

Lummi Community Development Financial Institution, 501 (c) (3)

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December 2, 2022

Ms. Jodie Harris, Director
U.S. Department of Treasury
Community Development Financial Institutions Fund Washington, DC



RE: CDFI Certification Application (OMB Control Number: 1559-0028)

Dear Director Harris,

Request: Lummi Community Development Financial Institution (CDFI), a Native CDFI, strongly urges the CDFI Fund to delete, exempt Native CDFIs, or conduct further study before implementing several of the proposed amendments to the CDFI Certification Application (OMB Control Number: 1559-0028).

We are writing as the Lummi CDFI, a Native CDFI located in and serving a target market of Native entrepreneurs, individuals and families within Lummi Nation and Whatcom County. This letter is in response to the recent proposed changes to the certification requirements for the Community Development Financial Institutions. Below are specific issues of great concern and impact to the work of Native CDFIs.

Lummi CDFI, established as a Washington State chartered non-profit 501c3 in 2006, provides financial education, loans and credit building tools for Native entrepreneurs and community members. **LCDFI's Mission is: "To provide access to education, financing, and asset growth, in order to improve the prosperity and well-being of Native American families."**

For the past 15 years, Lummi CDFI has deployed over \$4M in revolving loan funds to tribal entrepreneurs in the Whatcom County region and reaching into Northwest Washington State. Currently, 57 revolving loan accounts totaling \$1.9M is actively working in the community. In addition, we provide one-on-one coaching, technical assistance, and access to financial tools such as Individual Development Accounts (IDAs) designed to assist families achieve financial and savings goals in the areas of credit building, home repair, education, and small business. It is important to recognize that many of our clients and inquiries participating with our technical assistance, coaching, and training, achieve a desired goal that results in their improved financial well-being without taking out a small business or consumer loan.

Concerns

We feel very strongly that this proposal is misguided and needing additional input. We understand the Fund is trying to be good stewards and protect the CDFI Certification brand, however, we are concerned that some of the proposed changes present challenges to Native CDFIs or organizations seeking Native CDFI certification. We are concerned that what you have outlined as proposed changes will lead to and make it more difficult for Native CDFIs to become certified or maintain their certification. The proposal will put in jeopardy the mission of Native CDFIs and the flexibility that we need to serve our communities.

Below is our response to proposed changes to CDFI Certification:

1. Restrictions on Real Estate Mortgage Lending and Terms.

Proposed changes causing concern include:

- NO negative amortization, interest-only payments, or balloon payments

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- Adjustable-rate mortgages underwritten at the maximum rate in the first five years
- Original maximum term of 30 years

The term "mortgage limitations" is broad and leaves too much gray area for non-compliance. Is it the intent of this change to place a limitation on mortgage type loans? Or is the CDFI Fund trying to convey that all loans with real estate as collateral are included in this restriction? If it is the latter, then many CDFI's and their programs would be out of compliance. For example, many CDFIs, and Lummi CDFI is considering to, take real estate as a form of secondary collateral for small business financing. Bridge and pre-development loans would also be out of compliance. The recommendation is to refine what is meant by "mortgage limitations" to specify consumer real estate loan products with a primary residence as collateral.

Also, many CDFIs, are doing what might be considered "balloon payment" types of loans for home construction that helps the individual qualify for conventional mortgages from other local lenders with that mortgage loan assuming the balance of that construction loan. This helps clients that might not otherwise qualify for full home construction mortgage loan.

Collectively, Native CDFIs have supported many Native clients in becoming successful homeowners through these loan products. Altogether, according to Native CDFI Network's November 2022 survey results, over one-third (38.10%) of Native CDFIs currently provide one or more of these types of loans, which would be disallowed under the proposed CDFI Certification Application and policies. This prohibition would significantly reduce the ability of Native individuals and families to achieve housing security and become homeowners.

Recommended Action: We would highly suggest there be clarification on the terminology used, when this is applicable (or not), exceptions (if any) such as when used as 'additional collateral' for small business loans.

2. Limiting Development Services.

The proposed change is the requirement to offer at least one Development Service, directly tied to at least one Financial Product, that is ongoing at least 4x per year; and demonstrate that they maintain control over the content and delivery parameters of their Development Services.

There are many CDFI's that are small and leverage internal technical assistance and coaching with outsourced development services to other entities we work with in the Northwest. These include close partner entities such as Oregon Native American Chamber, SBA's, Oweesta, ONABEN, SBDC's, Sister Sky, and other technical service providers. The provision as stated above prohibits the outsourcing of these services and wastes time and money duplicating those services that could be shared. As we read the requirements that "do not allow" regarding development services, it is our recommendation that any changes presented by the CDFI Fund around development services should be dropped.

Also, activities "not considered Development Services" includes: "Workshops for children or conferences/workshops for broad audiences." Clarification is needed if this includes Native CDFIs that bring financial literacy (and related topics) to schools and/or community members/families such as financial tools (i.e., IDA/savings, credit builder, home budgeting, 18 Money, etc.) that include parents/guardians and education in setting up a bank account, creating savings practices, managing credit cards/credit, guarding against fraud, etc. Youth financial literacy is crucial to our membership and clientele with the intent of bringing better knowledge and consistent support for the next generation to handle their financial resources and grow assets.

Again, it needs to be stressed that Native CDFIs have as a core mission to prepare our clients to successfully pursue their ambitions of homeownership, small business development, or accumulate assets. All development services may or may not lead to a lending relationship which we deem as acceptable to the primary objective. And, it goes without saying that development services for a small

Native CDFI are a real challenge to monetize with excess loan income, grant funding, or partnerships as described earlier.

Recommended Action: Exempt Native CDFIs from these proposed changes.

2. Board Approved Strategic Plan.

The proposed requirement of submitting a "Board Approved Strategic Plan" creates more problems. What constitutes a Strategic Plan? How often does this plan need to be adopted? What will it cost a small organization to create a Strategic Plan? Most of the Native CDFI's have small staff who are already at maximum capacity serving their communities. This requirement will force most of these organizations to seek outside consultation to create a plan.

In addition to establishing the entities that offer financial products to underserved populations, Native CDFI's also focus resources in building the capacity and skills of staff, volunteer Board and Committee members, and close community partners and clients who have little or no experience utilizing financial loans or tools, regardless if the participant is a current or future borrowing client. Our general consistent missions are to help our communities achieve financial literacy and well-being. Native CDFI's create methods for working partnerships with Tribes and other Community entities while honoring Sovereign and Treaty Rights (i.e., creating MOA/MOUs, contracts for services, adding resources for loan capital, etc.). Native CDFI's navigate through non-existent or policy limited relationships (meaning that tribal policies and requirements limit the way they can conduct business and/or contract with outside non-profits, such as state-chartered entities). Native CDFIs help create new channels of opportunity, such as offering a path to SBA forgivable Payment Protection Program loans when mainstream banks rejected them. This work is a primary function of "Community Development," which is a foundational purpose for CDFI's.

Recommended Action: Clarify the definition of a required "Strategic Plan" and the frequency this is to be completed. Consider the resource impact (financial and time), especially for smaller Native CDFIs, to meet this requirement.

3. Governing Board.

Proposed changes include accountability requirements that exclude: (1) staff members of the Applicant and/or its Affiliates/Subsidiaries and their families, (2) board members with and active Financial Product from the Applicants, and (3) board members that receive financial compensation for their services (other than board service-related expenses). These points become an issue as the Native population is by the far the smallest of the Other Target Populations (OTP) groups. In addition, a large majority of Native CDFIs serve rural and remote areas with limited populations. These factors often make attracting qualified board members quite challenging. Excluding board members with family relations or who have an active loan with the Native CDFI whose board they are sitting on could put many Native CDFIs at risk of falling below the CDFI Fund's proposed Accountability requirements.

Furthermore, Native CDFIs strive to use qualified local contractors whenever possible. Sometimes a board member is the most qualified person to perform a contracted service for the organization. According to NCN's November 2022 survey results, over one-third (37.21%) of Native CDFIs have board members that are related to staff, and almost 40% (39.53%) of Native CDFIs have made loans to board members (these board members will not qualify as Accountable even if their organization already has bylaws that address conflicts of interest, potentially preventing some Native CDFIs from meeting the proposed Accountability requirements). As most Native CDFIs, Lummi CDFI has developed and follow strong conflict of interest policies to address these issues while still allowing for the most qualified individuals to serve in important board and staff positions. Policies also include a definition of 'closely related parties' to clarify when conflict of interest measures, such as recusing, are implemented.

Recommended Action: Clarify the parameters, definitions, and application of these Accountability exclusions.

Conclusion

Thank you for this provision to provide comments to the CDFI Fund on proposed certification changes. Lummi CDFI is proud of both the individual and collective work being done by all Native CDFIs, which is a relatively new industry for Indian Country economic and community development. We feel we have been dutiful to the current and past CDFI Fund standards and are committed to conforming accordingly.

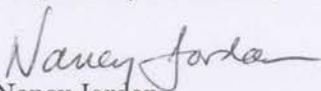
Lummi CDFI is also an active participant with the CDFI Coalition, Opportunity Finance Network (OFN), OWEESTA, and the Northwest Native Lending Network (NNLN). NNLN was officially formed under and recognized by the Affiliated Tribes of Northwest Indians (ATNI) in 2019, by ATNI Resolution #19-18, a membership of 15 Native CDFI's and Tribal loan funds located in the Pacific Northwest.

As a member of the Northwest Native Lending Network (NNLN), we do think it necessary to impart some perspectives on Indian Tribes and the communities we serve. Our past survey results suggest a large percentage of our populations do not have existing bank relationships, small numbers of small business and homeowners, and often a majority living paycheck- to-paycheck. Our early Native CDFI leaders saw this tool as a way to introduce our community in the most helpful way to obtain favorable lending and services to help navigate the complexities of homeownership and small business development. We feel strongly we have been true to that mission and frankly concerned that the proposed CDFI certification standards will confound and impede that effort.

For the above reasons, we respectfully request the Fund not finalize the CDFI Certification Application and policies until these issues of grave concern to Native CDFIs are addressed through direct consultation between the Department of the Treasury/CDFI Fund and Native CDFIs. To that end, we call upon the Treasury and the CDFI Fund to convene a formal listening session on the CDFI Certification Application and Target Market Assessment Methodologies with all due haste.

We have every intention of building and growing the financial service industry within Native Communities and remain hopeful the CDFI Fund can be the partner with which to eventually evolve to greater levels of depository lending, bond financing, and New Market Tax Credits. With only 63 Native CDFI's across the nation with 574 Federally recognized Tribes, there is a lot of work to be done. We stand ready to advance these efforts toward equal success and opportunity for our communities.

Respectfully Submitted,



Nancy Jordan
Interim Executive Director
Lummi CDFI