Community
Development
Financial
Institutions
Fund

NMTC Program

New Markets Tax Credit

2013/2014 Application Q&A

August 2013

QUESTIONS & ANSWERS
FROM CONFERENCE CALLS HELD
July 30th AND August 1st, 2013

On July 30th and August 1st, 2013, the New Markets Tax Credit Program office held two conference calls for potential 2013/2014 Round *Applicants*. The participants on these calls were able to ask for additional clarification on specific questions within the 2013/2014 NMTC *Allocation Application* to which the New Markets Tax Credit Program team responded. Additional guidance and clarification is provided below. **Please note that Question 50 from NMTC Application Q&A (published July 2013) has been removed from this revised document and is no longer applicable. Revised guidance has been provided in Question D of this supplemental Application Q&A document.**

A. In completing Exhibit A, should an *Applicant* use 2006-2010 American Community Survey eligibility data or 2000 Census eligibility data to determine if past investments were directed to *Disadvantaged Businesses and Communities*?

The *Applicant* should use the NMTC *Low-Income Community* eligibility data source that was in effect at the time of the investment. *Applicants* should use the following timelines to determine if past investments were in qualified census tracts at the time of investment.

*QLICI*s closed **before May 1, 2012** must use 2000 Census data for determining *Low-Income Community* eligibility.

*QLICI*s closed **between May 1, 2012 and June 30, 2013** may use either 2000 Census data or 2006-2010 ACS data applied to the 2010 census tracts for determining *Low-Income Community* eligibility.

*QLICI*s closed **on or after July 1, 2013** must use 2006-2010 ACS data applied to the 2010 census tracts for determining *Low-Income Community eligibility*.

B. In completing Exhibit A and Table D1, should an *Applicant* use the definitions for *Real Estate QALICB* and *Non-Real Estate QALICB* at the time the investment was closed or the definitions in the 2013/2014 *Allocation Application*'s Glossary of Terms?

The Tables in Exhibit A and Table D1 should be completed based on the definitions of *Real Estate QALICB* and *Non-Real Estate QALICB* contained in the 2013/2014 Application Glossary of Terms.

C. Will my organization be disadvantaged in the scoring and/or evaluation of the *Allocation Application* if past NMTC investments made under the previous definition of *Non-Real Estate QALICB* are now presented as *Real Estate QALICB* investments in the 2013/2014 Application?

No, an *Applicant* will not be disadvantaged or penalized in the scoring and/or evaluation of its *Allocation Application*. The CDFI Fund recognizes that the definitions of *Real*

Estate QALICB and *Non-Real Estate QALICB* in the 2013/2014 *Allocation Application* may require a CDE that has received past NMTC allocations to reclassify some of its track record of transactions when completing Exhibit A. Particularly, this may affect the classification of loans or investments made to a Special Purpose Entity that is *Controlled* by or under common *Control* with a Non-Real Estate business.

As referenced in Question B of the supplemental Application Q&A document, transactions represented in Tables A1 and A2 must correspond with the definitions of *Real Estate QALICB* and *Non-Real Estate QALICB* contained in the 2013/2014 *Allocation Application*. More information on these definitions can be found in Question 31 of this supplemental Application Q&A document.

The CDFI Fund recognizes that some *Applicants* may be concerned that their track record of providing financing assistance to Non-Real Estate businesses may be understated because of the change in the way Special Purpose Entities must be reported in the 2013/2014 *Allocation Application*. To that end, the CDFI Fund encourages *Applicants* who are prior *Allocatees* to discuss, in their narrative response to Question 17, what portion of the investments recorded in Table A2 represent loans or investments to a Special Purpose Entity that is *Controlled* by or under common *Control* with a Non-Real Estate business. A Non-Real Estate business is a business whose predominant business activity (i.e. activity that generates more than 50 percent of the business' gross income) does <u>not</u> include the development (construction of new facilities and rehabilitation/enhancement of existing facilities), management, or leasing of real estate.

However, as noted in Question 32 of this supplemental Application Q&A document, the CDFI Fund provides no preference for any specific eligible NMTC activity listed in Question 13 of the *Allocation Application*. *Applicants* are evaluated on the similarity of past activities to projected *QLICI* activities.

D. What information should an *Applicant* provide when quantifying its community outcomes in Q.25(a)?

When discussing their quantified track record of achieving community outcomes, *Applicants* must clearly explain the financing track record associated with each of the outcomes selected in Q.25(a). When explaining the associated financing track record, the *Applicant* must indicate:

- the total number of the quantifiable community outcome(s) generated
- the total number of investments that the above figure is based on
- the aggregate total dollar amount of project costs
- the total dollar amount of investment provided by the *Applicant*

If part or all of the *Applicant*'s track record consists of NMTC financing, it should <u>**also**</u> indicate:

- the total number of the quantifiable community outcome generated by NMTC investments
- the total number of NMTC projects financed
- What portion of these investments were in collaboration with other CDEs (i.e. multi-*CDE* transactions)
- the total dollar amount of *QEI*s the *Applicant* used to finance such projects
- the total dollar amount of *QEI*s the other unrelated *CDE*s contributed to finance such projects

Example: XYZ CDE's investments in the past five years have created 1,100 direct jobs. This job creation figure is based on investments in 15 projects with combined total project costs of $200 MM. XYZ CDE provided $100 MM in aggregate financing. Of the 15 projects, 5 received $50MM in QEIs from 5 CDEs, with $10 MM in *QEI*s provided by XYZ CDE. These 5 NMTC projects created a total of 500 jobs.

When projecting the outcomes to be achieved with their NMTC *Allocation*, *Applicants* should provide a similar level of detail.

Example: XYZ CDE projects that a $125 MM allocation will allow it to create 1,400 direct jobs. This job creation figure is based on the *Applicant* investing in 10 pipeline projects. These projects have a total estimated project cost of $250 MM with $200 MM in *QEI* needs. XYZ CDE plans to provide $125 MM in *QEI*s to finance these projects.

Applicants should also provide the necessary detail on how the projected community outcomes were estimated (e.g. economic modeling, industry measures, the *Applicant's* (or *Controlling Entity*'s) past track record, etc.). An *Applicant* will be evaluated on its ability to quantify (to the extent possible) the projected community outcomes, its methodology and assumptions for projecting those outcomes, and the extent that the *Applicant* has a track record of achieving similar outcomes with past investments. The *Applicant* will not be evaluated simply on the sheer number of outcomes projected.

E. How should an *Applicant* reflect past *QEI*s raised using the leverage structure in Table E2? Specifically, should the leverage debt portion of the *QEI* be reflected as debt or equity in Table E2?

The "leverage structure" refers to combining debt and equity in an upper tier investment fund that then makes a *QEI* into a *CDE*. In this situation, the *Applicant* should reflect the total debt contributed to the upper tier investment fund as either "below market rate loans" or "market rate loans" as appropriate in Table E2. The tax credit equity contributed to the upper tier investment fund should be recorded as "*Equity Investments*" in Table E2.

Example: XYZ CDE has raised $100 MM in *QEI*s. Using the "leverage structure," the CDE has raised $30MM in equity from tax credit investors and $50 MM in below market rate debt and $20 MM in market rate debt for those *QEI*s. When completing Table E2, the *Applicant* should record the $50 MM in below market rate debt in Rows 5 and 6 and

$20 MM in market rate debt in Rows 7 and 8. The $30 MM in tax credit equity should be recorded in Rows 9 and 10.

F. Q.44(b) asks previous *Allocatee*s to discuss the largest transaction from each of its past three *Allocations*. Can a previous *Allocatee* use a transaction from its 2012 *Allocation* as one of the transactions discussed in its response to this question?

The previous *Allocatee* may use a closed transaction from its 2012 *Allocation* if it anticipates that the transaction will represent its largest transaction for that *Allocation*. Any transaction used in response to this question must be closed by the submission deadline for the 2013/2014 *Allocation Application*. Otherwise, the *Applicant* should discuss the largest project financed from each of the *Applicant*'s three most recent *Allocations*.

Example: An *Applicant* that received NMTC *Allocations* in the 2006, 2008, 2009, and 2011 rounds should discuss the largest transaction from each of the last three allocations: 2008, 2009, and 2011.

If the *Applicant* has used more than one of its three most recent allocations to finance the same project and that project represents one of its largest projects from its past three allocations, it should discuss that project as part of Q.44(b). If the *Applicant* has received less than three *Allocations*, it should discuss the three projects that received the largest investments in the last five years.

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I. QUESTIONS ON THE NMTC PROGRAM

(1) How does the New Markets Tax Credit (NMTC) Program work?

The NMTC Program permits taxpayers to claim a credit against Federal income taxes for *Qualified Equity Investments (QEIs)* made to acquire stock or a capital interest in designated *Community Development Entities (CDEs)*. Designated *CDE*s must use substantially all of the proceeds from the *QEIs* to make *Qualified Low-Income Community Investments (QLICIs)*. The tax credit provided to the investor (either the original holder or a subsequent purchaser) is claimed over a seven-year credit period. In each of the first three years, the investor receives a tax credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the next four years, the value of the tax credit is six percent annually. The Community Development Financial Institutions Fund (the CDFI Fund) certifies *CDE*s on an ongoing basis, and awards *NMTC Allocation*s annually to highly ranked *CDE*s through a competitive application process.

(2) What is a *CDE*?

A *Community Development Entity (CDE)* is any duly organized entity that is treated as a domestic corporation or partnership for federal tax purposes and that: (a) has a primary mission of serving, or providing investment capital for, *Low-Income Communities* or *Low-Income Persons*; (b) maintains accountability to residents of *Low-Income Communities* through their representation on any governing board of the entity or any advisory board to the entity; and (c) has been certified as a *CDE* by the CDFI Fund.

The CDFI Fund is currently accepting applications from organizations seeking designation as *CDE*s. An organization seeking such a designation should review the CDFI Fund's *CDE* Certification Guidance and a document titled "*CDE* Certification Q&A" prior to submitting its *CDE Certification Application* to the CDFI Fund. These documents are available on the CDFI Fund's website at www.cdfifund.gov. *Community Development Financial Institutions* (*CDFI*s) certified by the CDFI Fund and *Specialized Small Business Investment Companies (SSBICs)* licensed by the Small Business Administration (SBA) are deemed to automatically meet the requirements for certification as a *CDE*, and need only register on-line at the CDFI Fund's website at www.cdfifund.gov.

(3) What are the deadlines and dates that I need to know if my organization intends to apply for *NMTC Allocation*s in the current round?

Deadline	Deadline Date
***CDE* Certification:** If the *Applicant* has not yet been certified as a *CDE* (see Q&A #4), its *CDE Certification Application* must be…	*Postmarked* on or before August 9, 2013.
Request to modify *CDE* Certification service area (see Q&A #30): Requests must be received by…	5:00 pm, ET, on August 9, 2013.
Questions Regarding Application: The last date to contact the CDFI Fund with any questions regarding completion or submission of the Allocation *Application* is...	5:00 pm, ET, on September 16, 2013.
Application: Online *Allocation Application*s must be submitted electronically by…	5:00 pm, ET, on September 18, 2013.
Application Attachments: Supporting documents must be submitted electronically by…	11:59 pm, ET, on September 20, 2013.
*Allocatee*s that require the CDFI Fund to certify *Subsidiary CDEs* in order to meet the *QEI* issuance thresholds must submit their Certification Application for *Subsidiary CDEs* by . . .	5:00 pm, ET, on October 1, 2013.
*Allocatee*s that require the CDFI Fund to add certified *Subsidiary CDEs* to an *Allocation Agreement* in order to meet the *QEI* issuance thresholds must submit their *Allocation Agreement* Amendment requests to the CDFI Fund by . . .	5:00 pm, ET, on November 1, 2013.
***QEI* Issuance thresholds** (see Q&A #7): Previous *Allocatee*s must meet the necessary *QEI* issuance thresholds by…	11:59 pm, ET, on December 31, 2013.
Final Award Decisions to be announced. . .	Spring 2014.

II. QUESTIONS ON ELIGIBILITY AND *CDE* CERTIFICATION

(4) Who is eligible to apply for *NMTC Allocation*s?

In order to be eligible to apply for *NMTC Allocation*s from the CDFI Fund in the Allocation round, an *Applicant* must: (a) be legally incorporated or formed as a domestic corporation or partnership for Federal tax purposes; (b) have a valid Employer Identification Number (EIN) at the time of application submission; and (c) be certified as a *CDE* by the CDFI Fund or have a *CDE Certification Application* pending with the CDFI Fund. Entities seeking a *NMTC Allocation* must submit a *CDE Certification Application* that is *Postmarked** on or before **August 9, 2013. An entity whose *CDE Certification Application* is not submitted within this timeframe is not eligible to apply for a *NMTC Allocation in this round*.**

**As defined by 26 CFR 301. 7502-1. In general, the CDFI Fund will require a Postmark date that is on or before the applicable deadline. The document must be in an envelope or other appropriate wrapper, properly addressed and deposited in the U.S. mail. The document may be delivered by the United States Postal Service or any other private delivery service designated by the Secretary of the Treasury. For more information on designated delivery services, please see IRS Notice 2002-62, 2002-2 C.B. 574*

(5) My organization submitted its *CDE Certification Application* prior to the deadline August 9, 2013, and received a confirmation that it was received. Will the CDFI Fund be able to make a determination regarding my certification status prior to September 18, 2013? If not, how will this affect my ability to submit an *NMTC Allocation Application* to the CDFI Fund?

Due to the volume of *CDE Certification Application*s that are expected to be submitted before the applicable deadline, the CDFI Fund may not complete reviews on all *CDE Certification Application*s prior to the applicable *Allocation Application* due date. However, the CDFI Fund will review *Allocation Application*s from organizations that have not yet received a certification determination, provided that their *CDE Certification Application*s were *Postmarked* on or before August 9, 2013. The CDFI Fund will not make Allocation awards to organizations until such time as they have been certified as *CDE*s. Accordingly, organizations will likely know their certification status in advance of the award decisions.

(6) Is an entity that previously received an *NMTC Allocation*, a *CDFI* Program award or a BEA Program award (or an *Affiliate* of such an awardee) eligible to apply for *NMTC Allocation*s?

Prior awardees of any component of the CDFI Fund's *CDFI* Program, Bank Enterprise Award (BEA) Program, Capital Magnet Fund (CMF), or any other CDFI Fund program, and prior *Allocatee*s under the NMTC Program, are generally eligible to apply for an *NMTC Allocation* under the Allocation round. However, if certain circumstances exist with respect to prior awards made to the *Applicant* or its *Affiliate*s (e.g., previous incidents of default; failure to meet reporting requirements; a balance of undisbursed funds), the application may be deemed ineligible. Please refer to Section III of the *Notice of Allocation Availability (NOAA)* for a complete description of this eligibility criterion.

The CDFI Fund will also consider the extent to which the *Applicant* (and *Affiliate*s, as determined by the CDFI Fund) has complied with the terms and conditions and other requirements of any previous or existing assistance, Allocation or award agreements with the CDFI Fund.

Accordingly, *Applicant*s that are prior awardees or *Allocatee*s under any other CDFI Fund program are advised to:

(a) Submit all required reports by the deadlines specified in the assistance, Allocation or award agreements governing said prior awards or Allocations and to comply with all requirements found therein;

(b) Contact the appropriate program operations representative of the CDFI Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of prior awards and/or the issuance of any *QEI*s; and

(c) Confirm that any *Affiliate* that is a prior CDFI Fund awardee or *Allocatee*, has submitted all required reports to the CDFI Fund and is taking all necessary actions for the disbursement of any outstanding balances of any prior awards and/or the issuance of any *QEI*s.

(7) Are *CDE*s with a prior allocation award(s) required to issue a minimum amount of *Qualified Equity Investment*s (*QEI*s) in order to be eligible for a subsequent award?

Yes. *Applicant*s that have previously received an *NMTC Allocation* (or whose *Affiliate*s have previously received an *NMTC Allocation*) are further required to demonstrate that they have issued a requisite minimum amount of *QEI*s from their prior allocation(s) in order to be eligible. Please refer to Section III of the *NOAA* for a complete description of these eligibility thresholds.

The CDFI Fund will only consider as "issued" those *QEI*s that have been recorded and finalized (as opposed to listed as "pending") in the CDFI Fund's Allocation Tracking System. *Allocatee*s and their *Subsidiary* transferees, if any, are advised to access the CDFI Fund's Allocation Tracking System to record and finalize each *QEI* that they issue to an investor in exchange for cash. *Allocatee*s that require certain action by the CDFI Fund in order to meet their *QEI* issuance requirements should be sure to submit request by the deadlines (e.g., certifying a *Subsidiary* entity as a *CDE – deadline October 1, 2013*; adding a *Subsidiary CDE* to an *Allocation Agreement – November 1, 2013*; etc.) to guarantee that the CDFI Fund completes all necessary approvals prior to the *QEI* issuance deadline of December 31, 2013.

*Applicant*s should be aware that these *QEI* issuance requirements represent the minimum threshold requirements that must be met in order to submit an application. As stated in the *NOAA*, the CDFI Fund reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process – including an *Applicant*'s track record of raising *QEI*s and/or deploying its *QLICI*s.

(8) How does the CDFI Fund determine whether an *Applicant* with prior-year CDFI Fund awards has a balance of "undisbursed funds"?

The CDFI Fund examines the aggregate of applicable *CDFI* Program, Native Initiatives Funding and BEA Program awards made to the *Applicant* (including awards made to any *Affiliate*, as determined by the CDFI Fund) to determine whether more than 5% of the total award amount has not yet been disbursed as of the NMTC application deadline. Capital Magnet Fund (CMF) Awards will not be considered as part of this calculation for the *NMTC Allocation Application* round. If undisbursed funds exceed this 5% threshold, then the application will be deemed ineligible.

With respect to the *CDFI* Program (Financial Assistance; Technical Assistance; Core; SECA) and Native Initiatives Program, the CDFI Fund will only take into account awards made during FY 2008, 2009, 2010 and 2011 ("includable *CDFI*/NI awards"). With respect to the BEA Program, the CDFI Fund will only take into account awards made during FY 2008, 2009 and 2010 ("includable BEA awards"). The total amount of each award will be summed, as will the total amount of each award that remains undisbursed as of the application deadline. If the sum total of award balances that remain undisbursed exceeds 5% of the sum total of all awards, then the application will be deemed ineligible.

The "undisbursed award funds" calculation does not include: (i) NMTC Program awards; (ii) any award funds for which the CDFI Fund received a full and complete disbursement request from the awardee by the NMTC application deadline; (iii) any award funds for an award that has been terminated in writing by the CDFI Fund or de-obligated by the CDFI Fund; or (iv) any award funds for an award that does not have a fully executed assistance or award agreement.

See "undisbursed award funds" calculation example on the following page:

Prior Awardee Name	Prior Awardee Number	Fund Program	Prior Award Amount	Amount Disbursed By CDFI Fund As of Application Deadline*	Undisbursed Funds
CDFI and NACA Program Awards					
FY 2012 Applicant or Affiliate	051TA00XXXX	CDFI	$ 100,000	$ 100,000	$ -
FY 2012 Applicant or Affiliate	061FA00XXXX	CDFI	$ 200,000	$ 150,000	$ 50,000
FY 2012 Applicant or Affiliate	071FA00XXXX	CDFI	$ 300,000	$ 300,000	$ -
FY 2012 Applicant or Affiliate	081FA00XXXX	CDFI	$ 400,000	$ 400,000	$ -
FY 2012 Applicant or Affiliate	091FA00XXXX	CDFI	$ 500,000	$ 400,000	$ 100,000
FY 2012 Applicant or Affiliate	101NA00XXXX	NACA	$ 175,000	$ 175,000	$ -
FY 2012 Applicant or Affiliate	111NA00XXXX	NACA	$ 275,000	$ 250,000	$ 25,000
Above CDFI and NACA Amounts Not Includable (gray shaded)			$ (600,000)	$ (550,000)	$ (50,000)
Includable CDFI and NACA Program Awards			**$ 1,350,000**	**$ 1,225,000**	**$ 125,000**
BEA Program Awards					
FY 2012 Applicant or Affiliate	051BE00XXXX	BEA	$ 150,000	$ -	$ 150,000
FY 2012 Applicant or Affiliate	061BE00XXXX	BEA	$ 250,000	$ 250,000	$ -
FY 2012 Applicant or Affiliate	071BE00XXXX	BEA	$ 350,000	$ 300,000	$ 50,000
FY 2012 Applicant or Affiliate	081BE00XXXX	BEA	$ 450,000	$ 450,000	$ -
FY 2012 Applicant or Affiliate	091BE00XXXX	BEA	$ 550,000	$ 550,000	$ -
FY 2012 Applicant or Affiliate	101BE00XXXX	BEA	$ 650,000	$ -	$ 650,000
Above BEA Amounts Not Includable (gray shaded)			$ (750,000)	$ (550,000)	$ (200,000)
Includable BEA Program Awards			**$ 1,650,000**	**$ 1,000,000**	**$ 650,000**
Total Includable Awards			**$ 3,000,000**	**$ 2,225,000**	**$ 775,000**
Percentage Undisbursed ($775,000 / $3,000,000)		26%			

Conclusion - Undisbursed Amount exceeds 5% of the total includable awards, so Applicant is deemed ineligible to participate in the funding round.

* - included requests for disbursement received as of the application deadline.

Explanation of Award Number: 061 FA 00XXXX

1st 2 digits - FY of Aw ard

4th and 5th digits - type of aw ard
(FA - CDFI Financial Assistance
TA - CDFI Technical Assistance
BE - BEA Program
NA - Native Programs)

In this example, the total includable *CDFI* and NI awards are $1,350,000, of which $125,000 is undisbursed, and the total includable BEA awards are $1,650,000 of which $650,000 is undisbursed. Therefore, the total includable awards are $3,000,000 of which $775,000 remains undisbursed. Since this $775,000 exceeds five percent of the total includable awards of $3,000,000 (the actual percentage as shown above is 26%), this *Applicant* would be deemed ineligible to participate in the current allocation round.

(9) What is the effect for my organization if I have reports outstanding for another CDFI Fund program award (e.g. *CDFI* Program's Financial Assistance award) at the time of the application deadline for the current NMTC round or if there is a record of late reporting on such other awards? Will this impact the eligibility or scoring of our NMTC Application?

The CDFI Fund will deem ineligible for the current round an application submitted by an *Applicant* or *Affiliate* that is a prior CDFI Fund awardee or *Allocatee* under any CDFI Fund program and which is not current on the reporting requirements set forth in a previously executed assistance, allocation or award agreement(s), as of the *Allocation Application* deadline (see Question 3 for deadlines for the current round).

Additionally, in the case of an *Applicant*, or *Affiliates*, that have previously received an award or allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct (up to 5) points for the *Applicant*'s (or its *Affiliate*'s) failure to meet the reporting deadlines set forth in any assistance, award or *Allocation Agreement*(s) with the CDFI Fund during the entity's two complete fiscal years prior to the application deadline of the NOAA (for this round, these would generally be FY 2011 and FY 2012).

If the condition of outstanding or late reports through any CDFI Fund Program caused an Applicant to be deemed ineligible or have points deducted in a prior allocation round, but the outstanding or late reports were subsequently submitted to the CDFI Fund, that same delinquency in reporting will not be cause for points to be deducted in the current round.

(10) If my organization intends to transfer all or part of an *NMTC Allocation* to one or more *Subsidiaries*, do the *Subsidiaries* need to be established and certified as *CDE*s prior to submission of the *Allocation Application*?

No. An *Applicant* will not be required to form and secure *CDE* certification for anticipated *Subsidiary* entities prior to the submission of its *Allocation Application*. However, once selected for an *NMTC Allocation*, the *Allocatee* will not be permitted to transfer any of its *NMTC Allocation* to *Subsidiaries* unless those *Subsidiaries* have been: (a) certified as *CDE*s by the CDFI Fund; and (b) identified by name in the *Allocatee*'s *Allocation Agreement*. Such *Subsidiaries* must either be signatories to the *Allocation Agreement* at the time of closing or added to the *Allocation Agreement* via amendment after the initial closing. *Allocatee*s must submit such request for amendments to the CDFI Fund for approval and processing. Upon review, the CDFI Fund may, in its sole discretion, amend the *Allocatee*'s *Allocation Agreement* to add *Subsidiary* entities that were not yet formed and/or certified as *CDE*s at the time of the *Allocatee*'s receipt of an *NMTC Allocation*.

(11) Can a non-profit entity apply for an *NMTC Allocation*?

Only a for-profit *CDE* may offer NMTCs to investors because the investors must purchase stock or capital interests in the *CDE*. However, a non-profit *CDE* may apply for an *NMTC Allocation* with the intention of transferring the Allocation to one or more for-profit *Subsidiary CDE*s. The for-profit Subsidiaries do not have to be formed at the time that the non-profit *CDE* applies for an *NMTC Allocation*. However, at least one for-profit *Subsidiary* transferee: (i) should submit a *CDE Certification Application* to the CDFI Fund within 60 days after the non-profit *CDE* receives a *Notice of Allocation* from the CDFI Fund; and (ii) must be certified as a *CDE* prior to the CDFI Fund entering into an *Allocation Agreement* with the non-profit *CDE* and that *Subsidiary* transferee. The *NMTC Allocation* transfer must be pre-approved by the CDFI Fund, and will be a condition of the *Allocation Agreement*.

(12) Can a *Subsidiary CDE* apply for an *NMTC Allocation* in the Application round?

No. Any organization that wishes to apply for an *NMTC Allocation* cannot be a certified *Subsidiary CDE* to a certified *Applicant CDE* (e.g. on an *Allocation Agreement*, through a *CDE* Certification). If an organization attempts to access the online *Allocation Application* through the myCDFI Fund account of a *CDE* identified as a certified *Subsidiary CDE* in the CDFI Fund's IT systems, the organization will be informed that it is a *Subsidiary CDE* and, therefore, unable to apply for an *NMTC Allocation*. The organization will not be able to access the online application. The CDFI Fund encourages potential *Applicants* to begin their online application early to ensure they are applying under the appropriate entity.

III. QUESTIONS ON THE PROCESS OF APPLYING FOR AND RECEIVING AN *NMTC ALLOCATION*

(13) How can my organization apply for *NMTC Allocation*s?

An organization interested in applying for *NMTC Allocation*s in the current round must submit its *Allocation Application* **no later than 5:00 pm Eastern Time on September 18, 2013.** The CDFI Fund requires all *Applicant*s to submit online *Allocation Application*s. Approximately one month before the Application due date, *Applicant*s will be able to access the online *Allocation Application* by logging in through myCDFI Fund on the CDFI Fund's website at www.cdfifund.gov. *Applicant*s that have not already done so are encouraged to register a user account through myCDFI Fund as soon as possible. Please contact the CDFI Fund's IT Help Desk at (202) 653-0422 or ithelpdesk@cdfi.treas.gov if you are having problems registering under myCDFI Fund. (For more information on submitting an online *Allocation Application*, see response to Q&A #14.)

(14) What is the process for submitting an online *Allocation Application*?

To apply online, the CDFI Fund recommends that *Applicant*s use Internet Explorer version 8 on Windows XP, and optimally at least a 56K bps Internet connection in order to meet the electronic application submission requirements. Use of other browsers (e.g., Firefox), other versions of Internet Explorer, or other systems (e.g., Mac) might result in problems during submission of the application. Additionally, as noted in Q&A #13, *Applicant*s will need to establish an account with myCDFI Fund (via the CDFI Fund's website www.cdfifund.gov) to access the online *Allocation Application*.

Start filling in the online application early. The CDFI Fund recommends that *Applicant*s do not type narrative responses directly into the online *Allocation Application*. *Applicant*s may consider using another word-processing program (e.g., Microsoft Word) to type narrative responses, which may then be copied and pasted into the appropriate sections of the online *Allocation Application*. This will help protect *Applicant*s against potential data loss (e.g., if the *Applicant*'s online session times out, the online *Allocation Application* logs the *Applicant* out automatically).

Keep narrative responses concise. Narrative responses are subject to character limits (including spaces and punctuation). Specific character limitations are clearly identified in each question requiring a narrative response. The electronic application will cut off a response that exceeds the designated character limits, so *Applicant*s should review responses and edit them as necessary to ensure they comply with the stated character limitations.

<u>All narrative answers must be in plain text form only.</u> The online *Allocation Application* will not accept any special formatting (e.g., bolding or underlining), bulleted lists, charts, tables or other graphics not required in the application. Please compose your responses to Application questions without these elements to enhance Application readability for reviewers.

<u>Allow adequate time to prepare and submit your application.</u> *The CDFI Fund advises all Applicants to submit their electronic application by September 16, 2013.* This is the last day by which *Applicant*s can contact the CDFI Fund with questions. If you encounter difficulties after 5:00 PM ET on September 16, 2013, you will not be able to obtain assistance from CDFI Fund staff. In addition, there will likely be considerable traffic on the CDFI Fund's website on September 18, 2013; which may slow down the system and lead to delays in submission.

(15) What attachments am I required to submit with my *Allocation Application*, and how do I submit them?

All *Applicants* will be required to submit attachments electronically through their myCDFIFund account. You will be able to upload the attachments after the application is submitted. After submission, log in to myCDFI Fund, access the *Applicant*'s organization, and navigate to Applications/Submitted Applications. Locate and click on the link for the current NMTC application, and go to the Application Status page. Click on the "Upload Attachments" link below the Application Details section and the Upload Attachments page will open. Follow the instructions on the screen to upload your attachments. Be aware that attachments have a size limit of 5 megabytes (MB) in order to ensure submission.

Please expect system slowdowns in the hours immediately preceding the Application deadline at 5:00 pm ET on September 18, 2013. If you are unable to submit your attachments at this time, please try again the following day. You will be able to submit your attachments until 11:59 pm ET September 20, 2013.

Attachments must be submitted by 11:59 pm, Eastern Time, on September 20, 2013. If the attachments are not received by the applicable deadline, they may not be given consideration as part of the review process. The attachments requested by the CDFI Fund in the NMTC *Allocation Application* are as follows:

- Investor letters to support data provided in Table E1; and
- Organizational charts as requested in Question 28.
- *Applicant's Authorized Representative* and *Controlling Entity Representative* (if applicable) Signature Pages

<u>Only those attachments requested by the CDFI Fund will be considered as part of the review process.</u> Furthermore, the CDFI Fund will not accept any revisions or amendments to an application or the attachments once they have been submitted for review. As stated in the *NOAA*, the CDFI Fund reserves the right to reject an application if the *Applicant Authorized Representative* and *Controlling Entity Representative* (if applicable) signature pages are not received by the stated deadline.

(16) Will the information that I provide in my *Allocation Application* be accessible by the general public?

The CDFI Fund does not publish proprietary or confidential information submitted by *Applicant*s as a general practice. However, any information submitted by *Applicant*s in *Allocation Application*s may be released pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and other federal laws and regulations. In general, FOIA makes federal agency records available to the public, unless the information requested is exempt from disclosure. Trade secrets and commercial or financial information submitted by *Applicant*s may be exempt from disclosure pursuant to the FOIA. *Applicant*s should consult their legal counsel for further guidance on this matter.

Should the *Applicant* be selected to receive a *NMTC Allocation*, the CDFI Fund reserves the right to publish the *Applicant*'s response to select questions in the *Applicant* Information Section, Business Strategy, and Community Outcomes section. This information may include the *Controlling Entity* Name (Q. 3(a)), City and State of *Applicant* Headquarters (Q. 4), *Public Contact Person* Information(Q. 5(d)), Service Area (Qs. 7 & 8), Percentage of major urban vs. minor urban vs. rural (Q. 9), Predominant Financing Activity (Q. 10), and Required percentage of activities in Non-metropolitan areas (Q. 21).

The CDFI Fund will also generate a profile of the *Applicant* based on their response to certain questions in the Application. A sample profile is included below:

Template:
(Answer to Question 11(b)). The CDE intends to offer: equity (Y/N), *Equity Equivalent* terms and conditions (Y/N), senior debt (Y/N) and/or Subordinated debt (Y/N) (answer to Question 14(a)).

Template with information for a sample *CDE*:
XYZ CDE (XYZ) will use its NMTC Allocation to invest in commercial real estate and operating businesses that revitalize vacant properties and create living wage jobs in Low-Income Communities that have experienced persistently high unemployment. The CDE intends to offer equity equivalent terms and conditions and senior debt.

(17) Can more than one *Affiliated* entity or member of a Common Enterprise submit an application?

No. Entities that are *Affiliate*s, or members of a Common Enterprise, may only collectively submit one *Allocation Application* per year under the NMTC Program. An *Affiliate* is an entity that *Control*s, is *Controlled* by or is under common *Control* with another entity (as determined by the CDFI Fund). Both the terms "*Affiliate*" and "*Control*" are defined in the Glossary of Terms that accompanies the *Allocation Application*. As an example, entity ABC is *Controlled* by entity XYZ. XYZ also

*Control*s entity DEF, which in turn *Control*s entity HIJ. ABC, XYZ, DEF and HIJ are all considered *Affiliate*s. Only one of these entities can submit an application in any given round. An *Applicant* may, however, under certain circumstances submit a consolidated application on behalf of one or more *Subsidiary* entities.

In addition, an entity (or its *Subsidiary Allocatee*s) that receives an *NMTC Allocation* may not become an *Affiliate* or member of a Common Enterprise (see below) with another entity (or its *Subsidiary Allocatee*s) that receives an *NMTC Allocation* in the same *NMTC Allocation* round at any time after the submission of an *Allocation Application* to the CDFI Fund. This prohibition, however, does not apply when an investor: (i) makes *QEIs* in multiple *Allocatees* (or *Subsidiary Allocatees*) from the same round; (ii) was not an *Affiliate* of any of the *Allocatees* (or *Subsidiary Allocatees* prior to making the *QEIs*, and (iii) obtains *Control* of such *Allocatees* (or *Subsidiary Allocatees*) solely because of common ownership of the *Allocatees* (or *Subsidiary Allocatees*) after making the *QEIs*.

In addition to assessing whether *Applicant*s meet the definition of the term "*Affiliate*," the CDFI Fund will consider: (i) whether the activities described in applications submitted by separate entities are, or will be, operated or managed as a Common Enterprise that, in fact or effect, could be viewed as a single entity; and (ii) whether the applications submitted by separate entities contain significant narrative, textual or other similarities; and (iii) whether the business strategies and/or activities described in applications submitted by separate entities are so closely related that, in fact or effect, they could be viewed as substantially identical applications. In such cases, the CDFI Fund reserves the right either to reject all applications received from all such entities or to select a single application as the only one that will be considered for an *NMTC Allocation*.

The CDFI Fund reserves the right to examine all facts and circumstances in determining whether multiple entities may constitute a "Common Enterprise." In evaluating whether multiple entities constitute a Common Enterprise, the CDFI Fund will consider, among other things, whether such entities share: (i) principal or senior management staff or governing or advisory board members; (ii) investments and projects; (iii) investors or other funding sources; (iv) marketing and advertising; or (v) office space or other physical resources. At a minimum, a Common Enterprise would be deemed to exist if a single organization (either on its own or through *Affiliated* entities) were to *Control* (as such term is defined by the CDFI Fund) multiple organizations that apply for *NMTC Allocations* in the same *NMTC Allocation* round such that these organizations could, in fact or effect, be viewed as a single entity.

In the case of governmental entities, the CDFI Fund may accept applications submitted by *Affiliated* entities, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and are operated and/or managed by distinctly dissimilar boards and staff, including identified consultants. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the $100 million cap.

Example 1 [not permissible]: ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receive a *NMTC Allocation* award, and each enters into an *Allocation Agreement* with the CDFI Fund. Subsequently, both organizations contract with a management company (GHI) and, in its role as manager, GHI *Controls* the general management, operations and investment decisions of ABC and DEF. ABC and DEF would be considered *Affiliate*s and part of a Common Enterprise due to the common management *Control* of GHI, and ABC and DEF would be in violation of their *Allocation Agreement*s and subject to all of the remedies available to the CDFI Fund therein.

Example 2 [permissible]: ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receive an *NMTC Allocation* award, and each enters into an *Allocation Agreement* with the CDFI Fund. Subsequently, each organization contracts with GHI to provide discreet and specific consulting and/or management services (e.g., compliance monitoring; loan underwriting], but at no time will GHI assume *Control* over the general management, operations or investment decisions of ABC or DEF. In addition, the parties do not share any of the other items enumerated as indicia of a Common Enterprise, as set forth above. ABC, DEF and GHI would not be considered *Affiliate*s or part of a common enterprise.

Example 3 [permissible]: ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receive an *NMTC Allocation* award of $1,000,000, and each enters into an *Allocation Agreement* with the CDFI Fund. JKL is an investor. JKL makes a $990,000 *QEI* into ABC and a $990,000 *QEI* into DEF, and receives a 99% ownership interest in each of the two organizations. In addition to *Controlling* both organizations through ownership, JKL exercises *Control* over the investment decisions of each entity in that it has veto authority over the investment decisions made by the managing partners of ABC and DEF. JKL was not an *Affiliate* of either ABC or DEF prior to making the *QEI*s in each entity. In addition, except for a common investor (JKL), the parties do not share any of the other items enumerated as indicia of a common enterprise, as set forth above. ABC, DEF and JKL would meet the requirements for the exception to the general prohibition on multiple *Allocatee*s becoming *Affiliate*s or part of a common enterprise, since the common *Controlling Entity* (JKL): (i) was not an *Affiliate* of either entity prior to making its *QEI*s in ABC and DEF and (ii) obtained *Control* of ABC and DEF solely due to its common ownership by making a *Qualified Equity Investment* in each entity.

(18) Are there any limitations with respect to using NMTCs, or the proceeds of *QEI*s, in conjunction with other CDFI Fund program awards?

An investor that is an insured depository institution, or an *Affiliate* of an insured depository institution, may not claim both NMTCs and a BEA Program award for the <u>same</u> investment in a *CDFI-CDE*.

<u>Example 1:</u> If a bank makes a $1 million *Equity Investment* into a *CDFI-CDE* that has received *NMTC Allocation*s from the CDFI Fund, the bank may use the

Equity Investment for purposes of claiming NMTCs **<u>or</u>** it may use the *Equity Investment* to apply for a BEA Program award – it may not claim both.

<u>Example 2:</u> If a bank makes a $1 million *Equity Investment* into a *CDFI-CDE* that has received *NMTC Allocation*s from the CDFI Fund, **<u>and</u>** the bank also makes a $1 million loan to the *CDFI-CDE*, the bank may claim NMTCs on its $1 million *Equity Investment* **<u>and</u>** use its $1 million loan to apply for a BEA Program award.

A Financial Assistance (FA) Component *Applicant*, its Subsidiaries or *Affiliate*s, may apply for and receive a FA award, but only to the extent that the FA activities are different from those activities for which the *Applicant* receives an *NMTC Allocation*.

A Capital Magnet Fund (CMF) Awardee, its Subsidiaries or *Affiliate*s may apply for and receive an *NMTC Allocation*, but only to the extent that the activities used for its CMF award are different from those activities for which the *Applicant* receives an *NMTC Allocation*.

Any future limitations on the use of NMTCs or the proceeds of *QEI*s in conjunction with other CDFI Fund programs will be described in the applicable Notices of Funds Availability (NOFAs), Notices of Guaranty Authority (NOGAs), Notice of Allocation Availability (NOAA), program agreements, and/or other program guidance documents.

(19) When will the CDFI Fund make *NMTC Allocation* decisions? Can my organization start to offer NMTCs to investors as soon as it receives an *NMTC Allocation*?

The CDFI Fund expects to announce its *NMTC Allocation* decisions in Spring 2014, and execute *Allocation Agreement*s with *Allocatee*s shortly after *NMTC Allocation* decisions are announced. As soon as an *Allocatee* enters into an *Allocation Agreement* with the CDFI Fund, it may offer NMTCs to its investors. Generally, investors may claim NMTCs beginning in the taxable year in which they make a *QEI* in the *Allocatee*.

However, a *CDE* that receives an *NMTC Allocation* in the NMTC *Allocation* round may, in certain circumstances, offer NMTCs to investors that make *QEI*s <u>before</u> the *CDE*'s *Allocation Agreement* is finalized. For purposes of this look-back period, the investor must have made its *QEI* on or after the date that the *NOAA* for the current round was published; and the investor's seven-year credit period begins on the date that the *CDE* enters into an *Allocation Agreement* with the CDFI Fund. The *CDE* is required to invest substantially all of the investor's *QEI* proceeds in *QLICI*s within one year of the date that the *CDE* enters into an *Allocation Agreement* with the CDFI Fund.

(20) What terms and conditions will be placed upon *Applicant*s that receive *NMTC Allocation*s from the CDFI Fund?

Each *Applicant* that is selected to receive an *NMTC Allocation* must enter into an *Allocation Agreement* with the CDFI Fund before it can designate *QEI*s and offer tax credits to its investors. The terms and conditions set forth in an *Allocation Agreement* may include, but not be limited to, the following:

(a) The amount of the *NMTC Allocation*;
(b) The approved uses of the *NMTC Allocation* (e.g., loans or *Equity Investments* to *Qualified Active Low-Income Community Businesses (QALICB*s), loans to or *Equity Investments* in other *CDE*s, purchase of qualifying loans from other *CDE*s, etc.);
(c) The approved service area(s) in which the *QEI* proceeds may be used;
(d) The *CDE*'s schedule for obtaining *QEI*s from investors;
(e) The level of activity in *Non-Metropolitan Counties*, as committed to in the application;
(f) Reporting requirements for all *CDE*s receiving *NMTC Allocation*s; and
(g) Other information, often identified in the "Tips" in the *Allocation Application*.

If a *CDE* has represented in its *Allocation Application* that it intends to invest substantially all of the proceeds from its investors in *QALICB*s in which persons *Unrelated* to the *CDE* hold a majority equity interest, the *Allocation Agreement* will contain a covenant attesting to such.

(21) My organization applied for an *NMTC Allocation* in a previous round. How do I access an electronic copy of that application and my debriefing document?

To access a previous (CY 2003-2012) Application:

(1) Login to myCDFIFund and access your organization.
(2) Click the "Applications" link on the left-hand side of the screen, and then click the "Submitted Applications" sub-link that will appear.
(3) If you do not see the submitted application, a myCDFIFund account administrator must grant you access by performing the following steps:
    (1) Login to myCDFIFund and access the organization,
    (2) Click the "Organization Profile" link on the left-hand side of the screen,
    (3) A new set of sub-links will appear and click the "Users" sub-link,
    (4) Click the icon next to the name of the user,
    (5) In the "Section Access" area, click the "Applications" link,
    (6) Place a checkmark in the "Read/Modify" box for the selected application(s) and click the "Update User Role" button.

To access a previous debriefing(s):

(1) Login to myCDFIFund and access your organization.
(2) Click the "Debriefings" link on the left hand side of the screen, and select the debriefing for the year you wish to review.

(3) If you do not have a "Debriefings" link or do not see a debriefing, a myCDFIFund account administrator must allow your access by performing the following steps:

(1) Login to myCDFIFund and access the organization,
(2) Click the "Organization Profile" link on the left-hand side of the screen,
(3) A new set of sub-links will appear and click the "Users" sub-link,
(4) Click the icon next to the name of the user,
(5) In the "Section Access" area, click the "Debriefings" link,
(6) Place a checkmark in the "Read/Modify" box for the selected debriefing(s) and click the "Update User Role" button.

If you are having trouble accessing any of the above, please contact our IT Help Desk at ithelpdesk@cdfi.treas.gov or 202-653-0422.

IV. QUESTIONS ON THE NMTC *ALLOCATION APPLICATION* CONTENTS

A. SELECTING AN AMOUNT OF NMTCS TO REQUEST

(22) When requesting *NMTC Allocations* from the CDFI Fund, should the *Applicant* ask for the total amount of equity it intends to raise through NMTCs, or should it ask for the total value of the tax credits that will be available to its investors?

The *Applicant*'s *Allocation Application* request must be for the amount of *QEI*s the *Applicant* intends to raise by offering NMTCs as an incentive. For example, if a *CDE* wishes to raise $10 million in equity, it would request a $10 million *NMTC Allocation* from the CDFI Fund – even though the actual amount of NMTCs an investor may claim over 7 years is $3.9 million (39% of the investment amount). An *Allocatee* cannot offer NMTCs on equity raised in excess of its *NMTC Allocation*.

(23) Is there a limit to the total *NMTC Allocation* amount that an *Applicant* may request in the current Allocation round?

While there is no firm limit on the amount of *NMTC Allocations* that an *Applicant* may request, the CDFI Fund does not anticipate issuing more than $125 million in general allocation authority to any one *Allocatee*. In order to receive an *NMTC Allocation* in excess of $125 million cap, an *Applicant* will likely need to demonstrate, for example, that: (i) no part of its strategy can be successfully implemented without an *NMTC Allocation* in excess of $125 million or (ii) its strategy will produce extraordinary community impact.

(24) If an *Applicant* indicates a minimum *NMTC Allocation* amount (Question 41), will the *Applicant* receive at least its minimum request if the *Applicant* receives an *NMTC Allocation* award?

No. There is no guarantee that an *Applicant* will receive its minimum *NMTC Allocation* amount request. An *Applicant* that indicates a minimum *NMTC Allocation* amount may not receive an *NMTC Allocation* if the *Applicant* is recommended for an *NMTC Allocation* amount that is less than its minimum request. An *Applicant* should indicate a minimum *NMTC Allocation* amount request only if that amount is critical for it to execute its business strategy, and the *Applicant* can communicate a compelling need for the request.

B. GENERAL QUESTIONS ON THE CONTENTS OF THE *ALLOCATION APPLICATION*

(25) The Application includes several "Tips" informing *Applicant*s that responses to certain questions may be used to populate fields in their *Allocation Agreement*s, should they receive a *NMTC Allocation*. Are these the only application-specific items that will be included in the *Allocation Agreement*s for current round *Allocatees*?

No, not necessarily. While the CDFI Fund expects all *Allocatee*s to engage in activities that are generally consistent with the strategies proposed in their applications, and has identified certain requirements which are almost certain to appear in the round *Allocation Agreement*s, the CDFI Fund reserves the right to add other specific requirements or restrictions to these Agreements as necessary to further programmatic goals.

(26) How do I complete the *Allocation Application* if my organization is a start-up entity?

A start-up organization that does not itself have a track record of raising capital, offering products and services, creating community impact, etc., may reference the track record of its *Controlling Entity* as appropriate throughout the *Allocation Application*. The CDFI Fund recognizes that, in circumstances where the *Controlling Entity* is also a start-up, it will be difficult if not impossible for an *Applicant* to respond to certain questions (and complete certain tables) related to a prior track record. In such circumstances, the *Applicant* should be sure to emphasize, under the Management Capacity section, the relevant experiences, knowledge base, and skills of its management team to carry out its prospective activities. (For more information about who is considered a *Controlling Entity*, see response to Q&A #29 below and tips in the *Allocation Application*.)

(27) If an *Applicant* intends to use part or all of the *QEI* proceeds to capitalize an *Affiliate CDE* (e.g., capitalize a *Subsidiary CDE* bank), how should it complete the *Allocation Application*?

Such an *Applicant* must be sure to:

(a) Under Question 13, check "c" and complete the boxes underneath to indicate the type and percentage of *QLICI* activities that will be carried out by the *Affiliate CDE*.

(b) Identify in Question 14(c) that the *Applicant*'s business strategy consists solely or partially of capitalizing the *Affiliate CDE*. An *Applicant* that intends to capitalize more than one *Affiliate CDE* (e.g., a *CDE* bank holding company that intends to capitalize multiple *Subsidiary CDE* banks) should identify each such *Affiliate CDE*.

(c) Answer all questions (and complete all tables and exhibits) as if the *Affiliate CDE* were itself applying for the Allocation of tax credits. An *Applicant* that intends to capitalize more than one *Affiliate CDE* or conduct only a portion of its activities with an *Affiliate CDE* should consolidate its and its *Affiliate CDE*'s *QLICI* activities when completing tables and exhibits, but should use the narrative portions of the application to distinguish between the respective roles and activities of each *Affiliate* organization.

(d) An *Applicant* that intends to use more than 15 percent of its *QEI* proceeds to capitalize a *Subsidiary CDE* generally may not claim the 5 priority points for investing in an *Unrelated* Entity in Question 22 of the Application – even if the *Subsidiary CDE* intends to use substantially all of the proceeds to invest in *Unrelated* entities.

(28) Will *CDE*s that intend to apply for *NMTC Allocation* authority in the current round be required to use the 2006-2010 ACS eligibility data to qualify potential *QLICI*s?

Yes. *CDE*s that intend to apply for an *NMTC Allocation* in the current *NMTC Allocation* round are required to use the 2006-2010 American Community Survey (ACS) data applied to the 2010 census tracts to identify qualified projects for their application. *CDE*s that receive allocation authority under the current *NMTC Allocation* round will be required to use the 2006-2010 ACS *Low-Income Community* eligibility data to qualify *QLICI*s.

For additional guidance on using the 2006-2010 ACS data to determine if potential investments are located in NMTC-eligible Low-Income Communities, please visit http://www.cdfifund.gov/what_we_do/acs/update-census-data.asp.

Note: The 2006-2010 ACS *Low-Income Community* eligibility data covers all 50 states, the District of Columbia, and Puerto Rico. The CDFI Fund has not yet released updated eligibility data at the 2010 census tract-level for the Island Areas of the United States (American Samoa, Guam, Northern Mariana Islands, and US Virgin Islands). For these four areas only, *CDE*s applying for current *NMTC Allocation* can continue to rely on the 2000 census *LIC* eligibility data (including Non-metropolitan County designations) to qualify potential projects. Guidance on transitioning to 2010 census tract-level data for the Island Areas of the United States will be released when the updated data becomes available.

C. *APPLICANT* INFORMATION SECTION

(29) Who can be considered a *Controlling Entity*, for purposes of demonstrating an organizational track record? Can an individual be considered a *Controlling Entity*? Can an *Applicant* have more than one *Controlling Entity*? Can an *Applicant* identify the parent of its parent company as a *Controlling Entity*?

An *Applicant*, in Question 3 of its *Allocation Application*, may designate any organization as a *Controlling Entity*, provided that the organization meets the definition of a "*Controlling Entity*" pursuant to the Glossary of Terms included in the current round Application. Individuals, such as principals or the board of directors, cannot be treated as

Controlling Entities for the purposes of demonstrating an organizational track record under relevant sections of the *Allocation Application* and Exhibits. However, an *Applicant* may describe such individuals' experience and track record in the Management Capacity section.

The *NMTC Allocation Application* will not accept more than one *Controlling Entity*. Therefore, *Applicant*s will need to select one *Controlling Entity* in Question 3 to use throughout the Application to assist in demonstrating track record and in completing related exhibits.

All *Applicant*s designating a *Controlling Entity* must identify the entity that has, and is expected to continue to maintain, a controlling influence over the day-to-day management and operations (including investment decisions) of the *Applicant* and of any *Subsidiary* entities to which the *Applicant* may transfer its allocation of tax credit authority. Should the *Applicant* receive an *NMTC Allocation*, the entity that is designated as the *Controlling Entity* will need to continue in that capacity throughout the term of the *Allocation Agreement* with the CDFI Fund.

An *Applicant* may identify the parent of its parent as its *Controlling Entity* to demonstrate an organizational track record, provided that the "grandparent" organization has, and is expected to continue to maintain, a controlling influence over the day-to-day management and operations (including investment decisions) of the *Applicant* and of any *Subsidiary* entities to which the *Applicant* may transfer its allocation of tax credit authority.

If the *Applicant* does not properly fill out the *Controlling Entity* question or continually references more than one *Controlling Entity* in the narrative for the Business Strategy (including track record of serving *Disadvantaged Businesses or Communities*), Capitalization Strategy, Community Outcomes or the Exhibits, the *Applicant* is not likely to earn as many points in the review of its application.

(30) In Questions 7 and 8 of the *Allocation Application*, can I designate a service area that is different than the service area that I was certified for in my *CDE Certification Application*?

No, the service area in the *Allocation Application* must be identical to the service area for which the *Applicant* was certified in its *CDE* Certification approval letter. In the case of an *Applicant* that has not yet been certified or has a service area amendment pending, the service area requested in the *Allocation Application* must be the same as the service area in its *CDE Certification Application* or service area amendment. The *CDE* certification process does not require a *CDFI* or *SSBIC* to designate a service area, but the CDFI Fund expects a *CDE* that is a *CDFI* to designate (in its response to Question 7 and 8 of the Application) a service area that is identical to its target market designated under the *CDFI* Program. If an *Applicant* plans to focus its investment on a subset of its service area for a particular *NMTC Allocation* round, it may describe this in the Business Strategy section of the Application.

In the event that an *Applicant* who is not a *CDFI/SSBIC* intends to amend its *CDE* certification service area prior to submitting its *Allocation Application*, it may do so by sending an email to the CDFI Fund's Office of Certification, Compliance, Monitoring and Evaluation at ccme@cdfi.treas.gov, with the subject line, "NMTC Program: Revision of Service Area." In this email, a *CDE* should include, for itself and any *Subsidiary CDEs* for which it is seeking to amend a service area: (1) the *CDE* certification control number; (2) the existing service area designated by the *CDE*, as well as the revised service area that the organization intends to serve; and (3) a revised Accountability Chart, indicating the most current list of board members and how they are representative of *Low-Income Communities* in the revised service area. If a *CDFI* would like to amend its target market, it should contact the program operations staff at ccme@cdfi.treas.gov or by calling (202) 653-0423 for additional instructions. **Organizations that would like an amended service area to be considered in the context of their *NMTC Allocation Application* must submit this information to the CDFI Fund no later than 5:00 pm Eastern Time August 9, 2013.**

D. BUSINESS STRATEGY SECTION

(31) What is a *Non-Real Estate* versus *Real Estate Qualified Active Low-Income Community Business (QALICB)*?

As a result of the regulations outlined in IRS TD 9600 (published September 28, 2012 in the Federal Register), the NMTC Program has updated the definition of "*Real Estate QALICB*" and "*Non-Real Estate QALICB*." For purposes of completing the Business Strategy section and all relevant exhibits, financing provided to *Real Estate QALICBs* refers to *QALICBs* whose predominant business activity (i.e. activity that generates more than 50 percent of the business' gross income) includes the development (including construction of new facilities and rehabilitation/enhancement of existing facilities), management, or leasing of real estate.

Transactions with *QALICBs* that do not satisfy the definition of *Real Estate QALICB* should be classified as *Non-Real Estate QALICBs*.

Loans or investments made to a special purpose entity that is *Controlled* by or under common *Control* with a Non-Real Estate business (a business whose predominant business activity does not include the development (construction of new facilities and rehabilitation/enhancement of existing facilities), management, or leasing of real estate), that was set up specifically to lease the property back to the Non-Real Estate business, such that the Non-Real Estate business is the principal user of the property, must be classified as a *Real Estate QALICB* for the purpose of completing Exhibit A.

For more information about the final regulations issued by the Internal Revenue Service please see IRS TD 9600: Final Regulations for Non-Real Estate Investments (77 FR

59544) and IRS TD 9600: Frequently Asked Questions on the CDFI Fund's website. Please be aware that, in order to comply with the regulations outlined in TD 9600, the purpose of the capital or equity investment in, or loan to, the *Non-Real Estate QALICB(s)* must not be connected to the development (including construction of new facilities and rehabilitation/enhancement of existing facilities), management or leasing of real estate. Compliance with the TD 9600 will be determined by the IRS.

(32) Will an *Applicant* be advantaged in the Application scoring if they select to pursue certain eligible activities over others in Question 13 of the Application?

No, *Applicant*s will not receive any advantage in the *Allocation Application* scoring by simply selecting (or not selecting) any eligible activity in Question 13 of the Application.

*Applicant*s are evaluated on the similarity of past activities to projected *QLICI* activities. For example, an *Applicant* whose track record has been primarily investing in *Real Estate QALICBs* may in fact be disadvantaged in the Application scoring if it indicates it plans to provide a significant portion of their *QLICI*s to *Non-Real Estate QALICBs*, unless they present a compelling rationale for this shift in their business strategy. Please refer to Question B and Question C of this supplemental Application Q&A document for further guidance related to an *Applicant*'s track record and the definitions of *Real Estate QALICB* and *Non-Real Estate QALICB* in the 2013/2014 *Allocation Application*.

An *Applicant* may score more favorably in its response to Question 20(c) in the Business Strategy section to the extent it effectively demonstrates that it will engage in innovative uses of its *NMTC Allocation* and quantifies those uses as a percentage of its proposed total *QLICI*s. This may include providing *QLICI*s to finance non-real estate purposes (e.g. working capital, inventory or equipment purchase) or investing in other *CDE*s that have not received an *NMTC Allocation*. However, these innovative activities are NOT preferred over any other innovative use for scoring purposes.

Additionally, *Applicant*s that decline to answer Question 20(c) will not be scored negatively as a consequence. Per the TIP in the Application, *Applicant*s do not need to select multiple options in Question 20 in order to score well in this section. No one activity – increase in volume, activities of greater risk, or innovative investments – is preferred over any other for scoring purposes.

(33) In Question 14, should an *Applicant* describe a product in more than one category (e.g. describe the same product in both the subordinate debt and *Equity Equivalent* categories)?

In general, an *Applicant* should not describe the same product in more than one category (e.g. equity, *Equity Equivalent* financing, senior debt, and subordinate debt). Please pick the category that you feel most accurately describes the product and discuss the product fully within that category.

One exception to above: When the *Applicant* has a debt product that could be either the senior financing or subordinate to other financing, they should note this in both the senior debt and subordinate debt categories and describe the differing terms and market comparables of the products where applicable.

Please be aware that *Applicants* receive no advantage in the evaluation of the *Allocation Application* by selecting more product categories.

(34) How is subordination as a flexible feature different from subordinated debt as a product?

Subordinated debt is a specific type of debt product. Subordination is a feature of subordinated debt, but other types of products (i.e. *Equity Equivalent* financing) can be subordinated as well. In order to be a subordinated debt product, the financial product must be structured as debt and be subordinated to other NMTC or non-NMTC financing. However, any product can have the flexible feature of "subordination," as long as it maintains a subordinated position to other NMTC or non-NMTC financing or is unsecured.

(35) For the purposes of answering Questions 14 and 15, how is the interest rate calculated for NMTC investments made through the A-B leverage structure?

The interest rate should be calculated by taking the weighted average of the interest rate on the A loan and on the B loan, provided these transactions are part of a simultaneous closing. For example, if the interest rate on a $7 million A loan in the leverage structure is 7.0% and the interest rate on a $3 million B loan is 1.0%, then the weighted average interest rate will be 5.2%. If the market interest rate was 8.0%, then the interest rate on the NMTC financing would be 35% below market.

For additional guidance on compliance with this requirement, please see the "New Markets Tax Credit: Compliance and Monitoring Frequently Asked Questions" document.

(36) If the *Applicant* (or *Controlling Entity*) engages in activities through one or more *Subsidiary* entities, am I permitted to present these activities on a consolidated basis for the purposes of completing the tables in Exhibit A?

Yes. You are permitted to consolidate the activities of one or more *Subsidiary* entities. For example, if the *Applicant* (or *Controlling Entity*) is a bank holding company, you may, in Exhibit A, consolidate the activities of its various *Subsidiary* operating entities (e.g., the bank, the real estate development company, the non-profit Community Development Corporation and the *Applicant*) and present them as a single set of activities. If the *Applicant* uses its *Controlling Entity*'s track record in Exhibit A, that data may include the *Applicant*'s track record when the *Applicant* is a *Subsidiary* of the

Controlling Entity. However, please be sure to clearly indicate, in your narrative responses, which entities were responsible for the various activities.

(37) What data should I provide in the tables in Exhibit A?

Tables 1-4 in Exhibit A should be used to demonstrate the *Applicant*'s (or its *Controlling Entity*'s) overall track record of *QLICI*-like lending, investing or related activities. An *Applicant* need only fill out those tables that are pertinent to the types of activities that it intends to pursue with an *NMTC Allocation* (e.g., the types of activities checked in Question 13 of the *Allocation Application*). In Exhibit A, you should quantify the *Applicant*'s general track record in the types of *QLICI* activities that it indicated it would offer in Question 13. For example, if the *Applicant* indicated that it would provide "investments in, or loans to, *Real Estate QALICB*s", then in each of the annual columns in Exhibit A-2 you should quantify any relevant track record the *Applicant* has of investing in, lending to or otherwise supporting real estate businesses overall.

When completing a given table, *Applicant*s should report on the totality of historical activities that could potentially qualify as NMTC investments – not just the portion of those activities that were undertaken in NMTC-eligible *Low-Income Communities*. *Applicant*s do not need to demonstrate or verify that the activities quantified in the annual columns were provided to businesses that definitively meet the criteria of a *QALICB*. In the column "Totals to *Disadvantaged Businesses and Communities* (2008-2012)", you should report the amount of the *Applicant*'s overall activity that was directed to businesses that: a) are located in *Low-Income Communities*; b) are owned by *Low-Income Persons*; or c) otherwise have inadequate access to investment capital.

Table A5 asks the *Applicant* to quantify its (or its *Controlling Entity*'s) track record of non-*QLICI* financing activities over the past five years. Financing activities that are not eligible for NMTC investments (e.g., residential rental housing; consumer loans; investments in farms) SHOULD NOT be included in the Tables A1-A4. *Applicant*s should include these financing activities in Table A5, and may discuss these activities in their narrative response to Question 18(b) of the *Allocation Application*.

Some additional notes on Exhibit A:

(a) *Applicant*s may choose, at their discretion, to reference either the track record of the *Applicant* or the *Controlling Entity*, even if the *Applicant* has its own distinct track record of activities. Please note that the *Controlling Entity*'s track record may include activities undertaken by the *Applicant*. *Applicant*s should, however, be sure to address in their narrative responses to Questions 17 and 18 the extent to which the *Applicant* has itself engaged in these activities.

(b) *Applicants* with a shorter track record of activity (e.g. less than 5 years) may want to populate Exhibit A based on their *Controlling Entity's* activities if the *Controlling Entity* has a longer track record (e.g. 5 years or longer). An

Applicant that can demonstrate a longer track record of providing similar direct financing (either through its own experience or through its *Controlling Entity*'s experience) will generally score higher in this section than an *Applicant* that demonstrates a shorter direct financing track record or has a track record of primarily or exclusively providing indirect financing. For the purpose of determining the length of the *Applicant*'s (or *Controlling Entity*'s) track record, all tables in Exhibit A will be considered. Be aware that if an *Applicant* chooses to complete Exhibit A based on its *Controlling Entity's* track record, it must also complete Tables D1 and E2 using the *Controlling Entity's* track record.

(c) In Row 3 of Tables A1-A2 and Row 2 of Table A5, an *Applicant* may indicate the financial contributions of others in addition to its own capital that it has originated and put at risk. This will enable the *Applicant* to include projects in which it engaged in financing-related activities such as loan packaging, project management/development, etc.

(d) An *Applicant* (or *Controlling Entity*) may have non-*QLICI* activity (such as consumer credit counseling), which it cannot represent in Table A5. If the *Applicant's* (or *Controlling Entity's*) non-*QLICI* track record consists solely of this type of activity, it should complete the narrative to Question 18 and then indicate that Table A5 is not applicable.

(e) *Applicants* are required to complete a column indicating their experience in supporting activities in *Non-Metropolitan Counties*; which will enable the CDFI Fund to determine whether the entity should receive special consideration as a "*Rural CDE*" (see Q&A #72 below).

(38) In Exhibit A, can an *Applicant* select "*Applicant*" for Tables A1-A4 and "*Controlling Entity*" for Table A5?

No, the electronic application does not allow you to select "*Applicant*" for Tables A1-A4 and "*Controlling Entity*" for Table A5. All tables in Exhibit A, Table D1 and Table E2 must be completed for the same entity – either the *Applicant* or the *Controlling Entity*. If you would like to include non-*QLICI* activities of the *Controlling Entity* in Table A5, the *Applicant* must select "*Controlling Entity*" in Exhibit A, which will carry over to Table D1 and Table E2 as well. Please keep in mind that the activities of the *Controlling Entity* include the activities of any *Subsidiaries* of the *Controlling Entity*, including the *Applicant*. *Applicants* should, however, be sure to address in their narrative responses to Questions 17 and 18 the extent to which the *Applicant* has itself engaged in these activities.

(39) Is the *Applicant* permitted to include information pertaining to both its *QLICI*-type financing activities and its non-*QLICI* type financing activities? If so, where should these activities be discussed?

Yes. The *Applicant* may reference all appropriate historical activities, not just its *QLICI*-type activities. In the narrative response to Question 17, the *Applicant* should discuss its *QLICI*-type activities and include these in Tables 1-4 in Exhibit A. In the narrative response to Question 18, it should discuss its non-*QLICI* type activities and include these in Table A5.

(40) For the purposes of Question 18 and Table A5, what are non-*QLICI*-like activities? Are small business loans or micro-loans to businesses considered non-*QLICI*-like activities?

For the purpose of Question 18 and Table A5, non-*QLICI*-like activities include any financing activities that would not be considered *QLICI* activities, even if they occurred in *Low-Income Communities.* Non-*QLICI*-like financing activities include, but are not limited to, properties where 80% or more of their gross income is derived from renting residential dwelling units, personal or consumer loans, residential mortgages, and investments in other prohibited businesses (e.g. certain farming businesses, gambling businesses, massage parlors, country clubs, etc.). Financial counseling related to any of these products would also be considered a non-*QLICI* activity. Direct investments in other financial institutions (e.g. *CDFI*s) would also be considered non-*QLICI* activities for the purposes of this question.

All types of business lending, except to the restricted businesses referenced above, is considered a *QLICI*-like investment and should be listed in Tables A1 to A4, regardless of the size of the investment or geographic location of the investment. *Financial Counseling and Other Services (FCOS)* to businesses is also considered a *QLICI* activity. While *Applicants* are not asked to quantify *FCOS* in Exhibit A, they should describe these activities in the narrative response to Question 17 and not Question 18.

(41) Will the CDFI Fund view more favorably prior *Allocatee*s that have invested smaller amounts of their past allocation(s) into multiple projects with other *CDEs* rather than larger amounts into fewer projects with their own allocation?

Applicants with a track record of investing in smaller amounts of *QEIs* into more projects are not favored over *Applicant*s who invest a larger amount of *QEIs* into fewer projects. *Applicants* are evaluated based on the quality of their past NMTC experience and whether their past NMTC investments were consistent with the business strategies (e.g. products to be offered, types of businesses that received loans/investments) presented in past successful *Allocation Application*s. No preference is given based on the number of investments made or the size of the investments made with each allocation.

The one exception to the above paragraph is that an *Applicant* may score more favorably in its response to Question 20(c) in the Business Strategy section to the extent it demonstrates that it will engage in innovative uses of its *NMTC Allocation*. This may include providing *QLICIs* in amounts of $2 million or less. However, the CDFI Fund does not give preference to this innovative activity over any other innovative use for scoring purposes. Additionally, *Applicant*s will not have their Application scoring negatively affected by declining to answer Question 20(c). Per the TIP in the Application, *Applicant*s do not need to select multiple options in Question 20 in order to score well in this section. No one activity – increase in volume, activities of greater risk, or innovative investments – is preferred over any other for scoring purposes.

The CDFI Fund recognizes that investing smaller amounts of *QEIs* into a project may increase the number of *CDEs* involved in the project, which may drive up transaction costs. The CDFI Fund strongly encourages *CDEs* to continue to explore ways to minimize transaction costs on NMTC transactions. Additionally, for guidance on how to apportion outcomes associated with multi-*CDE* transactions, see Q&A #50.

(42) What expectations does the CDFI Fund have that the general pipeline projects articulated in response to Question 19 will be completed with the requested *NMTC Allocation*?

The CDFI Fund does not expect that an *Applicant* will necessarily complete any or all of the projects discussed as part of a general pipeline in its Application. The CDFI Fund recognizes that some projects may become infeasible and new opportunities may arise. However, the CDFI Fund does expect that the *Applicant* will complete projects that are consistent with the business strategy outlined in the Application and achieve community outcomes consistent with the outcomes highlighted by the *Applicant* in the Application. The purpose of Question 19 is for the *Applicant* to illustrate the types of projects it intends to finance with its *NMTC Allocation*, to demonstrate an understanding about what types of projects are compatible with the intent of the NMTC program, and to indicate how NMTC financing fits into the overall capital stack of the projects it undertakes. This section also allows the *Applicant* to demonstrate that it is able to identify and underwrite viable NMTC projects.

*Applicant*s are cautioned against repeating the same pipeline projects in multiple applications without explaining why the projects are reappearing. The CDFI Fund reserves the right to use evidence of repeated pipeline projects to decrease an *Applicant*'s recommended *NMTC Allocation*.

(43) There are some activities that are not clearly prohibited by the IRS Tax Regulations, but that are also not clearly allowed. If my business strategy falls within one of these more undefined areas, how will my application be scored by the CDFI Fund?

The CDFI Fund will evaluate each *Allocation Application* on a case-by-case basis, and consult with the IRS as necessary, to ensure that the activities proposed are within the guidelines set forth in the IRS Tax Regulations. If some or all of the *Applicant*'s proposed activities are not allowable pursuant to the IRS Tax Regulations, the CDFI Fund may reduce the recommended amount of an *NMTC Allocation* as appropriate, or deny the *Applicant* an *NMTC Allocation* entirely.

(44) What would be considered innovative uses of a *NMTC Allocation* for Question 20(c)? What would not be considered innovative?

Examples of innovative uses of NMTCs includes but is not limited to: investing in *Unrelated CDEs* that do not have a *NMTC Allocation* (e.g. *Minority-owned* or *Minority-controlled CDEs* including Minority Depository Institutions); targeting states identified by the CDFI Fund as having received fewer dollars of *QLICIs* (see Application Q&A Question #44); providing *QLICIs* in amounts of $2 million or less; revolving *QLICIs* to serve more *QALICBs;* providing non-real estate financing such as working capital or equipment loans; etc.

Examples of uses of NMTCs that would **NOT** be considered innovative include the use of the leverage structure, combining NMTCs with historic tax credits, and investments in real estate (either to *Real Estate QALICBs* or *Non-Real Estate QALICBs*) in states other than the 10 states and territories identified in Question 44 of the Application Q&A.

As noted in the Tip above Question 20(c), any proposed innovative QLICIs should be quantified as a percent of the Applicant's total QLICIs. If the Applicant receives a NMTC Allocation, it may be required to meet the percentage identified in Question 20(c), and such requirement may be a term of its Allocation Agreement.

Please be aware that the CDFI Fund does not give preference to any innovative activity over any other innovative use for evaluating Question 20(c). Additionally, *Applicants* will not have their Application scoring negatively affected by declining to answer Question 20(c). Per the TIP in the Application, *Applicant*s do not need to select multiple options in Question 20 in order to score well in this section. No one activity – increase in volume, activities of greater risk, or innovative investments – is preferred over any other for scoring purposes.

(45) What are the target states that have received fewer dollars of *QLICI*s, referenced in Question 20(c)?

Since the inception of the NMTC Program, *QLICI*s have been made in all 50 states, the District of Columbia, and Puerto Rico. However, the CDFI Fund has identified Puerto Rico along with the following 10 states as areas that have received fewer dollars of *QLICI*s in proportion to their statewide population residing in *Low-Income Communities*: Alabama, Arkansas, Florida, Georgia, Idaho, Kansas, Nebraska, Nevada, Tennessee, and Texas. States are ordered by dividing the total dollars of *QLICI*s invested (2003-2011) in a state by the population residing in *LIC*s in that state. Dollars of *QLICI*s are based on the FY 2011 *Community Impact Investment System (CIIS)* public data and population for whom poverty is determined residing in *LICs* is based on the 2006-2010 ACS NMTC eligibility data.

The CDFI Fund also considers the Island Areas of the United States (American Samoa, Guam, Northern Mariana Islands, and US Virgin Islands) to have received lower levels of NMTC investment, as these four territories have not received any dollars of *QLICI*s.

While investing in the geographies listed above is considered an innovative use of NMTCs for the purposes of Question 20(c), the CDFI Fund does not give preference to this innovative activity over any other innovative use for scoring purposes. Additionally, *Applicant*s will not have their Application scoring negatively affected by declining to answer Question 20(c). Per the TIP in the Application, *Applicant*s do not need to select multiple options in Question 20 in order to score well in this section. No one activity – increase in volume, activities of greater risk, or innovative investments – is preferred over any other for scoring purposes.

(46) In Question 22 of the *Allocation Application*, how can an *Applicant* earn the 5 priority points for investing in *Unrelated* entities?

An *Applicant* may earn 5 priority points for committing to use "substantially all" of its *QEI* proceeds to make investments in one or more businesses in which persons *Unrelated* to the *Applicant* hold the majority equity interest ("*Unrelated* Entities"). Whether a *QALICB* is related to a *CDE* is determined under IRC Sections 267(b) and 707(b)(1).

A *CDE* that has committed to invest in *Unrelated* Entities will be in compliance with its *Allocation Agreement* only if persons *Unrelated* to the *CDE* will hold a majority equity interest in the *QALICB* immediately after a *QEI* is made in the *CDE*, but before the *CDE* uses the proceeds of that *QEI* for making its initial *QLICI* in the *QALICB*. The *CDE* must determine whether such persons are related to the *CDE* (within the meaning of IRC §267(b) and §707(b)(1)) in consultation with its own tax advisors. The CDFI Fund will assess compliance with the *Unrelated* Entities requirement at either the *Allocatee CDE* or *Subsidiary CDE* level, depending upon which entity receives the *QEI* investment and makes the corresponding *QLICI*. The revised rule applies to all *QLICI*s made on or after April 15, 2010.

Anti-Abuse Provision: The CDFI Fund may review any subsequent changes in *QALICB*, *Allocatee CDE*, or *Subsidiary CDE* ownership resulting in common ownership between the *Allocatee CDE* (or *Subsidiary CDE*) and the *QALICB* on a case-by-case basis to determine whether a principal purpose of a transaction or a planned series of transactions is to achieve a result that is inconsistent with the purposes of this rule.

(47) If an *Applicant* intends to combine historic tax credits with NMTCs and use a lease pass-through structure in which the *CDE* will be the 100% owner of the Master Tenant, and therefore a lessee of the *QALICB* and/or a member of the *QALICB*, does the *Applicant* need to describe this relationship in its response to Question 23(c)?

Yes, the *Applicant* should disclose this relationship in Question 23(c). The *Applicant* may discuss how this relationship adds value to the *QALICB* both in the response to Question 23(c) and in the response to Question 23(f). The scoring criteria do not penalize the *Applicant* for using a lease pass-through structure to twin New Markets Tax Credits with Historic Tax Credits, provided the *Applicant* articulates how this structure adds notable added valuable to the *QALICB*.

E. COMMUNITY OUTCOMES SECTION

(48) What are some examples of permissible and non-permissible activities for organizations that answer "yes" to Question 24(a)?

In Question 24(a) of the *Allocation Application*, an *Applicant* can commit to targeting 75% of the aggregate dollar amount of its *QLICI*s within *Low-Income Communities* that are characterized by at least one of the following items: a) severe distress, *Non-Metropolitan Counties*, or *Targeted Populations*; OR b) at least two of items 4-15 in Question 24.

Example 1 [permissible] – an *Allocatee* invests $90 million (90%) of its $100 million *QLICI* activities in areas characterized by census tracts with poverty rates greater than 30% (item 1 in Question 24). This example satisfies the "at least one of items 1-3" in Question 24 requirement, so this qualifies as permissible.

Example 2 [permissible] – an *Allocatee* invests $75 million (75%) of its $100 million *QLICI* activities in two transactions. One eligible deal is in a federally designated Brownfields development area (item 6 in Question 24) and in a Federal Native Area (item 8 in Question 24); while the other eligible deal is in a HOPE VI redevelopment area (item 7 in Question 24) and in a Federal Medically Underserved Area (item 11 in Question 24). In this example, both of the transactions satisfy the "at least two of items 4-15" requirement in Question 24, so this qualifies as permissible.

Example 3 [permissible] – an *Allocatee* invests $50 million (50%) of its $100 million *QLICI* activities in an area of severe distress with high poverty rates (30% or greater) (item 1 in Question 24). It also invests a $25 million (25%) *QLICI*s in Colonias areas (item 10 In Question 24) and in a Local Economic Zone (item 12 in Question 24). In this example, 50% of the *QLICI* dollars satisfy the "at least one of items 1-3" requirement, and 25% of the *QLICI* dollars satisfy the "at least two of items 4-15" requirement. A total of 75% of the *QLICI* dollars meet the requirements of Question 24. Therefore, this qualifies as permissible.

Example 4 [not permissible] – an *Allocatee* invests 100% of its *QLICI*s in an area that is not characterized by any of items 1-3, and is only characterized by one of the criteria in items 4-15 in Question 24. Although the *Allocatee* invested 100% of its *QLICI*s in a *Low-Income Community,* it failed to satisfy either of the tests in Question 24(a), since its *QLICI*s were made in areas that had only one (as opposed to two or more) of the criteria listed in items 4-15 of Question 24.

(49) Can the *Applicant* discuss indirect or induced jobs in its response to Question 25(a)(1), Job Creation?

No, only direct jobs may be discussed in response to Question 25(a)(1). An *Applicant* may discuss the extent its investments will result (or have resulted) in indirect jobs in its response to Question 27 on the catalytic impact of its investments. However, *Applicants* do not need to discuss indirect jobs at any point in the *NMTC Application*.

(50) Please note that Question 50 from NMTC Application Q&A (published July 2013) has been removed from this revised document and is no longer applicable. Revised guidance has been provided in Question D of this supplemental Application Q&A document.

(51) Question 25(a)(4) asks the *Applicant* if it expects its investments in *QALICB*s will result in the provision of commercial goods and services to *Low-Income Persons* or residents of *Low-Income Communities*. Question 25(a)(5) asks about the provision of community goods and services. What are some examples of commercial versus community goods and services to *Low-Income Communities*?

*QALICB*s that provide commercial goods and services to *LIC* residents and *Low-Income Persons* may include both for-profit and non-profit *QALICB*s. Examples of commercial goods and services include, but are not limited to: restaurants, dry cleaning, retail shopping, pharmacies or full service supermarkets and other fresh food options.

Examples of community goods and services to *Low-Income Persons* or *LIC* residents include, but are not limited to, charter schools, healthcare or childcare facilities or facilities that provide social services or job training.

In describing either commercial and/or community goods and services, *Applicant*s will be scored more favorably if they illustrate that the goods and services offered by these *QALICB*s have a significant and meaningful impact on the communities served.

(52) How should an *Applicant* respond to Question 25(c)?

An *Applicant* must answer “Yes” or “No” to Question 25(c). Please note that Question 25(c) includes activities directed to the development or rehabilitation of ALL housing, including housing units resulting from mixed-use projects. If an *Applicant* describes any investments with a housing component in the Business Strategy section or in Q. 25(a)(8), it should respond “Yes” to Question 25(c). If the *Applicant* answers “No” to Question 25(c) and receives a *NMTC Allocation*, it will be prohibited from using NMTC dollars to finance ANY housing units. If an *Applicant* answers “Yes” to Q.25(c) and receives a *NMTC Allocation*, it will be required to provide at least 20 percent of aggregate housing units as affordable housing units (e.g. affordable to persons with income less than 80 percent of AMI), and such requirement will be a term of its *Allocation Agreement*.

Guidance on how the CDFI Fund evaluates whether 20 percent of housing units financed are affordable is found in the September 2011 Compliance & Monitoring FAQ, Question 17.

(53) In Question 27, how does the CDFI Fund want *Applicant*s to discuss additional private investment as a result of the proposed *QLICI*s described in the Business Strategy section?

To the extent the *Applicant*'s pipeline investments are part of or coordinated with local economic development plans, the *Applicant* can discuss the expected additional private investments (e.g., new businesses opened, new housing developed, etc.) included in such plans. The *Applicant* should discuss how it will monitor additional investments or economic activity surrounding its *QLICI*s going forward. *Applicant*s may also discuss the projected amount of indirect jobs or additional dollar value of economic activity projected to be created as a result of the NMTC investment. *Applicants* may also discuss the ability of operating businesses financed to attract subsequent private investment after the initial *QLICI* was made. If the *Applicant* has a track record of financing projects that catalyze additional private investment, the *Applicant* should discuss this track record as a basis for making future projections.

F. MANAGEMENT CAPACITY SECTION

(54) How many individuals should *Applicants* list in Table C1?

Please list no more than 15 individuals in Table C1. Application reviewers will be instructed to evaluate only the initial 15 individuals listed in Table C1. Focus on the individuals who are most important to managing the organization's New Markets Tax Credit Program (e.g. capital deployment, asset management, compliance) and application preparation. If the *Applicant* relies on consultants for certain services (e.g. legal, accounting, compliance, Application writing/review, deal structuring, etc.), please review Q&A #56 below as well.

(55) Table C1 includes a column heading "Years with (or years providing services to) the *Applicant*." In completing this information, may a start-up entity refer to the years of service that an individual provided to its *Controlling Entity*?

Yes, provided that the *Applicant* had consistently referred to the track record of its *Controlling Entity* throughout its *Allocation Application*. Also, the *Applicant* should be sure to indicate, in the relevant narrative portions of its application, that the information provided in Tables C1 and C2 refers to the individual's track record of service to the *Controlling Entity*.

(56) How should *Applicant*s disclose the use of consultants in the Application?

*Applicant*s must identify key consultants in Table C1, indicating the general area of work conducted by each consultant. *Applicant*s will not necessarily be penalized in the Application scoring for the use of consultants. The CDFI Fund recognizes that *CDE*s may gain greater efficiencies by outsourcing certain functions (e.g. asset management functions, compliance reporting, etc.) for their NMTC transactions to organizations that have already built the capacity to efficiently manage these processes. The CDFI Fund also acknowledges that a *CDE* without prior NMTC experience may wish to retain outside expertise, including that related to structuring NMTC transactions, Application preparation, etc. However, *CDEs* must disclose these individuals/firms in Table C1.

If the *Applicant* will be receiving consulting services from multiple employees of one firm, they should only list the main contact or principal from this firm as well as list all activities the firm will assist with. An *Applicant* should also provide, in the narratives for Questions 29-31, an estimate of the percentage of work to be performed by the consultant(s). *An Applicant* must also identify any consultant(s) contracted to write either portions or the entirety of their *Allocation Application.*

(57) What financing activities should be included in Table D1 (Asset Management)? Should the *Applicant* include non-*QLICI* activities in Table D1?

When completing Table D1, please include any financing activities that are referenced in Question 17, Question 18 and Exhibit A as part of your track record. For example, if you discuss a multi-family residential real estate track record in Question 18 and Table A5, you must include these activities as "Real Estate Business Loans & *Equity Investment*s" in Table D1. You may also want to specifically discuss the performance of certain types of investment activities (e.g. business loans, commercial real estate, residential multi-family) in the narrative to Question 30(c). If you did not describe a track record of non-*QLICI* activities in Question 18, then you shouldn't include these activities in Table D1.

(58) How should *Applicants* complete Question 34(e) and Table D2?

Table D2 asks *Applicants* to complete a multi-year operating budget for administering their requested *NMTC Allocation*. *Applicants* are asked to detail the sources of income and the expenses associated with administering the requested *NMTC Allocation*. In completing Table D2, *Applicant*s should be sure to include all of the costs associated with sustaining its NMTC line of business (including both transaction and operating costs), and have identified all sources of income attributable to its NMTC line of business.

In Question 34(e), *Applicants* should clearly explain the assumptions that underlie their entries in Table D2. The *Applicant* should provide details on the key expenses and sources of income. If the *Applicant* will be receiving income by retaining a portion of the *QEI*, fees or other form of compensation, the type and amount of the income should be clearly explained. Additionally, please be sure to address all of the bullets beneath Question 34(e) in your narrative response to the question.

Please provide a sufficient level of detail such that a reviewer will be able to align the information provided in Table D2 with the information provided in Question 34(e). Any ambiguity between the responses to Question 34(e) and Table D2 could negatively impact the evaluation of the Application.

Applicants must complete Table D2 based on the projected NMTC activity shown in Exhibit B. For example, ABC *CDE* requests a $100 million *NMTC Allocation* and projects in Exhibit B that they will deploy $70 million in 6 investments in 2014 and $30 million in 4 investments in 2015. In this case, the *Applicant* should base income and expense projections on making 6 *QLICI*s totaling $70 million in 2014 and 4 *QLICI*s totaling $30 million in 2015.

When completing Table D2, *Applicant*s should assume they will not receive any subsequent *NMTC Allocation*s over the 7-year credit period. However, they may include fee income from past *NMTC Allocation*s under "Other" income if that fee income will support operations related to managing a *NMTC Allocation*.

Income

*Applicant*s are given space to report income from a variety of sources. Income from investors (Row 1a) includes the percentage of the *QEI* retained by the *Applicant* or its *Affiliates*, fees charged by the *Applicant* or its *Affiliates* at the investment fund level (e.g. syndication fees), etc. Income from the *QALICB* (Row 1b) includes interest income, any on-going or one-time fees charged to the *QALICB* by either the *Applicant* or its *Subsidiary CDE(s)*, etc. Income from *Affiliates* (Row 1c) includes any income from *Subsidiary CDE(*s), the *Controlling Entity*, or any other *Affiliate*. Income from other sources (Row 1d), includes grants, revenue from other lines of business, etc. *Applicant*s should also list any income from previous *NMTC Allocations* that will be used to support operations related to managing a *NMTC Allocation* under in the "Other Sources" category.

If an *Affiliate* receives any income from a *QALICB* or Investor and then passes this income through to the *Applicant*, this income must be listed in either Row 1a or Row 1b, based on the initial source of the income. This income should not be listed in Row 1c. Additionally, any income that is received at the *Subsidiary CDE* level and is not passed up to the *Applicant* must still be reported as income in Table D2.

Operating Expenses

The *Applicant*'s operating expenses for the NMTC program include the NMTC-related expenses of the *Applicant* as well as any *Subsidiaries* and *Affiliat*es. For example, annual audits of *Subsidiary CDE*s may be considered an expense of the *Applicant* and should be listed in Table D2, if the audits are paid for directly by the sub-*CDE*s. Also, if the

Applicant uses its *Controlling Entity's* staff to manage the NMTC program, these staff expenses should be listed in Table D2.

Table D2 provides two categories of expenses. The first category – fixed expenses – should include any expenses that are unlikely to change based on how many investments an *Applicant* makes. These expenses include items like staff costs, facilities/overhead, annual *CDE* audit, etc. The second category – variable expenses – includes expenses that vary based on the number of investments an *Applicant* makes or has under management in a given year. These expenses may include transaction closing expenses, sub-*CDE* audit expenses, etc.

Profit/(Loss)

Table D2 will calculate Profit/Loss for each year automatically based on Total Income minus Total Expenses.

(59) How should the *Applicant* record expenses to the *CDE* that are reimbursed by the *QALICB*, investor, or third parties in Table D2?

If a *CDE* has an obligation to pay a consultant, advisor, etc. or expects to pay the costs attributable to other transaction participants (such as investors), it should be treated as an operating expense of the *CDE* associated with sustaining its NMTC line of business and should be reported in Table D2 as either a fixed or variable expense, even if the *CDE* will use funds from another source to pay those expenses.

For example, the *Applicant* expects to hire ABC Legal Counsel to prepare loan and other closing documents in connection with a *QLICI*. In addition, the upper tier investor for this investment will require the *CDE* to pay investor's legal costs in connection with its *QEI* investment. To pay these expenses, the *CDE* will pass both expenses along to the *QALICB* when the *QLICI* closes. In this example, both the *CDE* and upper tier investor's costs are obligations of the *CDE* and should be reported as expenses. The *CDE* should also report as income from the *QALICB* the anticipated payments made by the *QALICB* to the *CDE* at closing.

(60) Does the Applicant need to include fees charged by consultants contracted by the Applicant and charged directly to investors or the QALICB in Table D2?

Yes, the *Applicant* should include fees charged by, or paid to consultants contracted by the *Applicant*, but that are paid directly by investors or QALICBs. An offsetting expense equaling the amount paid to the contractor should be recorded as an expense of the CDE and the amount paid directly by the investor or QALICB to the contractor should be reported as Income in the appropriate field in Table D2. Also, you must disclose and discuss these payments in the narrative response to Q. 34(e).

(61) How should the *Applicant* record interest expense and interest income associated with a leveraged loan?

The *Applicant* should record these items in Table D2 consistent with the *Applicant*'s customary accounting practices. Your narrative response to Question 34(e) must explain how these items are currently being recorded in the applicable financial statements. If the *Applicant* does not have an *NMTC Allocation*, it should explain how it is currently recording expenses and interest income associated with its current loan products.

(62) How should *Applicant*s that have received past *NMTC Allocations* complete Table D2?

Applicants should complete Table D2 based solely on their current allocation request. Thus, *Applicants* should not include the costs of administering prior *NMTC Allocations* in Table D2. If an *Applicant*'s plan involves the use of income from past allocations to pay for expenses related to this *NMTC Allocation*, it should list this income under the 'Other Sources' income category in Table D2 and describe in the narrative to Question 34(e).

The CDFI Fund recognizes that *Applicants* may have certain fixed expenses (e.g. staff costs) that are associated with administering multiple *NMTC Allocations*. *Applicants* may elect to treat these expenses one of two ways in Table D2: (1) include the full amount of the fixed expense in Table D2 and then include the portion that will be paid for by income from previous *NMTC Allocations* in the "Other Sources" income category; or (2) record only the prorated portion of the fixed expense that would be directed towards administering an allocation as an expense in Table D2. Please be sure to clearly explain the method for recording these expenses in Question 34(e).

(63) My *CDE* earns the bulk of its revenue on the front end at the time the *QLICI* is made. I'm concerned that I will show large surpluses in the early years and deficits in later years. How should I represent this in Table D2?

The CDFI Fund recognizes that income and expenses may fluctuate from year-to-year. If you plan on using surpluses in one year to cover expenses in subsequent years, please explain this in Question 34(e). Additionally, *Applicant*s may complete Table D2 on an accrual or cash basis, depending on what is consistent with its normal accounting practices. Your narrative response to Question 34(e) must clearly describe the approach (accrual or cash basis) used to populate Table D2.

(64) Should a *CDE* show Profit in Table D2 if any surpluses will be used to make other investments in *Low-Income Communities*?

Yes. If a *CDE* earns a profit (or surplus) from NMTC activities, it must be shown in Table D2, even if the *CDE* uses the profit to make other investments in *LICs* by the *Applicant*, *Controlling Entity*, or any *Affiliates*. *Applicant*s have an opportunity to explain how profits from an NMTC line of business in Question 39(c) are used by the *Applicant*, the *Controlling Entity*, or any *Affiliate*s.

(65) What information should be included in the "After 2020" column in Table D2?

An *Applicant* should put the sum of all anticipated income and expenses in 2021 and beyond in the column ("After 2020"). This would include any income or expenses associated with on-going compliance, unwinding of NMTC transactions, any back-end sources of compensation for the *Applicant* or its *Affiliates*, etc.

For example, assume that the *Applicant* projects in Exhibit B it will close $30 million in NMTC investments in 2015 and $10 million in 2016. These investments will have a .5 percent annual asset management fee (charged annually for seven years) and a 1 percent success fee charged at the transaction exit after the seven year credit period. Thus, for the first investment, the *Applicant* would anticipate realizing a $150,000 asset management fee in 2021 and a $300,000 exit fee in 2021. For the second investment, the *Applicant* would anticipate realizing a $50,000 asset management fee in 2021, a $50,000 asset management fee in 2022 and a $100,000 exit fee in 2022. Thus, they would report the total amount of "After 2020" income as $650,000.

(66) Staff from our *Controlling Entity* will administer the *Applicant's* NMTC program. How should I record this in Table D2?

Staff, office space, or other items that are contributed from the *Controlling Entity* to the *Applicant* are considered in-kind contributions, and should be recorded in Table D2 as an expense (based on the dollar value of the services and other contributions received from the *Controlling Entity*) and as offsetting income from *Affiliates* (item 1(c) in Table D2). Be sure to describe the *Applicant*'s progress in securing firm commitments to provide these in-kind contributions in the response to Question 34(e).

G. CAPITALIZATION STRATEGY SECTION

(67) What documents are considered acceptable to demonstrate investor *Commitments* for Table E1?

An *Applicant* who enters information into Table E1 is required to submit attachments validating the following information for each investor: name of investor, dollar amount of equity (or debt, in the case of investments into a pass-through entity) sought or obtained, status of the investment request (e.g., funds received, *Commitment* of funds, and *Letter of Interest/Intent*). If an *Applicant* answers "Yes" to Question 36(a), indicating that it intends to use a pass-through partnership entity to secure investments, the *Applicant* is expected to list (if applicable) both the debt and equity providers in Table E1; and to submit attachments evidencing the interest of the Equity investors and debt providers into the partnership entities.

> Example: The *Applicant* has a *Commitment* for a $1 million *QEI* from ABC Partnership LP, which is using the leveraged *QEI* structure. ABC Partnership LP will receive $600,000 in debt from 123 Bank and $400,000 in equity from XYZ Corporation. To describe this *QEI* in its application, the *Applicant* should: (1) list

a $600,000 debt investment from 123 bank and a $400,000 *Equity Investment* from XYZ corporation in Table E1; (2) respond "Yes" to Question 37(a) and discuss the structure of the *QEI* from ABC Partnership LP, and the *Commitment*s from 123 Bank and XYZ Corporation; and (3) submit documentation evidencing the *Commitment* of (i) 123 Bank to provide the $600,000 debt investment; and (ii) XYZ Corporation to provide the $400,000 *Equity Investment*.

If the documents are missing altogether, or do not contain such information to validate the information entered in Table E1, the *Applicant* will not receive credit for such transactions. Acceptable documents for a *Commitment* include a signed and dated investment agreement or a letter indicating that the investor has made such a *Commitment*. Likewise, a letter indicating that the investor has a demonstrated level of interest (as opposed to a stated *Commitment*) in making an investment shall suffice as a *Letter of Interest/Intent*. To demonstrate that funds have been received, an *Applicant* should include both a signed agreement indicating the terms of the *Equity Investment* (or debt if applicable) and proof that investment funds have been received by the *Applicant* (e.g., a copy of a check).

(68) My organization has not yet received *Commitments* from its investors. Will this prevent it from scoring well under the Capitalization Strategy section of the application?

Receipt of investor *Commitment*s is <u>not</u> a prerequisite for receiving an *NMTC Allocation*. However, the vast majority of *Allocatee*s from prior application rounds secured some investor *Commitment*s at the time of initial application. As stated in the current *NOAA* (and re-stated in various tips within the body of the *Allocation Application*):

An Applicant will generally score well under this section to the extent that: (a) it has secured investor Commitments, <u>or has a reasonable strategy for obtaining such Commitments (emphasis added)</u>; (b) its request for NMTC Allocations is commensurate with both the level of Qualified Equity Investments it is likely to raise and its expected investment strategy to deploy funds raised with NMTCs; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to a QALICB; (d) it is likely to secure capital to finance its cost of operations consistent with the Applicant's overall business strategy and timeline for making investments; and (e) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations.

(69) In Table E2, can an *Applicant* rely upon the track record of its *Controlling Entity*?

In order to list the track record of the *Controlling Entity* in Table E2, the *Applicant* <u>must</u> designate a *Controlling Entity* in Question 3. If the information reflects the *Controlling Entity*, it may include in the aggregate the track record of any and all *Subsidiaries*, including the *Applicant*. Be sure to clearly indicate, in your narrative to Question 35, which entities were responsible for the various types and amounts of investments noted in Table E2.

(70) In Question 38(b), does the *Applicant* need to indicate that it will be receiving *QEI*s from an *Affiliate* if the *Applicant* or an *Affiliate* is also a managing or non-managing member of the investment fund created as part of the leverage structure with an ownership interest of less than 1%?

No, the *Applicant* does not need to indicate that they will be receiving *QEI*s from *Affiliate*s if they are receiving the *QEI*s through an investment fund in which the *Applicant* or an *Affiliate* is a managing or non-managing member with ownership interest of less than 1%. The *Applicant* only needs to answer "Yes" if an *Affiliate* is either a debt or equity investor in the investment fund itself.

(71) How will the information in Question 40 of the *Allocation Application* be considered by reviewers?

In general, to score well under Question 40 of the *Allocation Application*, the CDFI Fund expects *Applicant*s to be able to commit to investing at least 95 percent of *QEI* proceeds as *QLICI*s.

V. Questions on Proportional Allocations of *QEIs* to *Non-Metropolitan Counties*

(72) What is the definition of a *Non-Metropolitan County*?

For the purposes of the current *NMTC Allocation Application*, *Non-Metropolitan Counties* are counties not contained within a Metropolitan Statistical Area (MSA), as defined in OMB Bulletin No. 10-02 (Update of Statistical Area Definitions and Guidance on Their Uses) with respect to the 2010 Census data. This data can be readily accessed on the CDFI Fund's website: http://www.cdfifund.gov/what_we_do/acs/update-census-data.asp. Users can search for a census tract number in the tabular eligibility spreadsheet to determine whether the relevant census tract qualifies as an NMTC-eligible *Low-Income Community* based on the 2006-2010 American Community Survey (ACS) data. Column B of this table indicates whether the census tract is located in a "Metropolitan" or "Non-Metropolitan" area.

(73) What is a *Rural CDE*?

A *Rural CDE* is one that has made direct investments in at least three of the past five years, over the past five years dedicated at least 50 percent of its direct financing dollars to *Non-Metropolitan Counties*, and has committed that at least 50 percent of its NMTC financing dollars with this Allocation will be deployed in such areas. The CDFI Fund determines whether an *Applicant* qualifies as a *Rural CDE* based on the information contained in Exhibit A and in Question 21 of the *Allocation Application*.

(74) Question 21(a) requires the *Applicant* to indicate whether at least 50 percent of the *Applicant*'s (or its *Controlling Entity*'s) direct financing activities over the past five year have been directed to *Non-Metropolitan Counties*. What activities are eligible to be used as the basis for calculating the 50 percent figure?

Activities will be considered eligible if they are the *Applicant*'s (or its *Controlling Entity*'s) direct financing activities (as shown in Exhibit A) and these activities occurred in *Non-Metropolitan Counties* as defined in OMB Bulletin 10-02. Activities in areas considered rural (as defined in Section 520 of the Housing Act of 1949) that do not lie in *Non-Metropolitan Counties* cannot be included for the purposes of demonstrating a track record of investment in *Non-Metropolitan Counties* in Exhibit A.

(75) How will the CDFI Fund ensure a proportional allocation of *QEIs* to *Non-Metropolitan Counties*?

Pursuant to Section 102(b)(6) of the Tax Relief and Health Care Act of 2006, the CDFI Fund is required to ensure that a proportional allocation of *QEI*s will be provided in *Non-Metropolitan Counties*. As detailed in the *NOAA*, the CDFI Fund will: (i) strive to reach the goal that 20% of all *QLICI*s made by *Allocatees* under the *NMTC Allocation* round are invested in *Non-Metropolitan Counties*; and (ii) ensure that the proportion of awardees that are "*Rural CDE*s" is, at a minimum, equal to the proportion of *Applicant*s deemed eligible for Phase II of review that are *Rural CDE*s. A "*Rural CDE*s" is one that has historically dedicated at least 50 percent of the dollar value of its direct financing activities over the past five years (as shown in Exhibit A) to *Non-Metropolitan Counties* and has committed that at least 50 percent of its NMTC activities will target *Non-Metropolitan Counties*.

The CDFI Fund will determine whether an *Applicant* qualifies as a *Rural CDE* based upon its response to Question 21 of the application and the direct financing activities shown in the tables in Exhibit A. If, after initial *NMTC Allocation* determinations are made, there is not an appropriate balance of *Rural CDE*s in the awardee pool, the CDFI Fund will provide *NMTC Allocations* to additional *Rural CDE*s (in descending order of final rank score) until the appropriate balance is achieved. If it is necessary to add additional groups to the awardee pool to achieve this balance, the CDFI Fund will provide a formula reduction, applied uniformly to all *NMTC Allocation* amounts, so that it remains within the total allocation authority available in the *NMTC Allocation* round subject to reauthorization.

Question 21 also asks all *Applicant*s to indicate both the minimum anticipated amount of *QLICI*s that will be deployed in *Non-Metropolitan Counties*, and the maximum amount of *QLICI*s that they are willing to commit to deploy in *Non-Metropolitan Counties*. The CDFI Fund will require every *Allocatee* to meet the "minimum" commitment stated in the application. If, after the initial *NMTC Allocation* determinations are made, this "minimum" commitment results in less than 20% of the dollars being invested in *Non-Metropolitan Counties*, then the CDFI Fund shall require any or all of the *Allocatee*s to direct up to the "maximum" percentage of *QLICI*s to *Non-Metropolitan Counties* in an effort to meet the 20 percent threshold. The CDFI Fund will likely attempt to achieve this balance by applying increases incrementally and uniformly. *Applicant*s should be careful to select a "maximum" percentage that they will be prepared to meet regardless of the size of their final award.

(76) My organization is focused on an urban market. It does not intend to make any investments in *Non-Metropolitan Counties*. Will it be disadvantaged in the application round?

No. As described above, all adjustments to the awardee pool will be made AFTER the initial *NMTC Allocation* determinations have been made. All organizations initially selected to receive *NMTC Allocations* will receive allocations regardless of geographic focus. The adjustments described above may result in an across-the-board percentage reduction in award amounts for potential awardees with Non-Metropolitan commitments of less than 20%, but under no circumstances will an *Applicant* fall out of consideration due to its geographic focus.

However, an *Applicant* that: i) makes a minimum commitment of 25 percent or greater in response to Question 21(b), ii) has a track record of at least three years of serving *Non-*

Metropolitan Counties and a strong strategy for deploying NMTC investments in these communities; iii) and is ranked highly enough to be considered for an *NMTC Allocation* may receive a larger *NMTC Allocation* than would otherwise be the case, regardless of designation as a "*Rural CDE*."

(77) The CDFI Fund requires that prior-year *Allocatee*s wishing to apply for additional *NMTC Allocation* authority achieve certain minimum threshold requirements for issuing *QEI*s from those prior year awards. Assuming there are future *NMTC Allocation* rounds, will *Allocatee*s that commit to providing a significant amount of investments in *Non-Metropolitan Counties* in the current *Application* receive any consideration with respect to these *QEI* issuance requirements?

At this time, the CDFI Fund cannot make any guarantees with regard to prospective *NMTC Allocation* rounds. In the event of future NMTC rounds, the CDFI Fund will consider excluding from the *QEI* issuance threshold calculations a certain portion of those *QEI*s that have been dedicated for investments in *Non-Metropolitan Counties* by current NMTC *Allocatee*s that pledged to invest at least 50 percent of their *QLICI*s in *Non-Metropolitan Counties.*

VI. Contact Information

(78) Who can I contact if I have more specific questions?

Topic of Question	Contact
Tax/compliance aspects of the IRS Tax Regulations	IRS Email: new.market.tax.credit@irs.gov
Allocation Application criteria or process	CDFI Fund NMTC Program Staff Ph: (202) 653-0421 Email: cdfihelp@cdfi.treas.gov
CDE certification criteria or process; Compliance with previous award, *Assistance* or *Allocation Agreements*	CDFI Fund CCME Staff Ph: (202) 653-0423 Email: ccme@cdfi.treas.gov
Technology problems	CDFI Fund IT Staff Ph: (202) 653-0422 Email: IThelpdesk@cdfi.treas.gov

You may contact the CDFI Fund with questions until **5:00 PM Eastern Time, on September 16, 2013.** After such time, the CDFI Fund will no longer respond to questions until after the NMTC *Allocation Application* deadline has passed.

* * * *

More detailed application content requirements are found in the NMTC *Allocation Application* and *NOAA*. In the event of any inconsistency between the contents of this Q & A document, the *NOAA*, the General Guidance, the *CDE* Certification Guidance, the *Allocation Application*, the statute that created the NMTC Program (Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000) (the "Act"), or the *NMTC Program Income Tax Regulations*, the provisions of the Act and the *NMTC Program Income Tax Regulations* shall govern.

All terms and phrases that are italicized in this document are defined in the Glossary of Terms contained in the *Allocation Application*.