

November 28, 2022

Ms. Jodie Harris
Director
Community Development Financial Institutions Fund
U.S. Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Ms. Tanya McInnis
Program Manager
Depository Institutions Initiatives
Community Development Financial Institutions Fund
US Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: Notice and request for public comment, BEA Program Application; Federal Register /Vol. 87, No. 186 / September 27, 2022

Dear Director Harris and Ms. McInnis:

On behalf of the members of the Community Development Bankers Association (CDBA), we respectfully submit the enclosed comments in response to the Notice and Request for Information published September 28, 2022. As stated, the CDFI Fund is seeking comment on the Bank Enterprise Award (BEA) Program application.

CDBA is the national trade association of banks and thrifts with a primary mission of promoting community development. As of November 14, 2022, there are 177 banks and 143 bank holding companies with the Treasury's Community Development Financial Institutions (CDFIs) designation. CDBA membership comprises 67% of the total assets of the certified CDFI bank sector, and 55% of all CDFI banks by number. Many of our members are also Minority Depository Institutions (MDIs).

CDFI banks strongly support the efforts of the CDFI Fund to promote investments in low income and underserved communities. CDBA appreciates the opportunity to provide feedback to maximize the effectiveness of CDFI Fund programs for the benefit of the nation's underserved communities. Historically, the CDFI banks have been the most active participants in the BEA Program and any changes are of great interest to our membership.

General Comments on the BEA Application

CDBA believes that the data and information collected in the current BEA application are generally appropriate and necessary to determine whether applicants have successfully carried out the reported activities. Our comments on the proposed application data and information are below. With regard to the number of hours associated with completing the proposed new data collection requirements, we defer to the comments submitted by industry consultants such as Sones & White Consulting as many CDBA members contract with those firms to prepare their BEA applications, and we believe their analysis is generally representative of the industry.

To increase efficiency and reduce the time it takes for applicants to submit, we strongly encourage the CDFI Fund to explore technology solutions that will allow applicants to report all transactions by uploading an electronic file, rather than manual field-by-field data entry for each transaction in AMIS. Many of our members submit hundreds or thousands of loans as part of each BEA application. The current AMIS system is not built for lenders that work at a large scale. It is time consuming and laborious to enter each data point for every loan.

The problem is compounded because the AMIS system is prone to error. For example, CDBA members report frequently encountering errors with the BEA geocode verification. A qualified address may be entered in AMIS, and 24 hours later, the address remains unverified. The bank must then submit a Service Request, including screenshots of the address, the qualified status and other documentation, in order for the CDFI Fund IT team to manually override the AMIS error. When this is multiplied across dozens of records, the burden is severe.

As discussed below, we urge the CDFI Fund not to undertake changes to the application process that would increase the burden on Applicants. Unfortunately, we believe that adopting many of the changes outlined in the Notice would significantly increase the burden on Applicants. Without a corresponding increase in the size of the average award, this increased burden would almost certainly lead to a decrease in participation in the Program.

Responses to Specific Questions

1. *Is the data and information that is proposed to be collected by the BEA Program Application necessary and appropriate for the CDFI Fund to consider for the purpose of making award decisions?*

The data and information currently collected by the agency is generally appropriate for the purpose of making award decisions. However, we believe the burden could be reduced without damaging the program if the threshold for submitting supporting documentation were increased to loans of \$500,000 and greater.

2. *In general, does the data and information requested in the BEA Program Application allow an applicant to demonstrate its lending, investment and service activities in BEA Program Distressed Communities or to CDFIs?*

Yes, the data and information requested generally allow an applicant to demonstrate its investment and service activities in BEA Program Distressed Communities or to CDFIs.

3. *Are certain data fields, questions or tables redundant or unnecessary?*

As discussed above, field-by-field manual data entry of transactions is very burdensome, both due to the time required, and to problems with the AMIS portal. We strongly urge the CDFI Fund to develop a solution that allows for uploading of all transactions in a single .csv file. We also support raising the dollar amount threshold for Distressed Community Financing Activities (DCFA) supporting documentation.

4. *Should any data fields, questions or tables be added to ensure collection of relevant information?*

No. The data fields, questions and table that are currently required are adequate for their purpose.

5. *Are there any data fields, questions or tables that are particularly difficult or burdensome to answer? If so, please be specific as to which questions or tables and describe why they are difficult or burdensome.*

Please see our comments above regarding the burden associated with field-by-field manual data entry and supporting documentation.

6. *The CDFI Fund considers the safety and soundness of BEA Program Applicants in making award decisions. Currently, through Memorandums of Understanding with federal regulators, the CDFI Fund obtains safety and soundness information directly from the Federal Reserve Board, Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency. The CDFI Fund is considering requiring Applicants to report on their safety and soundness by requesting that they provide information on their most recent independent audit, their most recent Community Reinvestment Act (CRA) Rating, and information on any enforcement actions. The collection of this information from Applicants would be used to consider an Applicant's eligibility before the CDFI Fund receives information from federal regulators.*

1. *How much of a burden will the collection of this information be for Applicants?*

CDBA does not support requiring applicants to report on their safety and soundness. This would create an additional burden, and is an unnecessary and duplicative request for information. Unfortunately, the form of the burden cannot be precisely determined. For example, we anticipate there would be considerable uncertainty and delays as Banks exchanged correspondence with regulators requesting permission to provide information on certain enforcement actions that are intended to be kept confidential. Similarly, independent audits often contain information that are appropriate for review by executive staff, shareholders and regulators, but cannot be conclusively determined to be appropriate for dissemination for the purposes of participating in a grant program. The administrative and compliance burden would vary widely, but would be noticeable as well as unnecessary.

2. *Are there any reasons that the CDFI Fund should not request this information from Applicants? If yes, please describe.*

The CDFI Fund should continue its current practice of obtaining safety and soundness information through Memorandums of Understanding with the agencies, since safety and

soundness information is confidential outside of regulatory reporting. Requiring banks to supply these reports would be variously burdensome and redundant. Further, going straight to the regulators removes a potential source of variation in the quality of information available to the CDFI Fund and also reduces application burden.

3. *Is there anything else the CDFI Fund should consider? If yes, please describe.*

Where the CDFI Fund has access to the same public information as anyone else (such as with Community Reinvestment Act compliance), the Fund should use its own resources to collect that information, and to the extent information is not public, it should continue its current practice to gather information that it requires.

7. *The CDFI Fund is considering adding the following text entry fields in order to improve the quality of impact data collected in the BEA Program Application. This information will allow the CDFI Fund to standardize and effectively report quantitative and qualitative social impacts of program related investments.*

1. *Will reporting this information significantly increase the number of hours spent completing the BEA Program Application?*

Yes, adding additional text entry fields will significantly increase the number of hours spent completing the application, and is unnecessarily burdensome for applicants. We defer to colleagues at Sones & White Consulting on their estimate of the number of additional hours that may be added to completing applications.

2. *Are there any reasons that the CDFI Fund should not collect this information? If yes, what are they?*

CDBA members do not believe that the proposed additional text entry fields would improve the CDFI Fund's ability to gather impact data. Further, such a new requirement will significantly increase the number of hours needed to complete each application. Furthermore, we believe the benefit of collecting responses in this way is negligible, and perhaps misleading, as the data cannot be accurately aggregated or analyzed across all awardees due to a varying definitions in the proposed picklist fields without better common definitions.

The addition of new fields, whether text boxes or pick lists, is a further complication. Reporting this information is iterative, complex, and unreliable. These proposals would require banks to assign employees to draft narrative descriptions for each commercial loan, requiring review of original documentation and industry specific research. The data entry and quality assurance efforts that would follow would be enormous. This would all be complicated by the challenges in reporting large quantities of data under AMIS. It will impose significant new costs to the banks, including modification to each banks' core system, internal data collection infrastructure, and staff training. None of the commercially available core systems on the market are set up to collect, store and report this type of data. Altogether, the burden imposed by these fields, far outweighs any likely benefits, and would lead to sharp reductions in BEA Program participation.

3. *Is there any additional information or data that demonstrates the impact of program related investments that the CDFI Fund should consider? If yes, list and describe them.*

The benefit of collecting the proposed business and impact descriptions is questionable from a public policy perspective, as the data cannot be aggregated or analyzed without common definitions. As discussed, reporting this information is further complicated by the challenges in reporting large quantities of data under AMIS. As above, the burden imposed by these fields, far outweighs any likely benefits, and would lead to sharp reductions in BEA Program participation.

8. *The CDFI Fund is considering adding . . . fields to collect basic information on the affordability of financial products reported to the CDFI Fund in the BEA Program Application for award consideration. This data will be used to perform future analyses to better understand the affordability of program related lending and may inform future policy considerations. This data will be used to perform future analyses to better understand the affordability of program related lending and may inform future policy considerations. For BEA Qualified Activities that are loans, Applicants will be asked to provide:*

Interest Rate, Interest Type, and Term: Applicants will input the interest rate, select the interest type as either 'Fixed' or 'Variable,' and provide the Term as the number of months. These fields will provide important insight into the pricing and terms offered to borrowers that receive loans from BEA Program Applicants.

Origination Fees and Points: Applicants will input this numerically as basis points. This field will help the CDFI Fund to better understand the overall cost of loans made by BEA Program Applicants.

1. *How much of a burden will the collection of this information be for Applicants?*

Similar to the costs of business and impact descriptions, the cost for the banks to modify their existing systems to collect and report this information will be enormous and will likely exceed the set-up and on-going data collection expenses. As above, the burden imposed by these fields, far outweighs any likely benefits, and would lead to sharp reductions in BEA Program participation.

2. *Are there any reasons that the CDFI Fund should not collect this information? If yes, what are they?*

For applicants with many eligible transactions to enter, this could add a large increase in the time burden of completing the application. The additional cost and time burden of the proposed new reporting requirements will greatly exceed any reasonable cost-benefit analysis given the modest size of the average BEA award. We also note that Congress' intent in creating the BEA Program was to incentivize banks to increase the dollar volume of their activities in distressed communities and other categories of Qualified Activities. To that end, we suggest the CDFI Fund consider whether the significant new data collection requirements would be so burdensome as to undermine congressional intent and discourage banks from engaging in certain beneficial activities.

3. *For all BEA Qualified Activities: Is there any additional information or data that demonstrates the affordability of program related loans or investments that the CDFI Fund should consider? If yes, list and describe them.*

CDBA members consistently work to ensure customers have been offered products that are affordable and consumer-friendly. In lieu of imposing new data reporting requirements, we would be happy to engage in a conversation about setting affordability standards for products to be BEA Qualified Activities. We believe this could achieve the same objective without creating new data collection requirements.

Other BEA Program-Related Topics and Considerations

1. BEA Program Categories, Subcategories and Qualified Activities Definitions

a. New Qualified Activities

1. *Are there any loan, investment or service activities not currently considered BEA Program Qualified Activities that the CDFI Fund should consider adding? If so, indicate what the activity is, describe it, and explain why the CDFI Fund should consider it. Also, describe the benefits of the activity to CDFIs, residents or businesses in Distressed Communities.*

We suggest that the CDFI Fund consider adding an “Other Consumer Loans” category that has either a higher dollar limit (or no dollar limit) than the Small Dollar Consumer Loans category. We note that this category would be useful as certain loans such as residential and education loans are represented, while other Consumer Loans only count if they are Small Dollar Consumer Loans.

We would also like to reiterate our recommendation from 2019 that the BEA Program give consideration for loans made to a borrower when the bank first made a prior loan to a project for another purpose. For example, a borrower may have initially obtained a loan for acquisition of a property. At a subsequent time, the borrower may secure financing for construction while refinancing the acquisition loan into a new loan. In such a circumstance, only the net additional financing can be reported for BEA purposes. The rationale is that it is not a “new” loan— rather, it is considered a renewal. CDBA recommends that this policy is revisited and that at least partial credit is allowed.

2. *The CDFI Fund does not currently have a specific Qualified Activity type for working capital or equipment loans. These types of loans are typically reported as Small Business Loans if the borrower meets the size eligibility standards. Should the CDFI Fund consider introducing a new Qualified Activity type specifically for working capital or equipment loans for businesses located in Distressed Communities that do not meet the criteria for a Small Business Loans? Please explain why or why not.*

CDBA does not oppose adding a new category for working capital or equipment loans, but has not received any recommendations from its members suggesting that such a new category is necessary or on how it should be defined.

3. *The CDFI Fund does not currently have specific guidance for reverse mortgages. A reverse mortgage is a mortgage loan available to homeowners 62 years of age and older, usually secured over a residential property that enables the borrower to access the unencumbered value of the property. Should the CDFI Fund consider introducing reverse mortgages as a new Qualified Activity type or consider revising the definition of Affordable Housing Loan to include reverse mortgages? Please explain why or why not.*

CDBA does not believe the BEA program needs to expand to include reverse mortgages, as this type of financing is not typically offered by CDFI banks or other financial institutions that are eligible applicants under the BEA Program. At the same time, these products should not receive a blanket exclusion. While there may be CDFI banks that offer these loans occasionally and in a responsible manner, there is no compelling support that they are aligned with BEA program goals.

b. *Existing Qualified Activities*

1. *Are there any loans, investments, or service activities that are currently considered BEA Program Qualified Activities for which the CDFI Fund should consider updates to the definition? If so, indicate the Qualified Activity and explain why the CDFI Fund should consider revising the definition.*

No, the list of Qualifying Activities incentivizes banks in appropriate ways to provide benefits to DCs.

2. *Are there any loans, investments, or service activities that are currently considered BEA Program Qualified Activities that the CDFI Fund should consider eliminating? If so, indicate the Qualified Activity and explain why the CDFI Fund should consider eliminating it.*

Over the past several years, very few banks have continued making education loans. The CDFI Fund should consider whether the line item for education loans has become irrelevant.

3. *For Small Business Loans, which are Qualified Activities in the Commercial Loans and Investments subcategory of the Distressed Community Financing Activities category, the CDFI Fund instructs Applicants to use the size eligibility standards adopted by the U.S. Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.01) for determining whether a loan to a borrower is eligible to be reported as this Qualified Activity. Is there any other criteria the CDFI Fund should consider for determining whether a loan to a borrower is eligible to be reported as a Small Business Loan? If yes, please describe the criteria and explain why the CDFI Fund should consider it.*

The CDFI Fund should generally ensure the consistency of reporting across programs. Until Rule 1071 is finalized by the Consumer Financial Protection bureau (CFPB), the SBA's standards are correct. Afterwards, BEA should conform as closely as possible to both SBA and CFPB standards.

However, we respectfully echo the suggestion of colleagues at Sones & White Consulting that the CDFI Fund should consider revisions to the definitions of Small Business Loans (SBL)

and Small Dollar Loans (SDL). First, we recommend that the Fund consider revising the definition of SBL to eliminate the size requirement for businesses that are integrally involved in one or more Distressed Communities. Any business loan made to a business that predominantly employs residents of a distressed community (DC) or that provides goods or services within a DC should qualify for purposes of BEA, no matter the size of the business.

Related, with respect to the definition of SDL, we believe the CDFI Fund should drop the minimum loan amount threshold (currently \$500). There is no reduction in the potential positive individual impact of a smaller loan, and banks that make smaller loans should receive credit for them.

4. *The CDFI Fund currently values the administrative cost of providing certain Financial Services using the following per unit values: \$100.00 per account for Targeted Financial Services, including safe transaction accounts, youth transaction accounts, Electronic Transfer Accounts and Individual Development Accounts; \$50.00 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services; \$5.00 per check cashing transaction; \$50,000 per new ATM installed at a location in a Distressed Community; and \$500,000 per new retail bank branch office opened in a Distressed Community, including school-based bank branches approved by the Applicant's Federal bank regulator. Should the CDFI Fund consider updates to the valuation of these administrative costs? If so, indicate the Financial Service, suggested value, and explain why the CDFI Fund should consider revising the value.*

Yes, the CDFI Fund should consider updates to the valuation of all of these administrative costs. These costs have increased significantly over time, and recently, quite sharply. For example, one CDBA member that is increasing technology investment to better respond to the needs to rural communities, reports that new Interactive Teller Machines (ITM) cost around \$70,000 to purchase and deploy, including the security equipment required to be on the machine as well. This cost does not include the annual service fee, personnel to load the ITM, balance transactions, security monitoring and the costs for live call agents who host personal service for all the ITMs. This would be an additional cost of \$10,000 - \$12,000. Other CDBA members have reported similar front end costs and other annual maintenance fees.

2. Award Selection Process

The Fund has posed several questions regarding potential modifications to the award selection process. For this process, it is unclear that setting maximum dollar amounts for certain categories of eligible activity would represent an improvement to the existing system. For example, we cannot discern whether this would drive an increase in qualifying activities or create a more level playing field for applicants. In the absence of certainty, CDBA strongly urges the CDFI Fund to refrain from amending the current award selection process. BEA has been a highly effective tool to help banks increase their lending, investment and services in the most severely distressed communities in the nation. While we provide comments below on those specific questions, our general comment is that the process should not be changed, since it is effectively furthering the Fund's goal of incentivizing increased investments.

a. Award Amount

1. *Should the CDFI Fund consider awarding eligible applicants who successfully demonstrate increases in more than one BEA category a higher single BEA Program award amount than Applicants who demonstrate an increase in only one BEA category, if both are eligible for the maximum award amount? If yes, explain what should be considered in determining the proportion of the increased award amount. If no, explain why not.*

The CDFI Fund should not award higher amounts to applicants demonstrating increases in more than category. This would unduly penalize applicants who demonstrate qualifying behavior in fewer categories than others, but without a discernable foundation for making the distinction. For example, an increase in one category may have been the result of extraordinary effort in a difficult environment, and these circumstances should not be discounted. The needs of every Distressed Community are different and the strategy of each bank to meet those needs will vary based on the size of institution, breadth and mix of products and services they offer, types of non-bank CDFI partners in the market, and market conditions. The CDFI Fund should not assume that a bank with increases in multiple categories is doing a better job of serving its community than a bank that increased in only one category. The BEA Program should continue to encourage and reward banks for achievement across all or any single Qualified Activity category each and every year.

2. *Should the CDFI Fund establish a minimum dollar amount and/or a maximum dollar amount that may be awarded for the CDFI Related Activities category? Explain why or why not.*

As above, the CDFI Fund should not establish either a minimum dollar amount or a maximum dollar amount that may be awarded for the CDFI Related Activities category. Doing so would fail to capture the variety of needs across communities.

3. *Should the CDFI Fund establish a maximum dollar amount that may be awarded for Distressed Community Financing Activities, CDFI Related Activities, or Service Activities category? Explain why or why not.*

The Fund should not establish separate maximum awards for DCFA, CDFI Related Activities, or Service Activities. Each serves an important function in providing incentives to banks to increase activities in qualified tracts, and an increase in any of these categories should serve as an independent basis for receiving the overall maximum award. Market demand is highly unpredictable and other factors outside of the control of bank can influence in which categories they increase from year-to-year.

4. *Should the CDFI Fund determine actual award amounts by a method other than the existing formulaic award calculation? If yes, please describe the method and note what benefits are offered to Applicants, residents and businesses in Distressed Communities, and/or U.S. taxpayers by implementing this method. Also, indicate if/how the method addresses the following factors noted in Section 1834a(h)(1)(C) of the BEA Statute: degree of difficulty in carrying out activities, community impact, degree of innovative methods for meeting community needs, leverage of qualified activity amounts, total asset size of the Applicant,*

new entrance to providing services in a Distressed Community, need for subsidy, and extent of distress in a community.

For all the reasons discussed above, the Fund should not determine award amounts by any other method. The current BEA award calculation method is clear and transparent. This feature has been a large part of the program's success since the first funding round in 1996. CDBA strongly urges the CDFI Fund to retain the current award calculation process. The use of subjective criteria may be a good fit for the purpose and program objectives of the CDFI Fund's other programs, which fund prospective activities proposed by an applicant. Such criteria, however, are a poor fit for the BEA Program, which is based on a retrospective review of past activities. The existing formula is equitable and appropriate for an award based on past conduct.

b. Award Calculation

1. Is there any additional criteria that the CDFI Fund should consider in the estimated BEA Program award calculation?

No. For all the reasons discussed above, the Fund should not consider any additional criteria.

3. Cap on Qualified Activity Amount

a. What information should the Applicant provide to aid the CDFI Fund in assessing the community benefit of transactions over \$10 million?

We suggest that this topic presents an opportunity for the CDFI Fund to reconsider current policy. The current policy states that "the value of a Qualified Activity for purposes of determining a BEA Program Award shall not exceed \$10 million in the case of Commercial Real Estate Loans or any CDFI Related Activities (i.e., the total principal amount of the transaction must be \$10 million or less to be considered a Qualified Activity)." It is not clear how or whether this policy helps advance the goals of the BEA program.

We join colleagues at Sones & White Consulting in suggesting that a CRE loan or CDFI investment in excess of \$10 million can contribute substantially to a community development purpose and should not be excluded from consideration based solely on its size. In the case of a CRE loan case, we support the ability for a BEA applicant to submit a simple statement that the building is currently, or will be, occupied by a commercial enterprise should therefore be sufficient for the transaction to be a Qualified Activity. A similar requirement for a statement for a CDFI investment explaining how the receiving CDFI is integrally involved in its distressed community should be sufficient.

4. Integral Involvement

a. Should the current definition of Integrally Involved be revised or replaced? If yes, how should the CDFI Fund revise the Integrally Involved definition or what should the CDFI Fund replace the term with?

There are a variety of mechanisms for CDFIs to demonstrate that they are integrally involved in DCs. However, the CDFI Fund can capture more, and impactful activity. One way to do this is to expand the Integrally Involved definition to apply to business borrowers that do not meet the SBA size eligibility standards. This would be a promising line to explore under separate cover, and we urge the CDFI Fund to consider opening the topic to industry comments in the near future.

Conclusion

The members of CDBA sincerely appreciate the opportunity to comment and offer feedback on this important topic. We look forward to working with the Treasury and future discussion on these important issues. Please feel free to contact Brian Blake, Chief Policy Director at (646) 283-7929 or blakeb@pcgloanfund.org, if you have any questions about the positions stated in this letter.

Sincerely,

A handwritten signature in black ink that reads "Brian A. Blake". The signature is written in a cursive style with a horizontal line underneath the name.

Brian A. Blake
Chief Policy Director