimate the percentage of its activities that will be devoted to one of three geographic markets: urban, minor urban and rural. The Fund could award five priority points to applicants promising to direct 100 percent of their investments to rural areas. An alternative question could also be crafted for future allocation applications. The question could ask applicants whether they will direct investments to non-metro communities. If an applicant states that it will serve minor urban and/or rural areas, that applicant will need to define the percentage of its activities that will be dedicated to non-metro areas. Priority points could be provided for this on a sliding scale: five priority points could be given to CDEs directing 100 percent of their investments to non metropolitan areas, four could be given for 80 percent commitments, three for 60 percent and so on. In exchange for providing

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priority points, the Fund could require CDEs to meet these goals by making them enforceable conditions of the allocation agreement.

The notice also included other topics of discussion that would do nothing to increase the proportion of QEIs made in CDEs serving non-metro areas. The location of an investor has no bearing on the ability of a CDE—the primary engine of the program—to serve a non-metro community. Any requirements related to the location of investors could have a chilling effect on the industry and would stand no chance of increasing the proportion of QEIs going to non-metro areas. The location of allocatees has no bearing on the ability of a CDE to serve a non-metro community. CDEs, especially those with national service areas, often need to be in metropolitan areas in order to serve rural areas because such locations facilitate frequent air travel. Monitoring the locations of QLICIs would provide the Fund with useful information after the fact but would not provide a useful metric for allocating QEI authority to CDEs that will, in turn, make investments in rural areas.

Proportionality

The Fund should determine proportionality as it relates to the population that will be served by the program. The most appropriate standard to use in this case is the one stating that 25 percent of America's low-income communities are in non-metro areas (Section 2.a.ii of Federal Register Vol. 72, No.98). The NMTC program is intended to serve low-income communities, not the nation as a whole. Therefore, the definition of proportionality should be based on the set of low-income communities and not the entire U.S. population.

Settling on a definition of proportionality, however, is not the same thing as ensuring a fair proportion of QEIs are made in non-metro communities. The numerical definition of proportionality—25 percent—should be used as a target. Preferential scoring is the most effective incentive for CDEs to commit their allocations to non-metro communities. Providing priority points for organizations serving non-metro areas will be more effective than setting aside funding for organizations serving non-metro areas. This will allow for a self-directed contingent of non-metro-focused CDEs to emerge and cement itself within the industry.

Review process

As this letter has stressed, priority points should be made available for NMTC allocation applicants promising to serve non-metro communities. The question remains whether such points should be awarded on a forward-looking basis—a CDE's commitment to non-metro investments—or based on a CDE's track record—a history of serving non-metro areas. It would difficult to award priority points based on past performance. The Fund would have to create a clear rubric of what constituted past performance. Reviewers should certainly be encouraged to take past performance into account and to reward CDEs with excellent records of serving non-metro communities. Any question for which priority points are to be assigned, however, must be forward-looking. The form of the question—what percentage of the applicant's QEIs will be used to fund investments in non-metro communities?—lends itself much better to the awarding of priority points than a question asking applicants about past performance. The only objective way to award priority points is to require CDEs to promise certain investments and then hold them to those promises through the use of the allocation agreement.

The fund should not re-rank applicants to put lower-scoring CDEs ahead of others based solely on a promise to serve non-metro communities. Preferential scoring should provide a boost to otherwise qualified CDEs in order to achieve proportionality.

Compliance

If applicants are to be given preferential scoring in exchange for promises to serve non-metro communities, the Fund must have the ability to hold them to those promises by way of the allocation agreement.

A preferential scoring system that awards priority points to organizations for promising to serve non-metro communities will increase the impact of the NMTC program on rural America. The NMTC allocation application and allocation agreements are the two most powerful tools at the Fund's disposal for influencing the actions of CDEs. These two documents can be used to give preference to CDEs serving non-metro communities. They can also be the basis for a compliance system that ensures CDEs follow through on their promises to rural communities. The changes suggested in this letter would be in the best interests of Travois' client base—the national Native American community. Because this constituency represents the poorest population in rural America, such changes would also go along way to ensuring rural communities receive the full intended benefit of the NMTC program.

Sincerely,

Phil Glynn, director