

BILLING CODE 4810-70-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Allocation Availability (NOAA) Inviting Applications for the New Markets Tax Credit Program

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of allocation availability (NOAA) inviting applications for the New Markets Tax Credit Program.

SUMMARY: Title I, subtitle C, § 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted by § 1(a)(7) of the Consolidated Appropriations Act, 2001 (Public Law No. 106-554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC § 45D, New Markets Tax Credit. Section 45D requires the Secretary of the Treasury (Secretary) to establish a program that will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in low-income communities. Section 121(f) of the Act, among other things, requires the Secretary to issue guidance on how entities may apply to receive allocations of New Markets Tax Credits (NMTCs), the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. The Secretary delegated such authority to the Under Secretary (Domestic Finance), who in turn delegated such authority to the Director of the Community Development Financial Institutions Fund (the

Fund).

In March 2003, in the inaugural round of the NMTC Program, the Fund issued Notices of Allocation to qualified community development entities (CDEs) authorizing such entities to issue to their investors up to \$2.5 billion in equity as to which NMTCs may be claimed. In this second round of the NMTC Program, the Fund may allocate to CDEs the authority to issue to their investors up to the aggregate amount of \$3.5 billion in equity as to which NMTCs may be claimed (the authority will include the aggregated amounts of \$1.5 billion for calendar year 2003 and \$2.0 billion for calendar year 2004, as permitted under IRC §§ 45D(f)(1) and 45D(f)(3)). The Fund reserves the right to allocate said authority to any, all or none of the entities that submit an application in response to this NOAA, and in amounts determined by the Fund.

This NOAA provides guidance for the application for and allocation of NMTCs for the second round of the NMTC Program and should be read in conjunction with: (i) guidance published by the Fund on how an entity may apply to become certified as a CDE (66 Federal Register 65806, December 20, 2001); (ii) the temporary regulations issued by the Internal Revenue Service (26 CFR 1.45D-1T, published on December 26, 2001) and related guidance, including Notice 2002-64, 2002-41 I.R.B. 690, Rev. Rul. 2003-20, 2003-7 I.R.B. 465, Notice 2003-9, 2003-5 I.R.B. 369; and (iii) the application and related materials for this second NMTC Program allocation round. All such materials may be found on the Fund's website at <http://www.cdfifund.gov>. The Fund strongly encourages applicants to review these documents. Capitalized terms used but not defined in this NOAA shall have the respective meanings assigned to them in the allocation application, the Act or the IRS temporary regulations.

Through this NOAA, the Fund encourages all entities proposing to make Qualified Low-Income Community Investments to apply for an allocation of NMTCs.

APPLICATIONS AND DATES: *Electronic Applications*: Simultaneous with the publication of this NOAA, the Fund has made the NMTC Program allocation application available on its website at <http://www.cdfifund.gov>. The application is currently available in a read-only format. However, applicants are expected to submit completed applications electronically to the Fund using a web-based application. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the Fund in the implementation of electronic reporting requirements for Allocatees. Please note that the Office of Management and Budget is currently reviewing the application form for final approval in accordance with the requirements of the Paperwork Reduction Act. The Fund anticipates that the final and approved form of the web-based application will be available on the Fund's website commencing no later than August 22, 2003.

Applicants will need access to Internet Explorer 5.5 or higher or Netscape Navigator 6.0 or higher, Windows 98 or higher (or other system compatible with the above Explorer and Netscape software) and optimally at least a 56Kbps Internet connection in order to meet the electronic application submission requirements. Electronic applications must be submitted solely by using the format made available at the Fund's website for the NMTC Program. The Fund's electronic application system will only permit the submission of applications in which all required questions and tables are fully completed.

The deadline for receipt of electronic applications is **5:00 p.m. ET on September 30, 2003**. Electronic applications cannot be transmitted or received after 5:00 p.m. ET on September 30, 2003. Each applicant that submits an electronic application by the deadline must submit an original signature page and all attachments not later than 5:00 p.m. ET on October 7, 2003. If the original signature page is not received by this date and time, the application will be rejected and returned to the sender. If the required attachments are not received by this date and time, they will not be considered and will be returned to the sender. The signature page and attachments must be sent by mail to the address listed below. Please see the application instructions, provided in the electronic application, for further details. Additional deadlines (if any) relating to the submission of general supporting documentation will be further detailed in the electronic application.

Paper Applications: If an applicant is unable to submit an electronic application, it must submit to the Fund a request for a paper application using the NMTC Paper Application Submission Form, and the request must be received by the Fund by September 15, 2003. The NMTC Paper Application Submission Form may be obtained from the Fund's website at www.cdfifund.gov or the form may be requested by e-mail at cdfihelp@cdfi.treas.gov or by calling the Fund's NMTC Program help desk at (202) 622-7373. The completed NMTC Paper Application Submission Form should be directed to the Fund's Chief Financial Officer and must be sent by facsimile to (202) 622-8911.

The deadline for receipt of a paper application, including the requisite original signature page and all attachments, at the designated location is 5:00 p.m. ET on September 30, 2003. Paper applications received after that date and time will not be accepted for consideration and will be returned to the sender. Applications sent by

facsimile or by e-mail will not be accepted.

ADDRESSES: Paper applications and the signature page and attachments for electronic applications must be sent to: CDFI Fund Grants Management & Compliance Manager, NMTC Program, Bureau of Public Debt – Franchising, 200 Third Street, PCB, Room 10, Parkersburg, WV 26101-5312. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480-5450. Paper applications and the signature page or attachments for electronic applications will not be accepted at the Fund's offices in Washington, DC. Paper applications and signature pages or attachments for electronic applications received in the Fund's offices will be rejected and returned to the sender. Except for the signature page and attachments, electronic applications must be submitted solely by using the Fund's website and must be sent in accordance with the submission instructions provided in the electronic application form.

FOR FURTHER INFORMATION CONTACT: The Fund will provide programmatic and information technology support related to the allocation application between the hours of 9:00 a.m. and 5:00 p.m. ET through September 26, 2003. The Fund will not respond to phone calls or e-mails concerning the application that are received after 5:00 p.m. ET on September 26, 2003, until after the allocation application deadline of September 30, 2003. Programmatic support can be obtained by calling (202) 622-7373 or through e-mail by sending questions or requests for programmatic assistance to cdfihelp@cdfi.treas.gov. Information technology support can be obtained by calling (202) 622-2455 or through e-mail by sending questions or requests for information technology assistance to ithelpdesk@cdfi.treas.gov.

Applications and other information regarding the Fund and its programs may be obtained from the Fund's website at <http://www.cdfifund.gov>. The Fund will post on its website responses to questions of general applicability regarding the NMTC Program. If you have any general questions about the NMTC Program, contact Matthew Josephs, the Fund's Acting NMTC Program Manager. The Acting NMTC Program Manager may be reached by e-mail at cdfihelp@cdfi.treas.gov, by telephone at (202) 622-7373, by facsimile at (202) 622-8911, or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. For questions regarding the tax aspects of the NMTC Program, contact Branch Five, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 622-3040, by facsimile at (202) 622-4753, or by mail at 1111 Constitution Avenue, NW, Attn: CC:PSI:5, Washington, DC 20224. These are not toll free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

By providing an incentive in the form of a tax credit over seven years, NMTCs are intended to stimulate the provision of \$15 billion of private investment capital in CDEs that, in turn, will make investments in low-income urban and rural communities, thus facilitating economic and community development. The goal is to address limitations of financial markets by facilitating the flow of equity capital into areas not being adequately served by conventional lenders and investors. This goal can be achieved, for example, by deploying investments in products or services that: (a) provide services to creditworthy borrowers or investees not served by conventional sources of capital; (b) provide a catalyst for large-scale, self-generating flows of investments (for

example, the increased provision of critical public services); or (c) serve borrowers or investees who may present greater risks than would be assumed by conventional providers of capital in order to generate benefits distributed broadly throughout the community.

Through the NMTC Program, an entity may apply to the Fund to be certified as a CDE. Nonprofit entities and for-profit entities may be certified as CDEs by the Fund. Both for-profit and non-profit entities may apply to the Fund for an allocation of NMTCs, but only CDEs that are for-profit entities are eligible to issue Qualified Equity Investments with respect to which investors will be entitled to claim NMTCs. A taxpayer that makes a Qualified Equity Investment in a CDE that has received a NMTC Allocation from the Fund may claim a five percent tax credit on the investment amount as of the date on which the investment is initially made and on each of the next two anniversary dates and a six percent tax credit for each of the next four anniversary dates.

In this NOAA, the Fund addresses specifically how an entity may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. Applicants should consult the temporary regulations and related guidance issued by the IRS for the NMTC Program to obtain guidance on tax issues related to the NMTC Program.

II. Eligibility

IRC § 45D specifies certain eligibility requirements that each applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional

detail and certain additional dates that relate to the submission of applications under this NOAA:

(1) CDE Certification: For purposes of this NOAA, the Fund will not consider an application for an allocation of NMTCs unless: (a) the applicant is certified as a CDE at the time the Fund receives its NMTC Program allocation application; or (b) the Fund receives from the applicant an application for certification as a CDE no later than 5:00 p.m. ET on August 29, 2003. The Fund will not provide allocations of NMTCs to applicants that are not certified as CDEs. Applicants for certification may obtain a CDE certification application through the Fund's website at <http://www.cdfifund.gov>. Applications for CDE certification must be submitted as instructed in the application form.

If an applicant that has already been certified as a CDE wishes to change its designated CDE service area, it must submit its request for such a change; said request must be received by the Fund by no later than 5:00 p.m. ET on September 30, 2003. The CDE service area change request must be sent from the applicant's authorized representative and include the applicable CDE control number, the revised service area designation, and an updated accountability chart that reflects representation from low-income communities in the revised service area. The service area change request must be sent by e-mail to cdfihelp@cdfi.treas.gov or by facsimile to (202) 622-8911.

(2) Entities that Have Received NMTC Allocations in the Prior NMTC Program Allocation Round: Applicants are hereby notified that success in a prior round of the NMTC Program or any of the Fund's other programs is not a predictor of success under this NOAA. A prior Allocatee of the NMTC Program is not eligible to receive a NMTC

Allocation pursuant to this NOAA unless the Allocatee can demonstrate via the Fund's allocation tracking system that, as of February 17, 2004, it has issued and the Allocatee has received cash from its investors for 50 percent of its Qualified Equity Investments relating to its prior NMTC Allocation. Further, an entity is not eligible to receive a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), has not, as of February 17, 2004, issued and received cash from its investors for 50 percent of its Qualified Equity Investments relating to a prior NMTC Allocation. For purposes of this section of the NOAA, the Fund will only count as "issued" those Qualified Equity Investments that have been recorded in the Fund's allocation tracking system by February 17, 2004. Allocatees and their Subsidiary transferees, if any, are advised to access the Fund's allocation tracking system to record each Qualified Equity Investment that they issue to an investor in exchange for cash.

(3) Entities that Have Received Awards from the Fund in Prior Award Rounds of Other Fund Programs: Prior awardees of any component of the Fund's Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, or any other Fund program are eligible to apply under this NOAA, except as follows:

(a) The Fund will not consider an application submitted by an applicant that is a prior Fund awardee under any Fund program or component of the CDFI Program if the applicant has a balance of undisbursed funds under said prior award(s), as of the application deadline of this NOAA. Further, an entity is not eligible to apply for a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is

Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), is a prior Fund awardee under any Fund program or component of the CDFI Program, and has a balance of undisbursed funds under said prior award(s), as of the application deadline of this NOAA. For the purposes of this section, undisbursed funds are defined as: (i) in the case of prior BEA Program awards, any balance of award funds greater than \$5,000 that remains undisbursed more than three (3) years after the BEA Program awardee executes an award agreement with the Fund, and (ii) in the case of prior CDFI Program or other Fund program awards, any balance of award funds greater than \$5,000 that remains undisbursed more than one (1) year after the CDFI Program or other Fund program awardee executes an assistance agreement with the Fund; and

(b) The Fund will not consider an application submitted by an applicant that is a prior Fund awardee under any Fund program or component of the CDFI Program if the applicant has failed to meet its reporting requirements, set forth in a previously executed assistance or award agreement(s), or has been debarred from applying under any Fund program, as of the application deadline of this NOAA. Further, an entity is not eligible to apply for a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), is a prior Fund awardee under any Fund program or component of the CDFI Program, and has failed to meet its reporting requirements, set forth in a previously executed assistance or award agreement(s), or has been debarred from applying under any Fund program, as of the application deadline of this NOAA.

Accordingly, applicants that are prior awardees under any other Fund program are advised to:

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

(ii) Contact the appropriate Program Operations representative of the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balances of said prior awards; and

(iii) Confirm that any entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant, and is a prior Fund awardee, has submitted all required reports to the Fund and is taking all necessary actions for the disbursement of any outstanding balances of any prior Fund awards.

(4) Entities that Propose to Transfer NMTCs to Subsidiaries: Both for-profit and non-profit CDEs may apply to the Fund for allocations of NMTCs, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit applicant wishing to apply for a NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the Fund, that: (1) it controls one or more Subsidiaries that are for-profit entities; and (2) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary. The Subsidiary transferee must: (i) submit a CDE certification application to the Fund within 30 days after the non-profit applicant receives a Notice of Allocation from the Fund; and (ii) must be certified as a CDE prior to entering into an Allocation Agreement with the Fund. The NMTC Allocation transfer must be pre-approved by the Fund, in its sole discretion, and will be a condition of the Allocation

Agreement. A for-profit applicant that receives a NMTC Allocation may transfer such NMTC Allocation to its for-profit Subsidiary or Subsidiaries, provided that said Subsidiary transferees have been certified as CDEs and such transfer is pre-approved by the Fund, in its sole discretion, which transfer will be a condition of the Allocation Agreement.

An applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary is not required to create the Subsidiary prior to submitting a NMTC allocation application to the Fund. Rather, the Fund will require each applicant to indicate, in its NMTC allocation application, whether it intends to transfer all or a portion of its NMTC Allocation to a Subsidiary and its timeline for doing so. As stated above, in no circumstance will the Fund authorize such a transfer until the Fund has certified the Subsidiary transferee as a CDE.

(5) Entities that Propose to Submit Applications Together With Affiliates: If an applicant and its Affiliates wish to submit allocation applications, they must do so collectively, in one application; an applicant and its Affiliates may not submit separate allocation applications.

(6) Entities Created as a Series of Funds: An applicant whose business structure consists of an entity with a series of funds may apply for CDE certification and an allocation of NMTCs as a single entity, or as multiple entities. If such an applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it may submit a single application on behalf of the entire series of

funds, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds applies as a single partnership or corporation or as multiple partnerships or corporations, an applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the transfer is pre-approved by the Fund, in its sole discretion, which will be a condition of the Allocation Agreement.

(7) Entities that are BEA Program Awardees: An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to a NMTC Allocation for the same investment in a CDE.

III. Application Packet

An applicant under this NOAA must submit all of the materials described in the application, which is available at the Fund's website at <http://www.cdfifund.gov>. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service and assigned to the applicant and, if applicable, its Controlling Entity; electronic applications without a valid EIN are incomplete and cannot be transmitted to the Fund; paper applications submitted without a valid EIN will be rejected as incomplete and returned to the sender. For more information on obtaining an EIN, please contact the Internal Revenue Service at (800) 829-4933 or www.irs.gov. An

applicant may not submit more than one application. In addition, an applicant and its Affiliates must collectively submit only one allocation application; an applicant and its Affiliates may not submit separate allocation applications.

IV. Evaluation

Eligibility and Completeness Review: All applications for NMTC Allocations will be reviewed for eligibility and completeness. The Fund may consult with the IRS on the eligibility requirements under section 45D. Once the application has been determined to be eligible and complete, the Fund will conduct the substantive review of each application in accordance with the criteria and procedures described generally in this NOAA and the allocation application.

Application Evaluation: In the first part of the substantive review, each Fund reviewer will evaluate the following application elements based on a 100-point, plus 10-priority point, scale (for a total of 110 points):

(1) Business Strategy (25-point maximum plus up to 5 points for each of the two statutory priority items). In assessing an applicant's business strategy, reviewers will consider, among other things: the applicant's products, services and investment criteria; the prior performance of the applicant or its Controlling Entity, particularly as it relates to making similar kinds of investments as those it proposes to make with the proceeds of Qualified Equity Investments; the applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; the projected level of the applicant's pipeline of potential investments; and the extent to which the applicant intends to make Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the entity hold a majority equity interest.

Under the business strategy criterion, an applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which: (a) are designed to meet the needs of underserved markets; (b) are flexible or non-traditional in form; and (c) focus on customers or partners that typically lack access to conventional sources of capital. An applicant will also score well to the extent that it: (i) has a track record of successfully providing products and services similar to those it intends to use with the proceeds of Qualified Equity Investments; (ii) has identified, or has a process for identifying, potential transactions; (iii) demonstrates a likelihood of issuing Qualified Equity Investments and making the related Qualified Low-Income Community Investments in a time period that is significantly shorter than the time period permitted by the Act; and (iv) in the case of an applicant proposing to purchase loans from CDEs, the applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to low-income communities.

In addition, as provided by IRC § 45D(f)(2), the Fund will ascribe additional points to entities that meet either or both of the statutory priorities. First, the Fund will give up to five (5) additional points to any applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the Fund will give five (5) additional points to any applicant that intends to satisfy the requirement of IRC § 45D(b)(1)(B) by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to an applicant (within the meaning of IRC § 267(b) or IRC § 707(b)(1)) hold the majority equity interest. Applicants may earn points for either or both statutory priorities. Thus, applicants that meet the requirements of both priority categories can receive up to a total

of ten (10) additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an applicant itself or by its Controlling Entity (e.g., where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An applicant that receives additional points for intending to make investments in unrelated businesses and is awarded a NMTC Allocation must meet the requirements of IRC § 45D(b)(1)(B) by investing substantially all of the proceeds from the aggregate amount of its Qualified Equity Investments in unrelated businesses.

(2) Capitalization Strategy (25-point maximum). In assessing an applicant's capitalization strategy, reviewers will consider, among other things: the extent to which the applicant has secured investments, commitments to invest, or indications of interest in investments from investors, commensurate with its requested amount of tax credit allocations; the applicant's strategy for identifying additional investors, if necessary, including the applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the extent to which the applicant identifies how existing investors will leverage their investments in Low-Income Communities or how new investors will be brought into such investments; the extent to which the applicant intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC § 45D(b)(1)(B), including the extent to which the applicant has identified the financial resources outside of the NMTC investments necessary to support its operations or finance its activities; and the applicant's timeline for utilizing an NMTC Allocation.

An applicant will generally score well under this section to the extent that: (a) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments; (b) its request for 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 is likely to leverage other sources of funding in addition to NMTC investor dollars; (d) it intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC § 45D(b)(1)(B). In the case of an applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the applicant or from affiliated entities, said applicant will score well to the extent that it will offer products with more favorable rates or terms than those currently offered by the investor and/or will target its activities to areas of greater economic distress than those currently targeted by the investor.

(3) Management Capacity (25-point maximum). In assessing an applicant's management capacity, reviewers will consider, among other things, the qualifications of the applicant's principals, its board members, its management team, and other essential staff or contractors, with specific focus on: experience in deploying capital or technical assistance, including activities similar to those described in the applicant's business strategy; experience in raising capital; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax programs; and the applicant's (or its Controlling Entity's) financial health. Reviewers will also consider the extent to which an applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements, and

the level of involvement of community representatives and other stakeholders in the design, implementation or monitoring of an applicant's business plan and strategy.

An applicant will generally score well under this section to the extent that its management team or other essential personnel have experience in: (a) deploying capital or technical assistance in Low-Income Communities, particularly those likely to be served by the applicant with the proceeds of Qualified Equity Investments; (b) raising capital, particularly from for-profit investors; (c) asset and risk management; and (d) fulfilling government compliance requirements, particularly tax program compliance. An applicant will also score well to the extent it has policies and systems in place to ensure ongoing compliance with NMTC Program requirements, and to the extent that Low-Income Community stakeholders play an active role in designing or implementing its business plan.

(4) Community Impact (25-point maximum). In assessing the impact on communities expected to result from the applicant's proposed investments, reviewers will consider, among other things, the degree to which the applicant is likely to achieve significant and measurable community development and economic impacts in its Low-Income Communities, and whether the applicant is working in particularly economically distressed markets and/or in concert with Federal, state or local government or community economic development initiatives (e.g., Empowerment Zones, Enterprise Communities, and Renewal Communities).

An applicant will generally score well under this section to the extent that: (a) it articulates how its strategy is likely to produce significant and measurable community development and economic impacts that would not be achieved without NMTCs; and (b)

it is working in particularly economically distressed or otherwise underserved communities and/or in concert with other Federal, state or local government or community economic development initiatives.

Determination of Highly Qualified Applicants: Fund reviewers will evaluate and score each application in the first part of the review process. An applicant must exceed a minimum overall aggregate base score threshold (the sum of the total scores provided by the reviewers, minus priority points) and exceed a minimum aggregate section score threshold (minus priority points) in each of the four application sections (Business Strategy, Capitalization Strategy, Management Capacity, and Community Impact) in order to advance from the first part of the substantive review process. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the four application sections), varies significantly from the median of the reviewers' total base scores or section scores for such application, the Fund may, in its sole discretion, obtain the comments and recommendations of an additional reviewer to determine whether the anomalous score should be replaced with the score of the additional reviewer.

The Fund will consider the applicant's total score (inclusive of priority points) from each reviewer and will award allocations to the most highly qualified applicants; provided, however, that: (1) the Fund has not decided at this time on a maximum allocation amount per applicant and the Fund, in its sole discretion, reserves the right to set such a maximum award amount if the Fund deems it appropriate; and (2) the Fund, in its sole discretion, reserves the right to reject an application that receives scores that are not at or above the minimum scoring range required for a total base score or for any one

or more of the four application evaluation criteria outlined above and detailed more fully in the application materials.

As a part of the substantive review process, the Fund may permit reviewer(s) to make telephone calls to applicants for the sole purpose of obtaining, clarifying or confirming application information. In no event shall such contact be construed to permit an applicant to change any element of its application. Reviewers will not contact applicants without the prior approval of the Fund. At this point in the process, an applicant may be required to submit additional information about its application in order to assist the Fund with its final evaluation process. Such requests must be responded to within the time parameters set by the Fund. The selecting official(s) will make a final allocation determination based on an applicant's file, including without limitation, eligibility under section 45D, the reviewers' scores and the amount of allocation authority available.

In the case of an applicant that has previously received financial or technical assistance from the Fund under the CDFI Program, the Fund will consider the applicant's level of success in meeting the terms, conditions and other requirements contained in its prior or existing assistance agreement(s) with the Fund. In the case of an applicant that has previously received an NMTC Allocation from the Fund under the NMTC Program, the Fund will consider the applicant's level of success in meeting the terms, conditions and other requirements contained in its prior or existing Allocation Agreement(s) with the Fund and its demonstrated need for additional allocations. The Fund reserves the right to reject any NMTC allocation application in the case of a prior Fund awardee, if such applicant has failed to comply with the terms, conditions, and other requirements of the

prior or existing assistance or award agreement(s) with the Fund. The Fund reserves the right to reject any NMTC allocation application in the case of a prior Fund Allocatee, if such applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the Fund. Further, if an entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund) is a prior Fund awardee or Allocatee, the Fund will consider such entity's level of success in meeting the terms, conditions and other requirements of its prior assistance agreement, award agreement, and/or Allocation Agreement requirements with the Fund. The Fund reserves the right to reject any NMTC allocation application in the case of any applicant, if an entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement or Allocation Agreement with the Fund.

The Fund's allocation award decisions are final, with no right to appeal such decisions.

In the case of applicants or their Affiliates that are regulated by the Federal government, the Fund's selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of applicants or their Affiliates that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the Fund reserves the right to consult with and take into consideration the views of the Small Business Administration.

The Fund reserves the right to conduct additional due diligence, as determined reasonable and appropriate by the Fund, in its sole discretion, related to the applicant and its officers, directors, owners, partners and key employees.

The Fund further reserves the right to change these evaluation procedures, if the Fund deems it appropriate; if said procedural changes materially affect the Fund's award decisions, the Fund will provide information regarding the procedural changes through the Fund's website.

V. Notice of Allocation

The Fund will signify its selection of an applicant as an Allocatee by delivering a signed Notice of Allocation to the applicant. The Notice of Allocation will contain the general terms and conditions underlying the Fund's provision of an NMTC Allocation including, but not limited to, the requirement that an Allocatee and the Fund enter into an Allocation Agreement. The applicant must execute the Notice of Allocation and return it to the Fund. By executing a Notice of Allocation, the Allocatee agrees that, if prior to entering into an Allocation Agreement with the Fund, information comes to the attention of the Fund that either adversely affects the Allocatee's eligibility for an award, or adversely affects the Fund's evaluation of the Allocatee's application, or indicates fraud or mismanagement on the part of the Allocatee, the Fund may, in its discretion and without advance notice to the Allocatee, terminate the Notice of Allocation or take such other actions as it deems appropriate. Moreover, by executing a Notice of Allocation, an Allocatee agrees that, if prior to entering into an Allocation Agreement with the Fund, the Fund determines that the Allocatee is not in compliance with the terms of any prior assistance agreement, award agreement, and/or Allocation Agreement entered into with

the Fund, the Fund may, in its discretion and without advance notice to the Allocatee, either terminate the Notice of Allocation or take such other actions as it deems appropriate. The Fund will rescind its award if the Allocatee fails to return the Notice of Allocation, signed by the authorized representative of the Allocatee, along with any other requested documentation, within the deadline set by the Fund.

VI. Allocation Agreement

Each applicant that is selected to receive a NMTC Allocation (including the applicant's Subsidiary transferees) must enter into an Allocation Agreement with the Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but not be limited to, the following: (i) the amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (e.g., loans to or equity investments in Qualified Active Low-Income Businesses or loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of Qualified Equity Investments may be used; (iv) the time period by which the applicant may obtain Qualified Equity Investments from investors; and (v) reporting requirements for all applicants receiving NMTC Allocations. If an applicant has represented in its NMTC allocation application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the applicant hold a majority equity interest, the Allocation Agreement will contain a covenant whereby said applicant agrees that it will invest substantially all of said proceeds in businesses in which persons unrelated to the applicant hold a majority equity interest.

In addition to entering into an Allocation Agreement, each applicant selected to receive a NMTC Allocation must furnish to the Fund an opinion from its legal counsel, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an applicant (and its Subsidiary transferees, if any): (i) is duly formed and in good standing in the jurisdiction in which it was formed and/or operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

VII. Monitoring

The Fund will collect information, on at least an annual basis, from all applicants that are awarded NMTC Allocations and/or are recipients of Qualified Low-Income Community Investments, including such audited financial statements and opinions of counsel as the Fund deems necessary or desirable, in its sole discretion. The Fund will use such information to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The Fund may also provide such information to the IRS in a manner consistent with IRC § 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each Qualified Equity Investment raised through its NMTC Allocation to make Qualified Low-Income Community Investments. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The Fund reserves the right, in accordance with applicable Federal law and if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the Fund will publish additional information concerning the nature and amount of the fee.

VIII. Information Session

In connection with this NOAA, the Fund will broadcast a video teleconference information session on August 6, 2003, from 1:00 pm to 5:00 pm ET. Registration is required, as the video teleconference information session will be broadcast to secured federal facilities. The video teleconference information session will be produced in Washington, DC, and will be downlinked via satellite to local Department of Housing and Urban Development offices in certain cities. For further information on the video teleconference information session, locations, or to register, please visit the Fund's website at <http://www.cdfifund.gov> or call the Fund at (202) 622-8401.

AUTHORITY: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D-1T.

Dated: July 14, 2003

Tony T. Brown,

Director, Community Development Financial Institutions Fund.