

March 1, 2021

Christopher Allison
NMTC Program Manager
U.S Department of the Treasury
Community Development Financial Institutions Fund

Via email: nmtc@cdfi.treas.gov

Re: Comments regarding NMTC Program Allocation Application

Dear Mr. Allison:

We appreciate the opportunity to provide comments on the CY 2021 NMTC Program Allocation Application (2021 NMTC Application). Following is a brief background regarding our organization, and our specific comments for your consideration.

Forward Community Investments Background

Since 1994, Forward Community Investments (FCI) has provided thoughtful advisory services and flexible capital to nonprofit, mission-driven organizations in low-income communities across Wisconsin, our sole service area. FCI has used four NMTC allocation awards totaling \$120M to deploy funds and resources to nonprofits and service providers focused on eliminating racial and economic disparities to create a Wisconsin where all residents have the same economic opportunities. FCI and our partners are strong advocates of the NMTC program, having witnessed firsthand how the NMTC Program can impact communities and neighborhoods where the credit is deployed.

NMTC Application Comments

The comments below are guided by our overarching belief that the NMTC program should be administered in such a way as to prioritize applicants whose primary mission is investment in low-income communities, which we feel is also consistent with the CDFI Fund's mission. However, as the NMTC Application has evolved over time, we have observed specific elements of the Application that have had the effect of disproportionately hindering, rather than supporting mission-driven organizations. As we look ahead to the next five years of the NMTC program, we are hopeful that the CDFI Fund can continue to administer the NMTC program so as to maximize the benefits for low-income communities and low-income persons. In furtherance of this goal, we offer the following comments for your consideration.

1. Incorporate more discussion of Controlling Entity into Part I (Business Strategy).

Comment: The 2021 NMTC Application should incorporate more substantive discussion regarding the mission and focus of the Controlling Entity of the applicant CDE.

Rationale for Comment: As the NMTC Application has evolved we have seen less information required for the discussion of the mission and focus of the Controlling Entity. Specific questions are primarily focused on the Applicant itself, such that profit-motivated Controlling Entities can score well on these questions, even where social motivation may be lacking. The most recent example of this evolution was the new guidance provided by the Fund for the 2020 Application, that applicants should only include responses to Question 20¹ and Table B4 (track record of non-QLICI activities) if the applicant had a NMTC track record of less than five years.

The result of this evolution in the Application is that applicant CDEs for whom the parent is a mission-driven nonprofit organization now have little opportunity to differentiate themselves from applicant CDEs for whom the parent is solely a profit motivated enterprise. However, unlike other specific financing tools like LIHTC or SBA, where awardees must comply with the restrictive tenets of the programs, the NMTC program allows for much more flexibility in deployment, such that the overarching intention of the parent entity has significant bearing on the nature of sponsors and projects that are ultimately selected, and the amount of subsidy ultimately invested into low-income communities. We therefore feel the nature of the Controlling Entity should be an essential part of the consideration in administering NMTC awards.

Suggested Solution: require discussion of the nature, focus and mission of the Controlling Entity in specific responses in Part I regardless of NMTC track record, such that this is incorporated into the Phase I review process and scoring.

2. Allow for a more streamlined response in Question 26a for community facility-focused applicants.

Comment: It would be beneficial if the CDFI Fund updated the instructions and guidance related to the Community Goods & Services outcome in Question 26a.

Rationale for Comment: As the CDFI Fund has increased its focus on quantitative data and metrics for the Community Outcomes section, there are instances where the framework of the application has resulted in inherent disadvantages for nonprofit applicants, like FCI, that serve a diverse variety of nonprofit-sponsored community facilities. This is most readily apparent in the Community Goods & Services section of Question 26a. Specific challenges with this response include:

¹ Question 21 in the 2021 NMTC Application template.

- The CDFI Fund makes clear that it favors applicants with a robust track record of outcomes that are similar to the projected pipeline outcomes. However, applicants that invest in a wide range of facilities will not have as robust of a track record for a particular business type, as compared to applicants that focus only on a single business type for all investments.
- The CDFI Fund requires discussion of third-party metrics for each outcome. For applicants like FCI that seek to invest in a diverse range of community facilities (i.e., healthcare clinics, homeless services, schools, community centers, and workforce training programs), the pipeline projects produce a diverse range of outcomes that simply do not align with a single third-party data source.² The result is that applicants with a diverse range of outcomes are forced to take one or more of the following actions: (i) artificially narrow the range of outcomes they prioritize in the Application, thereby hindering their ability to deploy in accordance with their full mission in the future; (ii) ignore certain outcomes of their projects in the response, thus reducing the overall impact of each project and likely reducing their success in scoring; (iii) limit deployment to projects that fit neatly in a single community outcome box, rather than prioritizing investment in innovative, multi-dimensional projects that incorporate multiple community outcomes and community guidance; or (iv) significantly curtail discussion of each outcome/metric in the 5,000 character response, thus likely reducing their success in scoring as opposed to an applicant with a single outcome focus.

Suggested Solutions: Following are two specific ways the CDFI Fund could alleviate this issue for community facility-focused applicants and allow for a more level playing field in scoring of this response.

- The CDFI Fund could update its instructions for this response to allow applicants to feature metrics for a single outcome type, rather than requiring metrics for its entire pipeline. For example, if an applicant's pipeline includes 3 healthcare facilities, 2 food pantries, 1 community center, 1 preschool, and 1 workforce training center, the applicant could opt to focus its metrics discussion on the 3 healthcare facility projects only. This would result in all applicants having a similar number of characters available to discuss the metrics, thereby allowing for a more "apples to apples" comparison between applicants. This approach would also mirror how Financial Products are discussed in Question 14 of the Business Strategy section of the CY 2021 Application.
- The CDFI Fund could provide updated guidance to assure applicants that, even if an applicant focuses on particular types of community facilities for its application pipeline, an applicant will still be deemed to be "consistent" in deployment if it ultimately invests in a broader range of community facilities. For example, the application pipeline may be focused on two types of community facilities (i.e., healthcare and K-12 schools), but the

² This situation is exacerbated with the updated 2021 NMTC Application, which now adds "food pantries" into the Community Goods & Services response, thereby incorporating yet another common outcome into this response for mission-driven, nonprofit-serving applicants.

applicant's deployment might ultimately also include other types of community facilities such as homeless shelters or food pantries.

3. Increase transparency and focus on CDE fees, costs & expenses.

Comment: Adjustments to the NMTC Application or its review process should be made to more directly encourage applicants to keep fees and costs low.

Rationale for Comment: There is a very wide range of fees and expenses charged in the NMTC industry. The higher the CDE fees and expenses, the lower the net benefit to the low-income communities. We note that the 2021 NMTC Application template includes additional guidance and questions related to applicant fees and costs, and we applaud the efforts of the CDFI Fund to continue to make transparency of fees and costs a priority. However, additional guidance could be added to lend even more transparency to this important element of the program.

Moreover, absent adjustments to the Application structure or its review process, it seems there is little regard paid to applicant fees and costs in determining the applicants that will ultimately receive NMTC awards. Per the NOAA, the CDFI Fund awards allocations in descending order of the final rank score, which score is determined based on responses to Parts I and II (which do not include any fee-related responses).

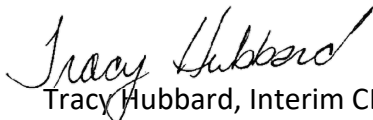
Suggested Solutions:

- Update the Application or its review process to give priority to Applicants with lower fee structures, including the following:
 - Incorporate a fee-related question in the Business Strategy section, so that the applicant's total fee load is considered as part of the Phase I scoring. Incorporate question about ways in which Applicant caps fees paid to third-parties using QLICI proceeds.
 - Incorporate weighting by the CDFI Fund of the fee-related responses from the Management Capacity and Capitalization Strategy sections *prior* to the final ranking of applicants for awards.
- Transparency of fee structures is essential to allow the CDFI Fund to differentiate between CDEs, and to ensure maximum benefit to low-income communities. We suggest the CDFI Fund update instructions to Question 34b (regarding fee structure) to clarify that all of the following types of fees should be included in applicants' responses:
 - Any fees the applicant or its affiliates charge that are contingent or conditional. For example, if applicants impose penalties on QALICBs if the NMTC closing occurs after a specific date, these fees should be described and justified.
 - In circumstances where the CDE retains all or a portion of the tax credit equity/"B Note" we suggest the question more clearly ask applicants to clarify how they will use such retained proceeds (e.g., distributions/profit/compensation, redeployment of the capital to additional QALICBs, etc.). This would inform how much of the tax credit equity is being

recycled to benefit additional low-income communities versus creating other economic benefits for the CDE, its affiliates, or principals.

- Update the NMTC Application FAQ #106 (related to reporting of required donations by the QALICB) to clarify that any donations arising from the NMTC financing are to be reported in all situations, including but not limited to the following: (i) the applicant does not directly select the donation recipient, but rather allows the QALICB or sponsor to designate a recipient; (ii) the required donation is not made by the QALICB, but rather by the sponsor or another party to the financing; (iii) the donation is required in advance of the closing of the NMTC financing, or at any point in the NMTC compliance period.
- Require all applicants to charge any upfront fees at the sub-CDE or QALICB level, rather than allowing applicants to charge any fees at the Investment Fund (IF) level. Charging upfront fees at the IF level has an adverse impact on the projects, as it reduces the amount of NMTC allocation that the project can support.³ The only benefit to charging fees at the IF level is it allows applicants to include a higher percentage in their response to Question #40 (regarding the % of QEI proceeds that will be invested in QLICIs). Requiring all applicants to charge fees post-QEI would improve the CDFI Fund's ability to provide a fair comparison between applicants and would also increase the NMTC subsidy that is available for projects.

We sincerely appreciate the opportunity to comment on the NMTC Application. We would welcome further discussion with the CDFI Fund on any of these topics.



Tracy Hubbard, Interim CEO

³ In a hypothetical \$10,000,000 NMTC financing with a 7% fee load, the project can support about \$752,000 more allocation if the CDE fee is taken post-QEI as opposed to at the Investment Fund.