



September 28, 2020

Mr. Christopher Allison
NMTC Program Manager
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Comments on the 2020 NMTC Allocation Application

Dear Mr. Allison:

On behalf of the members of the New Markets Tax Credit (“NMTC”) Working Group, we submit the following comments, considerations, and recommendations regarding the NMTC Program Allocation Application (the “Application”), which we believe will increase the effectiveness and efficiency in which applicants can apply for NMTC allocation. The members of the NMTC Working Group are participants in the NMTC industry who work together to help resolve technical NMTC Program issues and provide recommendations to make the NMTC Program even more efficient in delivering benefits to qualified businesses located in low-income communities around the country. Our group includes over 60 organizations that are allocatees, nonprofit and for-profit community development entities (“CDEs”), consultants, investors, accountants and lawyers.

We appreciate the opportunity to comment on ways to further enhance the good being done by the NMTC Program, and we also appreciate the level of commitment, dedication and outreach that has been shown and continues to be shown by the CDFI Fund in implementing and managing the NMTC Program. The CDFI Fund has proven to be a capable manager of the NMTC Program. This is evidenced by the tremendous success the NMTC Program has enjoyed since its inception in 2000. Low-income communities across the country have benefitted from targeted investments of more than \$52.5 billion. We applaud the various offices within Treasury that have worked with all of those involved in these transactions to ensure that those dollars are invested in highly distressed communities as efficiently as possible.

For your convenience, we have summarized our comments below in order of the questions posed in the Application. While we appreciate being able to make the recommendations and inquiries below, we believe that the NMTC Program is best served by an application process that is stable and transparent. Applicants, including prior awardees, spend a considerable amount of time and money positioning themselves to have a business strategy that they believe will ensure a successful application. Since the application is typically released only approximately 50-60 days before it is due, any changes to the application or the process by which it is administrated



can cause much needed resources to be wasted to accommodate the changes. Therefore, we recommend that the CDFI Fund release any changes that it makes to the application and/or FAQs well in advance of the Notice of Allocation Availability. The additional time provided will allow all applicants to be able to understand and obtain clarification regarding the changes made so that they can develop or revise their business strategies to meet the goals of the CDFI Fund and the NMTC Program.

Comments on Specific Sections and Questions in the 2020 Application

APPLICANT INSTRUCTIONS

The TIP on page iv says, “The CDFI Fund will provide programmatic and information technology support related to the Allocation Application between 9:00 am and 5:00 pm, Eastern Time, through 11/05/2020. The CDFI Fund will not respond to phone calls or e-mails concerning an Allocation Application submitted after 5:00 pm, Eastern Time on 11/05/2020, until after the Allocation Application submission deadline specified in the NOAA.”

We recommend that the CDFI Fund clarify that TABLE 1—CY 2020 ALLOCATION ROUND NMTC PROGRAM CRITICAL DEADLINES FOR APPLICANTS in the NOAA reflects the correct date, November 12th, as the last day to contact CDFI Fund staff.

QUESTION 14(b)

The first TIP for Question 17 of the Business Strategy Section provides:

If the Applicant indicates it will be providing more than one financial product in Question #14(a), the Applicant should provide a distinct and unique narrative description for each financial product. Applicants that use the same narrative text for different financial products will not be scored as favorably. To the extent the Applicant indicates a range of offerings within an item listed above (e.g., interest rates from 100 basis points (bps) to 500 bps below market), it should describe what circumstances would dictate the specific rates or terms, and how often the best rates and terms would be offered.

We recommend that the CDFI Fund provide greater clarification regarding what the CDFI Fund considers a reasonable explanation for a range in interest rates that are based on the rate a leverage lender charges. It is typical, in the case of a leverage loan structure, for interest rates to vary and be tied to the rates and terms associated with the sources of the leverage loan(s), with lower rates often reflecting self-leverage or below-market sources and higher rates tied to commercially available sources of market rate debt. Therefore, the resulting QLICI interest rate is often a mathematical result based on the rates and terms of the leverage loan funding source and amount of CDE operating expenses funded with interest income derived from the QLICI interest rate. Due to the mathematical nature of determining the QLICI interest rate based upon these other variables, it is often very difficult for an applicant to explain in greater detail when certain rates will be offered until the other variables are known, which is usually not the case at the time of the application.

We recommend the following clarification be added to the TIP:

An acceptable justification for a range of interest rates offered is an explanation that includes that interest rates are a factor of the leverage loan interest rates, tax credit equity and CDE fees and expenses.

QUESTION 17

Applicants are cautioned in FAQ #40 against repeating the same pipeline projects or businesses in multiple applications without explaining why the projects or businesses have not progressed. Should the applicant make it to the Phase 2 panel review, the CDFI Fund may not consider those projects in its award determinations should the Applicant fail to explain why the project(s) or business(es) have not progressed.

Those instructions appear to only apply to those applicants that have received allocation. However, some projects do not move forward because the CDE does not have an allocation to deploy to them. We recommend the CDFI Fund clarify that the lack of an allocation is also a satisfactory explanation.

QUESTION 18

We request clarification as to whether the addition of “equity” is intended to encompass Equity QLICs of any type, or only Equity QLICs with some form of mandatory redemption feature occurring 60 months or less from initial investment.

QUESTION 25

In describing how the projected quantity for a selected outcome compares to the quantities in an Applicant’s track record, it would be helpful to see examples from the CDFI Fund in the FAQs similar to the Projections examples in FAQ #68.

The most common concern expressed by applicants was the scoring preference afforded to applicants that identified third-party sources for metrics. For certain types of businesses and industries, it was very difficult to find an independent metric that was applicable.

In order to ensure an equitable evaluation of metrics across the pool of applicants, we recommend the CDFI Fund provide the option to rely solely on the applicant’s own track record (1) provided it meets or exceeds a certain threshold (e.g. 3 comparable projects or businesses) based on similar projects previously financed by the applicant and (2) provides a narrative justification under “Methods” including efforts to obtain third-party metrics from at least two sources.

Many applicants serve multiple business types. By way of example, if a CDE has 5 business types, to effectively describe its projected Jobs Outcomes it would need to provide:

- a metric for jobs per education business type, and
- a metric for jobs per retail business type, and

- a metric for jobs per manufacturing business type, and
- a metric for jobs per multi-service business type, and
- a metric for jobs per healthcare businesses type.

The impact of this approach is punitive for applicants working with multiple business types (a common feature of revolving loan funds). Is it the CDFI Fund's intent for applicants to work with only one or two business types? We do not believe that should be the case and request the CDFI Fund to clarify this in the FAQs.

A TIP indicates an Applicant will score well in this sub-section to the extent that: (a) It (or its Controlling Entity) has a track record of producing quantitative community outcomes similar to those expected to be achieved. Furthermore, the question asks the Applicant to discuss how the track record of achieving outcomes compares with projected outcomes.

FAQ #75 further states, "The Applicant should also discuss the extent that it has a track record of achieving similar outcomes based on past investments in Exhibit B."

We request clarification as to whether the track record and projected outcomes need to have similar quantities or if it is acceptable if the quantities are different and the Applicant can explain why. We also request clarification as to whether an Applicant is held only to their 5-year track record or can Applicants still score highly that have not received allocations in certain years and allocation is their only source of track record.

QUESTION 26

In evaluating Community Accountability and Involvement, the TIP to Question 26 indicates that an Applicant that can articulate meaningful involvement in Low-Income Communities and with a variety of Low-Income Community stakeholders, as well as a track record of community engagement (either directly or through its Controlling Entity) will be evaluated favorably under this question.

We request confirmation that the CDFI Fund will not differentiate between applicants with a track record of direct financing/investments from applicants with an indirect financing/investments (e.g., loan packaging, project development, FCOS, etc.) track record.

QUESTION 30 & TABLE D1

Due to COVID-19, deferred interest payments on a QLICI loan to a QALICB may be added to the principal balance. Is the CDE required to note this in their delinquency rate in Table D1 or in their response to question 30(d) of the NMTC application?

QUESTION 30(e)

The question asks applicants to "discuss any delinquent, defaulted, or impaired loans or Equity Investments from prior NMTC investments. Note the total value of each investment, as well as the total number of days delinquent or the amount charged off. Discuss the Applicant's strategies for managing these troubled investments, including any work-out strategies used, as

well as any policy or procedure changes implemented to avoid future delinquencies and write-offs.”

We request clarification as to how far back an applicant is supposed to discuss prior investments. For example, indefinitely, only if the investment is still in its portfolio, or 5 years consistent with Exhibits in the NMTC application.

TABLE A5

Unless an Applicant is investing 100% of QEI proceeds into QLICIs, rows (g) Total Applicant QEI + (h) Total Non-QLICI Sources + (i) Total QLICIs from Unaffiliated CDEs will not equal row (f) Total Project Costs. In order to ensure consistency across all applications, we recommend the CDFI Fund add a “Total QLICIs” row to reconcile to row (f) Total Project Costs.

For row (h) that requests total Non-QLICI Sources, is it accurate to show the total dollar amount of outside sources, or the net amount that will not be used as leverage for the A/B Structure?

EXHIBIT B

According to the CDFI Fund’s Glossary of Terms, the definition of a Disadvantaged Business is a business that is (a) located in a Low-Income Community; or (b) is owned by a Low-Income Person; or (c) a business that has inadequate access to investment capital.

In documenting track record in Exhibit B, we recommend the CDFI Fund consider any and all Payroll Protection Program (PPP) loans to meet the definition of a Disadvantaged Business if the CDE is also certified as a Community Development Financial Institution by the CDFI Fund. Alternatively, an Applicant may choose to not include PPP loans in Exhibit B in recognition of the fact that such loans have a forgiveness feature in the application process whereby the debt obligation effectively converts to a grant.

In documenting track record, is the CDFI Fund only considering the past 5 years per the information provided in Exhibit B (in addition to responses to Questions 19 and 20) or can an applicant elect to discuss their historical track record that extends well beyond the past 5 years?

Scoring Process

We believe that the CDFI Fund should provide more information related to the scoring process and its preferences in the Application or NOAA. We believe that this quantitative information would allow applicants to better understand the CDFI Fund’s allocation priorities and respond appropriately. Although the CDFI Fund has provided TIPS in the Application, they do not adequately explain the CDFI Fund’s priorities. However, many applicants have tried to infer what the CDFI Fund’s priorities are based upon the questions they ask or add in subsequent application rounds.

We also recommend a debriefing letter that includes the score received for each section and overall rankings be sent to each applicant rather than only being sent to applicants that do

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not receive an allocation. We believe that by revealing more details regarding the scoring process to applicants the administration of the review process will remain manageable for the CDFI Fund while also providing information that is more detailed to the applicants that will allow them to focus their overall business strategy and application content on the priorities of the CDFI Fund.

Conclusion

We are excited about the positive impact that the New Markets Tax Credit Program is having on the nation's low-income communities and low-income persons. We appreciate the opportunity to submit our comments on the 2020 NMTC Allocation Application. Thank you in advance for your time and consideration. Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance.

Yours very truly,
Novogradac & Company LLP

A handwritten signature in blue ink that reads "Brad Elphick". The signature is written in a cursive, flowing style.

by

Brad Elphick

cc: Marcia Sigal, Deputy Director, CDFI Fund