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From: Blake, Rachel <rachel.blake@rhls.org>
Sent: Monday, March 17, 2014 10:33 AM
To: NMTC
Cc: Schwartz, Mark
Subject: Comments on NMTC Application; OMB Number: 1559-0016
Attachments: RHLS_Comments_NMTCApplication_March2014.pdf

Mr. Ibanez:

Attached please find comments on the New Markets Tax Credit program application from Regional Housing Legal Services. These comments are submitted in response to the request for comments issued January 14, 2014.

Should you have any questions or need additional information, please do not hesitate to contact us.

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March 17, 2014

Robert Ibanez
NMTC Program Manager
CDFI Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Via email to nmtc@cdfi.treas.gov

Re: Regional Housing Legal Services Comments on New Markets
Tax Credit Program (NMTC Program) Allocation Application (OMB
Number: 1559-0016)

Dear Mr. Ibanez:

Regional Housing Legal Services (RHLS) thanks the Community Development Financial Institutions Fund (CDFI Fund) for the opportunity to comment on the application for the New Markets Tax Credit (NMTC) program.

RHLS is a nonprofit legal services office with unique expertise in affordable, sustainable housing and its related components — community and economic development, utility matters and preservation of home ownership. RHLS provides innovative project and policy solutions that help create sustainable communities offering decent, safe and affordable housing for lower-income Pennsylvanians.

We submit comments in response to the notice issued on January 14, 2014 by the CDFI Fund concerning the application for the NMTC program.

The NMTC Program is Deservedly Award-Winning, but Could Do More for the Low-Income People in the Areas the Program Targets

The New Market Tax Credits (NMTC) program was created in 2000, with a goal of creating "jobs and material improvement in the lives of residents of low-income communities."¹ At RHLS, we know first-hand the value that NMTC-supported projects can bring to low-income communities. In

¹ Internal Revenue Service, *New Markets Tax Credit*, May 2010, available at <http://www.irs.gov/pub/irs-utl/atgnmtdc.pdf> (last accessed December 9, 2013).

Philadelphia, RHLS was involved with Project H.O.M.E.'s Wellness Center and Community Legal Services' new offices in North Philadelphia, which were both supported through NMTC. These two facilities bring significant resources and support to lower-income communities and the individuals who live there. The program has been effective at spurring investment in low-income communities -- more than \$20B in private capital, which has leveraged another \$25B from other public and private sources² and created 500,000 jobs.³

We applaud the NMTC community and the CDFI Fund for these accomplishments. But, as the community and the CDFI Fund know well, the needs in the targeted communities are deep. If there is more that we can do within the parameters of the NMTC program to meet its goal of increasing access to jobs and improving material conditions for the low-income people in the targeted communities, we must do it.

There is more the program can do. Given that the goal is to improve the lives of the *people*, we believe that there must be a more concerted effort to ensure that the program is meeting that goal. While many of the projects funded with NMTC funds do meet those goals, the rules of the program only require that development, which is one of the largest constituent parts of the program, be located in a low-income neighborhood. It does not require that the low-income *people* benefit directly.

However, one of the four allowed uses of NMTC investment is focused on the people -- financial counseling and other services. The statute defines "financial counseling and other services" ("FCOS") as: "financial counseling and other services specified in regulations prescribed by the Secretary to *businesses located in, and residents of, low-income communities.*"⁴ Guidance from the Community Development Financial Institutions Fund (the "CDFI Fund") defines "financial counseling and other services" (FCOS) as "'advice' provided by the CDE [Community Development Entity] relating to the organization or operation of a trade or business, including non-profit organizations."⁵ FCOS activities can include, but are not limited to: business plan development, assistance with business financials, assistance in securing

² New Markets Tax Credit Coalition, *The New Markets Tax Credit Economic Impact Report 2003 - 2012: Measuring the Direct and Catalytic Impact of New Markets Tax Credit Investments*, December 2012, p. 1, available at <http://nmtccoalition.org/wp-content/uploads/NMTC-Economic-Impact-Report.pdf>.

³ *Id.*

⁴ 26 U.S.C. § 45D(d)(1)(C).

⁵ Community Development Financial Institutions Fund, *New Markets Tax Credit Compliance and Monitoring Frequently Asked Questions*, May 2009, available at: http://www.novoco.com/new_markets/resource_files/compliance/cme_faq_0509.pdf.

financing, and assistance with general business operations.⁶ These services can be provided by the CDE directly or by contract.

Although FCOS is an authorized use of funds, less than one-half of one percent of the total NMTC investment has been allocated to FCOS. FCOS is an important part of the overall design of the NMTC program. Low-income communities need physical development and they also need investment in the people and businesses in those neighborhoods.

FCOS services to businesses are ideally suited to smaller, start-up businesses. Since 99% of all inner-city businesses are small businesses, and most of those businesses hire of local residents. It makes sense to support these organizations with FCOS to help meet the goal of increasing employment for low-income residents of the targeted areas and improving their material conditions.

In addition, we believe the CDFI Fund has unnecessarily limited the scope of FCOS to individuals. There are established programs with demonstrated effectiveness at helping increase employment that include activities that are excluded under the current guidance on FCOS (such as LISC's Financial Opportunity Centers and the Bloomberg Funded Financial Empowerment Centers). We think that is an error.

With the need to increase funding for FCOS and to reward those CDEs that invest in FCOS, we have several suggested changes to the NMTC program application.

The NMTC Fund Should Revise the Application to Encourage Investment in Financial Counseling and Other Services

1. "Priority points" for "*demonstrating a track record of serving Disadvantaged Businesses or Communities*" (p. 10).

The priority points that are allocated for capital and technical assistance to Disadvantaged Businesses or Communities could be clarified to include FCOS investments and/or reinvestment of funds into businesses providing economic and community development services to low-income communities, if allowed by the Secretary.

2. "Innovative Investments" (p. 18)

FCOS should be listed in the examples of "Innovative Investments".

⁶ Id.

3. "Experience Deploying Capital or providing *Financial Counseling and Other Services*" (p. 29-30)

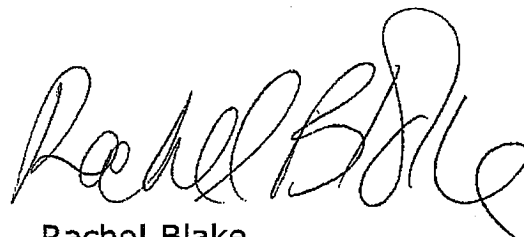
This section should make clear that CDEs can contract with organizations to provide the financial counseling and other services and the expertise of those organizations will be considered.

These changes to the application would raise the profile of FCOS, help applicants see where FCOS fits into the current framework, and enable them to understand how they can provide those services.

Sincerely,



Mark Schwartz
Executive Director



Rachel Blake
Associate Director