New Markets Tax Credit Coalition

April 23, 2024

Mr. Christopher Allison

Program Director, NMTC Program, Community Development Financial Institutions Fund

U.S. Department of the Treasury

Washington, DC 20220

Re: Comments on the Revised NMTC Application

Dear Mr. Allison,

On behalf of the New Markets Tax Credit Coalition, we appreciate the opportunity to provide feedback on the Community Development Financial Institutions (CDFI) Fund's revised application for the New Markets Tax Credit (NMTC) program.

Formed in 1998, the Coalition is a national membership organization that advocates for the NMTC Program. The Coalition's mission is to ensure that its members, including Community Development Entities (CDEs), investors, and other community development professionals, can use the NMTC to encourage investment and advance economic revitalization efforts in low-income urban and rural communities nationwide.

Thank you for the opportunity to comment. We look forward to working with you to maintain the NMTC as one of the most efficient and effective federal economic development initiatives.

PART 1: BUSINESS STRATEGY

ADDITIONAL FLEXIBILITY FOR DEBT (Q15)

We recommend deleting "debt with interest" from the list of examples under 15(a), as it is a typo.

INNOVATIVE INVESTMENTS (Q19)

We support the CDFI Fund's 2021 addition of "Investing in Unrelated Minority-owned or Native American-owned or controlled CDEs that do not have NMTC Allocations" to the list of innovative uses of an NMTC allocation. There is great interest among both policymakers and NMTC practitioners in increasing the participation of historically marginalized communities in the NMTC program as CDEs.

PART 2: COMMUNITY OUTCOMES

TARGETING OF QLICIS (Q25A/B)

The Coalition applauds the CDFI Fund's continued efforts to drive NMTC investment into communities with levels of economic distress exceeding the statutory requirements. According to NMTC survey data, in 2022, more than 80 percent of NMTC projects were located in areas of severe distress, as defined by the NMTC application.

The Coalition also commends the CDFI Fund's efforts to boost NMTC activity in areas historically underserved by the program, including Native communities and U.S. territories.

However, most Coalition members have expressed strong concerns about how Q25b is currently drafted and, in particular, how it will impact scoring. The question states, "An Applicant that commits to a higher percentage commitment to Question 25(b) below will generally score more favorably." Given the highly competitive nature of the application process and the narrow range in scores for CDEs who win an award, CDEs will feel compelled to include a relatively high percentage in Q25b to get an award. This will cause a disproportionate amount of allocation to be directed to a relatively small target market and make it difficult for other highly impactful projects to secure the necessary allocation. This type of commitment may result in multiple CDEs pursuing the same projects—those that satisfy multiple heightened deployment requirements—while other highly impactful projects that do not meet those same requirements cannot secure the allocation needed. These Coalition members believe 25b should be moved to the Business Strategy section as a sub-part of Q19 (Innovative Investments) and reviewed in Phase 2 rather than Phase 1.

CDEs who target Native areas as part of their mission are supportive of 25b as presented in the application template because the wording of the question responds to Executive Order 14112 (December 6, 2023) "Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination."

There Is no doubt that the NMTC program has underserved Native areas. The NMTC Coalition's analysis shows that while roughly 5% of the nation's NMTC-eligible census tracts are in Native areas, annual NMTC investment in those communities rarely tops 2-3 percent of all NMTC transactions. Another suggestion from the CDEs concerned with the wording of Q25b but want to see more investment in underserved communities is for the CDFI Fund to cap the percentage commitment, which would impact scoring. For example, "An Applicant that commits to deploy a minimum of 10% of their allocation to Extremely Distressed Areas will generally score more favorably."

Regarding Deep Distress Tracts

The Coalition does not believe the definition of deep distress census tracts is the best tool for targeting higher distress areas.

Under the proposed definition (tracts with 40 percent poverty, median income below 40 percent of the AMI, or unemployment rates 2.5 times the national average), deep distress tracts are disproportionately located in metropolitan areas. Nearly twenty percent (19.7 percent) of NMTC-eligible tracts are in non-metropolitan counties, but only 12.2 percent of deep distress tracts are in non-metropolitan counties. Census tract data (and local area estimates of unemployment) are blunt tools for determining the needs of rural communities experiencing population loss and economic stagnation.

The narrow definition of deep distress limits the universe of tracts to about 8,000, producing uneven coverage of many regions. Census tract data (and local area unemployment estimates) have a large margin of error. Tract data works well for the NMTC program because the sheer number of census tracts evens out the data. However, as you narrow the number of tracts, the quirks in the data become more apparent. For example, Connecticut has the 7th lowest poverty rate in the nation (9.78%), but nearly one-third (32.6%) of its

NMTC-eligible census tracts would qualify as deeply distressed. Oklahoma has a poverty rate of 15.27%, but only 11.8% of NMTC-eligible tracts would be eligible as deeply distressed.

However, simply removing “Deep Distress” from the list of options in Q25b would not address the concerns enumerated above regarding its impact on scoring.

Comments on other target areas (Q25a)

1) LOW-INCOME and LOW-ACCESS TO SUPERMARKETS: We support the addition of this item.
2) FEDERAL MEDICALLY UNDERSERVED AREAS: The CDFI Fund’s proposed expansion of this definition in the application was helpful.
3) Add “PERSISTENT POVERTY CENSUS TRACTS.[1]”

COMMUNITY DEVELOPMENT OUTCOMES (Q26)

Over the past decade, the CDFI Fund has shifted the focus and format of the NMTC Application away from narratives and toward tables and data points. While these changes have streamlined some areas of the application, the Coalition is concerned that the application’s increased focus on metrics has created the unintended consequence of discouraging applicants from financing community facilities. Identifying and describing metrics for measuring social service outcomes is much more challenging than job creation metrics. This is particularly true with multi-component community facility projects with co-located social services.

The NMTC program must remain flexible and responsive to community needs. For many stagnating regional economies, job creation is the most acute need. Other communities need better community infrastructure and social services.

We suggest the following changes to Q26 to ensure that applicants can describe a wide range of community outcomes without being penalized for innovative strategies such as the co-location of community goods and services:

- **Eliminate the requirement for metrics for Community Goods and Services.** Imagine two high-impact projects: Project A is a new manufacturing facility that creates 400 quality jobs. Project B is renovating a vacant building to make space for a daycare center, vocational training program, a business incubator, housing, and a grocery store. Compare the complexity of describing metrics for Project A and Project B. Project B expands access to Community Goods and Services in a half-dozen ways. Project A creates jobs with opportunities for advancement, good benefits, and solid wages.. Both projects merit NMTC financing, but Project B is more challenging to describe using abstract quantitative metrics. Developing metrics and tying them to third-party benchmarks to inform decision-making is unrealistic for Project B. Finding commonality among community facilities on which to base a metric is not easy and perhaps not even useful.
- Bring back “Other Community Outcomes” to allow CDEs to describe new or innovative approaches to emerging community challenges.

We urge the CDFI Fund to value *quality* over *quantity* when evaluating an applicant’s strategy to expand access to Community Goods and Services. For instance, a tribal health clinic might be the only facility within

[1] Defined as census tracts with poverty rates over 20 percent over the past three census cycles.

100 miles that provides emergency services. Its 2,000 patients per year might appear smaller than a clinic in an urban setting serving 25,000 patients, but the tribal clinic represents the only locally available option for rapid, lifesaving treatment.

We also offer the following suggestion on Q26:

- Incorporate "childcare" as one of the examples in the application instructions describing Community Goods and Services.

COMMUNITY ACCOUNTABILITY (Q27)

The revised application asks CDEs to describe "How the Applicant uses data to demonstrate the needs of the communities in which the Applicant intends to invest."

Congress created the NMTC to drive investment to communities underserved by conventional forms of financing. Low-income areas, and most notably, Native communities and low-population rural communities, often suffer from a scarcity of quality economic data, sometimes due to the prevalence of informal economic activities. This new requirement disadvantages CDEs serving communities with severe gaps in federal financial data.

We propose deleting this new bullet. If deleting the bullet is not an option, we suggest the following alternative language for the bullet point (bold and underlined):

> "How the Applicant uses data (<u>including qualitative and quantitative data provided by a Tribal organization or through interviews in Native communities</u>) to demonstrate the needs of the communities in which the Applicant intends to invest."

This amendment aims to level the playing field for applicants focused on aiding Native communities:

The CDFI Fund's August 2023 report underscores the need for this change, highlighting the severe lack of precise and relevant data in Native communities. This deficiency hampers the efforts of tribes and Native organizations to foster economic development. It makes it challenging for investors to evaluate the potential risks and rewards of investing in these areas. Furthermore, Native communities often remain underrepresented in federal economic datasets due to mismatched geographical boundaries and other uncontrollable factors, complicating the collection of accurate financial data.

PART 3: MANAGEMENT CAPACITY

The revised application reduces the character allocation for most questions in the Management Capacity section. While we appreciate the spirit of these changes (reducing the time it takes to complete an application), many Coalition members wanted to maintain the ability to use more characters as needed.

However, many Coalition members are concerned that the significant expenditure of an applicant's time on these questions may not be warranted or necessary, given that (1) these questions are not being factored into the numerical scoring; (2) Tables C1 and C2 provide an excellent snapshot of the skills and abilities of senior management team; and (3) the vast majority of applicants now have a significant track record of QLICI deployment, and are already required to discuss that in Part 5. While we understand there may be a need to do a more extensive staffing and systems analysis of organizations that are new to the NMTC space, for experienced NMTC applicants, we would encourage you to only require significant narrative responses in instances where prior year allocatees indicate that they have had issues with prior year allocations (e.g., trouble deploying; significant delinquencies or defaults; etc.).

Finally, the Coalition commends the CDFI Fund for its efforts to collect information on fees in the NMTC application. We believe this disclosure and transparency puts downward pressure on fees.

PART 4: CAPITALIZATION STRATEGY

We request clarification on the circumstances in which a CDE with a past allocation would be required to provide investor letters. The notes for Q36(a) suggest that an applicant must submit documentation demonstrating proof of the interest of the equity investors and debt providers if it intends to secure investments from partnership entities that will leverage non-Equity Investments (e.g., debt, grant dollars) from outside of the partnership to increase the tax credit yield for members of the partnership. Please confirm that such documentation is only required pursuant to Q37(a) if an applicant received QEIs from investors in amounts less than the Allocation request in Question 1 between January 1, 2019, and the release date for the NMTC Allocation Application (specified in the NMTC Application FAQ document).

The CDFI Fund should also carefully consider how much narrative is necessary in this section – particularly when the most relevant information is captured in the corresponding Tables or can otherwise be ascertained from an applicant's QEI issuance report.

TABLE A5

We suggest adding "Childcare" as a business type."

GLOSSARY

DEFINITION OF DISADVANTAGED BUSINESSES:

Removing "a business that has inadequate access to investment capital" would significantly restrict the scope of what constitutes a Disadvantaged Business, adversely affecting most CDEs/CDFIs committed to supplying capital to businesses lacking sufficient access to financing.

If the CDFI Fund believes the old definition is too broad, we suggest the following revision: "A business or community development project that has inadequate access to capital from conventional lenders or other public and private sources (for example, government grants or support from private foundations)."

We also suggest increasing the maximum revenue level: "A business with annual revenues that do not exceed $400,000 at the time the loan or investment was closed." Very few NMTC-financed businesses have revenue under $100,000. Even through a loan pool structure, the depth of the NMTC subsidy is rarely adequate to support businesses of that size. The $400,000 revenue number aligns with the personal income for the past three years used by SBA in their definition below. Top-line revenues are not an indicator of profits or income to the individual owners (which can exclude income from certain entities if the capital was used to grow the business).

Another improvement on the definition would be to include persistent poverty census tracts and persistent poverty counties.

Finally, we urge the CDFI Fund to delay the implementation of the definition change to the CY2025 allocation application (and to continue using the previous definition for data through the CY2024 allocation application) to give sufficient time for these CDEs to modify their business strategies to remain competitive.

Our proposed definition:

1. A business that is located in:
    a. a Persistent Poverty County;
    b. a Persistent Poverty census tract;
    c. an NMTC Federal Native Area; or
    d. a U.S. Territory
2. A business that is Low-Income Person-owned or – controlled.
3. A business with annual revenues that do not exceed $400,000 at the time the loan or investment was closed.
4. A non-profit business that is primarily serving Low- Income Community residents or Low-Income Persons.
5. A business or community development project that has inadequate access to capital from conventional lenders or other public and private sources (for example, government grants or support from private foundations).

REVIEW PROCESS:

The scoring range for NMTC applications has become highly compressed at the upper end, meaning an application's chance of success is increasingly random. The CDFI Fund should explore modifications to the review process to ensure more variance in scoring:

- **Increase the number of points and the number of reviewers:** Statistically speaking, the simplest way to increase variance is to increase the number of potential outcomes.
- **Increase the amount of qualitative evaluation in Phase 1:** Another way to increase scoring variance is to give reviewers more leeway to evaluate the strength of an applicant's community development track record, strategy for deploying an allocation, and capacity to implement their strategy.

We also request that the CDFI Fund provide more information about factors that influence the size of an award.

The Coalition also encourages the Fund to make public the instructions and guidance provided to the outside readers chosen to review applications. The directions provided by the NOAA, the Application TIPs, and the Q&A documents guide CDEs through the application process. Still, as applicants work to address the Fund's priorities, respond to questions clearly, and articulate their NMTC business strategy, it would be helpful to understand reader instructions. We believe providing a more transparent process will benefit readers and applicants and, ultimately, strengthen this competitive process.

COMBINING ROUNDS

Again, we urge the CDFI Fund to combine the 2024 and 2025 allocation rounds and issue a NOAA for a combined round in January 2025, with awards made by the end of 2025. There is ample capacity in the NMTC industry to efficiently absorb and put to good use $10 billion in NTMC allocation. For example, when the

CDFI Fund combined the 2015/2016 rounds into a $7B super round, CDEs deployed most of that financing within 12 months of signing their allocation agreements. Adjusted for inflation, $7B in 2016 dollars will be the equivalent of $9B in CY2024. Furthermore, the dual challenges of cost increases and interest rate increases have put a squeeze on community development projects and small businesses. Coalition members indicate that cost overruns and tighter credit heighten the need for additional allocation to close the financing gap.

We also ask the CDFI Fund to provide six months' advanced notice of a combined January 2025 round.

QEI/QLICI ISSUANCE DEADLINES

We suggest modifying the QEI Issuance and QLICI requirements to provide parity between rural CDEs and other applicants, as follows.

Prior round allocation	Finalized QEI requirement (%)	Rural CDE Finalized QEI requirement (%)	QLICIs
CY 2019	100	100	As stated in Schedule 1, Section 3.2(j) of the applicable Allocation Agreement.
CY 2020	90	90	
CY 2021	70	70	
CY 2022	40	40	
CY 2023	0 ~~20~~	0	

CONCLUSION

Thank you for considering our comments. We are eager to assist in any further discussions regarding the revision process.

Sincerely,

The NMTC Coalition