

# 2008 NMTC Allocation Application Q & A Document

## Community Development Financial Institutions Fund

*This document revises and updates the Q&A Document originally published on December 21, 2007. Modifications were made to Q&A #7, Q&A #12, Q&A #29, Q&A#40, and Q&A #41; and two new Q&As have been added (#35 and #44).*

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- (18) What terms and conditions will be placed upon Applicants that receive NMTC Allocations from the Fund?*
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### **Questions on the NMTC Allocation Application Contents**

- (20) When requesting NMTC Allocations from the Fund, should the Applicant ask for the total amount of equity it intends to raise through NMTCs, or should it ask for the total value of the tax credits that will be available to its investors?*
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- (25) If an Applicant intends to use part or all of the QEI proceeds to capitalize an Affiliate CDE (e.g., capitalize a Subsidiary CDE bank), how should it complete the Allocation Application?*
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- (27) Who can be considered a Controlling Entity, for purposes of demonstrating an organizational track record? Can an individual be considered a Controlling Entity? Can an Applicant have more than one Controlling Entity? Can an Applicant identify the parent of its parent company as a Controlling Entity?*
- (28) If the Applicant (or Controlling Entity) engages in activities through one or more subsidiary entities, am I permitted to present these activities on a consolidated basis for the purposes of completing the tables in Exhibit A?*
- (29) What data should I be providing in the tables in Exhibit A?*
- (30) There are some activities that are not clearly prohibited by the IRS Tax Regulations, but that are also not clearly allowed. If my business strategy falls within one of these more undefined areas, how will my application be scored by the Fund?*
- (31) What is a non-real estate versus real estate QALICB?*
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- (33) What are some examples of permissible and non-permissible activities for organizations that answer “yes” to Question #27b?*
- (34) Questions #29 and #30 in the Allocation Application ask the Applicant to quantify the community and economic impacts it hopes to achieve, and to describe the underlying methodologies and assumptions supporting its projections. Should such assumptions also include a discussion of means by which the Applicant intends to achieve its goals?*
- (35) In Table C1, is the Applicant permitted to include information pertaining to both its QLICI-type activities and its non-QLICI type activities?*
- (36) Tables 1-4 in Exhibit D include a column heading “Years with (or years providing services to) the Applicant.” In completing this information, may a start-up entity refer to the years of service that an individual provided to its Controlling Entity?*
- (37) How should an Applicant disclose the use of consultants on the Application?*
- (38) What documents are considered acceptable to demonstrate investor commitments for Table E1?*
- (39) My organization has not yet received commitments from its investors. Will this prevent it from scoring well under the Capitalization Strategy section of the application?*
- (40) What types of income qualify as fees for Table FI? How will this information, and the narrative responses to Q.54 and Q.56 of the application, be considered by reviewers?*

### **Questions on Proportional Allocations of QEIs to Non-Metropolitan Counties**

- (41) What is the definition of a Non-Metropolitan County?*
- (42) How will the Fund ensure a proportional allocation of QEIs to Non-Metropolitan Counties?*
- (43) My organization is focused on an urban market. It does not intend to make any investments in Non-Metropolitan counties. Will it be disadvantaged in the 2008 application round?*
- (44) The CDFI Fund requires that prior-year allocatees wishing to apply for additional allocation authority achieve certain minimum threshold requirements for issuing QEIs from those prior year awards. Assuming there is an NMTC allocation round in 2009, will the 2008 round allocatees that commit to provide a significant amount of investments in Non-Metropolitan Counties receive any consideration with respect to these QEI issuance requirements?*

### **Contact Information**

- (45) Who can I contact if I have more specific questions?*

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### ***Questions on the NMTC Program***

**(1) *How does the New Markets Tax Credit (NMTC) Program work?***

The NMTC Program permits taxpayers to claim a credit against Federal income taxes for Qualified Equity Investments (QEIs) made to acquire stock or a capital interest in designated Community Development Entities (CDEs). Designated CDEs must use substantially all of the proceeds from the QEIs to make Qualified Low-Income Community Investments (QLICIs). The tax credit provided to the investor (either the original holder or a subsequent purchaser) is claimed over a seven-year credit period. In each of the first three years, the investor receives a tax credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the next four years, the value of the tax credit is six percent annually. The Community Development Financial Institutions Fund (the Fund) certifies CDEs on an ongoing basis, and allocates NMTC Allocations annually to select CDEs through a competitive application process.

**(2) *What is a CDE?***

A CDE is any duly organized entity that is treated as a domestic corporation or partnership for federal tax purposes and that: (a) has a primary mission of serving, or providing investment capital for, low-income communities or low-income persons; (b) maintains accountability to residents of low-income communities through their representation on any governing board of the entity or any advisory board to the entity; and (c) has been certified as a CDE by the Fund.

The Fund is currently accepting applications from organizations seeking designation as CDEs. An organization seeking such a designation should review the Fund's CDE Certification Guidance and a document titled "CDE Certification Q&A" prior to submitting its CDE Certification Application to the Fund. These documents are available on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov). Community Development Financial Institutions (CDFIs) certified by the Fund and Specialized Small Business Investment Companies (SSBICs) licensed by the Small Business Administration (SBA) are deemed to automatically meet the requirements for certification as a CDE, and need only register on-line at the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).

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### **Questions on Eligibility and CDE Certification**

#### **(3) Who is eligible to apply for NMTC Allocations?**

In order to be eligible to apply for NMTC Allocations from the Fund in the 2008 Allocation round, an Applicant must: (a) be legally incorporated or formed as a domestic corporation or partnership for Federal tax purposes; (b) have a valid Employer Identification Number (EIN) at the time of application submission; and (c) be certified as a CDE by the Fund or have a CDE Certification Application pending with the Fund. Entities seeking a 2008 NMTC Allocation must submit a CDE Certification Application that is Postmarked\* on or before **February 6, 2008. An entity whose CDE Certification Application is not submitted to the Bureau of Public Debt (BPD) within this timeframe is not eligible to apply for a 2008 NMTC Allocation.**

*\*As defined by 26 CFR 301. 7502-1. In general, the Fund will require a postmark date that is on or before the applicable deadline. The document must be in an envelope or other appropriate wrapper, properly addressed and deposited in the U.S. mail. The document may be delivered by the United States Postal Service or any other private delivery service designated by the Secretary of the Treasury. For more information on designated delivery services, please see IRS Notice 2002-62, 2002-2 C.B. 574*

#### **(4) What are the deadlines and dates that I need to know if my organization intends to apply for NMTC Allocations in 2008?**

<b>Deadline</b>	<b>Deadline Date</b>
<b>CDE Certification:</b> If the Applicant has not yet been certified as a CDE (see Q&A #3), its CDE Certification Application must be...	<u>Postmarked</u> on or before February 6, 2008
<b>Questions Regarding Application:</b> The last date to contact the Fund with any questions regarding completion or submission of the 2008 Allocation Application is...	5:00 pm, ET, on March 3, 2008.
<b>Request to modify CDE Certification service area</b> (see Q&A #10): Requests must be <u>received</u> by...	5:00 pm, ET, on March 5, 2008
<b>Application:</b> Online Allocation Applications must be <u>submitted electronically</u> by...	5:00 pm, ET, on March 5, 2008
<b>Signature page and attachments for the electronic application</b> (see Q&A #14): must be...	<u>Postmarked</u> on or before March 7, 2008
<b>QEI Issuance thresholds</b> (see Q&A #7): Previous Allocatees must meet the necessary QEI issuance thresholds by...	11:59 pm, ET, on June 13, 2008
Allocatees requiring any action by the Fund (e.g., certifying a subsidiary CDE; adding a subsidiary CDE to an allocation agreement) must submit their requests to the Fund by	5:00 pm, ET, on March 28, 2008.
<b>Final Award Decisions</b> to be announced. . .	October 2008

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- (5) *My organization submitted its CDE Certification Application prior to the February 6, 2008 deadline, and received a confirmation that it was received. Will the Fund be able to make a determination regarding my certification status prior to March 5, 2008? If not, how will this affect my ability to submit an NMTC Allocation Application to the Fund?***

Due to the volume of CDE Certification Applications that are expected to be submitted before the applicable deadline, the Fund may not complete reviews on all CDE Certification Applications prior to the applicable Allocation Application due date. However, the Fund will review Allocation Applications from organizations that have not yet received a certification determination, provided that their CDE Certification Applications were Postmarked on or before February 6, 2008. The Fund will not make Allocation awards to organizations until such time as they have been certified as CDEs. Accordingly, organizations will likely know their certification status in advance of the award decisions.

- (6) *Is an entity that has previously received an NMTC allocation, a CDFI Program or a BEA Program award (or an Affiliate of such an awardee) eligible to apply for NMTC Allocations?***

Prior awardees of any component of the Fund's CDFI Program, Bank Enterprise Award (BEA) Program, or any other Fund program, and prior Allocatees under the NMTC Program, are generally eligible to apply for NMTC Allocation under the 2008 Allocation round. However, if certain circumstances exist with respect to prior awards made to the Applicant or its Affiliates (e.g., previous incidents of default; failure to meet reporting requirements; a balance of undisbursed funds), the application may be deemed ineligible. Please refer to Section III of the NOAA for a complete description of this eligibility criterion.

Applicants that have previously received an NMTC allocation (or whose Affiliates have previously received an NMTC allocation) are further required to demonstrate that they have issued a requisite minimum amount of QEIs from their prior allocation(s) in order to be eligible. Please refer to Section III of the NOAA for a complete description of these eligibility thresholds.

The Fund will only consider as "issued" those QEIs that have been recorded and finalized (as opposed to listed as "pending") in the Fund's Allocation Tracking System. Allocatees and their Subsidiary transferees, if any, are advised to access the Fund's Allocation Tracking System to record and finalize each QEI that they issue to an investor in exchange for cash. Allocatees that require certain action by the Fund (e.g., certifying a subsidiary entity as a CDE; adding a subsidiary CDE to an Allocation Agreement; etc.) in order to meet their QEI issuance requirements must be sure to submit their requests by March 28,

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2008 in order to guarantee that the Fund completes all necessary approvals prior to the QEI issuance deadline of June 13, 2008.

The Fund will also consider the extent to which the Applicant (and any entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, as determined by the Fund) has complied with the terms and conditions and other requirements of any previous or existing assistance, Allocation or award agreements with the Fund.

Accordingly, Applicants that are prior awardees or Allocatees under any other Fund program are advised to:

- (a) Submit all required reports by the deadlines specified in the assistance, Allocation or award agreements governing said prior awards or Allocations and to comply with all requirements found therein;
  - (b) Contact the appropriate program operations representative of the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of prior awards and/or the issuance of any QEIs; and
  - (c) Confirm that any entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, and is a prior Fund awardee or Allocatee, has submitted all required reports to the Fund and is taking all necessary actions for the disbursement of any outstanding balances of any prior awards and/or the issuance of any QEIs.
- (7) *How does the CDFI Fund determine whether an applicant with prior-year CDFI Fund awards has a balance of “undisbursed funds”?***

The CDFI Fund examines the aggregate of applicable CDFI, Native Initiatives Funding and BEA Program awards made to the Applicant (including awards made to any entity that Controls the Applicant, is Controlled by the Applicant, or shares common management officials with the applicant, as determined by the Fund) to determine whether more than 5% of the total award amount has not yet been disbursed as of the 2008 NMTC application deadline. If undisbursed funds exceed this 5% threshold, then the application will be deemed ineligible.

With respect to the CDFI Programs (Financial Assistance; Technical Assistance; Core; SECA) and Native Initiatives Program, the CDFI Fund will only take into account awards made during FY 2003, 2004, 2005 and 2006 (“includable CDFI/NI awards”). With respect to the BEA Program, the Fund will only take into account awards made during FY 2003, 2004 and 2005 (“includable BEA awards”). The total amount of each award will be summed, as will the total amount of each award that remains undisbursed as of the application deadline.

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If the sum total of award balances that remain undisbursed exceeds 5% of the sum total of all awards, then the application will be deemed ineligible.

The “undisbursed award funds” calculation does not include: (i) NMTC Program awards; (ii) any award funds for which the Fund received a full and complete disbursement request from the awardee by the NMTC application deadline; (iii) any award funds for an award that has been terminated in writing by the Fund or deobligated by the Fund; or (iv) any award funds for an award that does not have a fully executed assistance or award agreement.

See “undisbursed award funds” calculation example on the following page:



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Prior Awardee Name	Prior Award Number	Fund Program	Prior Award Amount	Amount Disbursed By CDFI Fund As of Application Deadline*	Undisbursed Funds
<b>CDFI and NI Program Awards</b>					
FY 2008 Applicant or Affiliate	011CD00XXXX	CDFI	\$ 100,000	\$ 100,000	\$ -
FY 2008 Applicant or Affiliate	021CD00XXXX	CDFI	\$ 200,000	\$ 150,000	\$ 50,000
FY 2008 Applicant or Affiliate	031CD00XXXX	CDFI	\$ 300,000	\$ 300,000	\$ -
FY 2008 Applicant or Affiliate	041CD00XXXX	CDFI	\$ 400,000	\$ 400,000	\$ -
FY 2008 Applicant or Affiliate	051CD00XXXX	CDFI	\$ 500,000	\$ 400,000	\$ 100,000
FY 2008 Applicant or Affiliate	031NA00XXXX	NI	\$ 175,000	\$ 175,000	\$ -
FY 2008 Applicant or Affiliate	061NA00XXXX	NI	\$ 275,000	\$ 250,000	\$ 25,000
Above CDFI and NI Amounts Not Includable (gray shaded)			\$ (300,000)	\$ (250,000)	\$ (50,000)
<b>Includable CDFI and NI Program Awards</b>			<b>\$ 1,650,000</b>	<b>\$ 1,525,000</b>	<b>\$ 125,000</b>

<b>BEA Program Awards</b>					
FY 2008 Applicant or Affiliate	011BE00XXXX	BEA	\$ 150,000	\$ -	\$ 150,000
FY 2008 Applicant or Affiliate	021BE00XXXX	BEA	\$ 250,000	\$ 250,000	\$ -
FY 2008 Applicant or Affiliate	031BE00XXXX	BEA	\$ 350,000	\$ 300,000	\$ 50,000
FY 2008 Applicant or Affiliate	041BE00XXXX	BEA	\$ 450,000	\$ 450,000	\$ -
FY 2008 Applicant or Affiliate	051BE00XXXX	BEA	\$ 550,000	\$ 550,000	\$ -
FY 2008 Applicant or Affiliate	061BE00XXXX	BEA	\$ 650,000	\$ -	\$ 650,000
Above BEA Amounts Not Includable (gray shaded)			\$ (1,050,000)	\$ (250,000)	\$ (800,000)
<b>Includable BEA Program Awards</b>			<b>\$ 1,350,000</b>	<b>\$ 1,300,000</b>	<b>\$ 50,000</b>

**Total Includable Awards** **\$ 3,000,000** **\$ 2,825,000** **\$ 175,000**  
**Percentage Undisbursed (\$175,000 / \$3,000,000)** **5.8%**

**Conclusion - Undisbursed amount exceeds 5% of the total includable awards, so applicant is deemed ineligible to participate in the funding round.**

\* - includes requests for disbursement received as of the application deadline.

**Explanation of Award Number: 021 CD 00XXXX**

1st 2 digits - FY of Award →  
 4th and 5th digits - type of award  
 (CD - CDFI Program  
 BE - BEA Program  
 NA - Native Programs)

In this example, the total includable CDFI and NI awards are \$1,650,000, of which \$125,000 is undisbursed, and the total includable BEA awards are \$1,350,000 of which \$50,000 is undisbursed. Therefore, the total includable awards are \$3,000,000 of which \$175,000 remains undisbursed. Since this \$175,000 exceeds five percent of the total includable awards of \$3,000,000 (the actual percentage as shown above is 5.8%), this applicant would be deemed ineligible to participate in the FY 2008 allocation round.

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**(8) *If my organization intends to transfer all or part of an NMTC Allocation to one or more Subsidiaries, do the Subsidiaries need to be established and certified as CDEs prior to submission of the Allocation Application?***

No. An Applicant will not be required to form and secure CDE certification for Subsidiary entities prior to the submission of its Allocation Application. However, once selected for an Allocation, the Allocatee will not be permitted to transfer any of its Allocation to Subsidiaries unless those Subsidiaries have been: (a) certified as CDEs by the Fund; and (b) identified by name in the Allocatee's Allocation Agreement. Such Subsidiaries must either be signatories to the Allocation Agreement at the time of closing or added to the Allocation Agreement via amendment after closing. Allocatees must submit such request for amendments to the Fund for approval and processing. Upon review, The Fund may, in its sole discretion, amend the Allocatee's Allocation Agreement to add Subsidiary entities that were not yet formed and/or certified as CDEs at the time of the Allocatee's receipt of a NMTC Allocation.

**(9) *Can a non-profit entity apply for a NMTC Allocation?***

Only a for-profit CDE may offer NMTCs to investors because the investors must purchase stock or capital interests in the CDE. However, a non-profit CDE may apply for a NMTC Allocation with the intention of transferring the Allocation to one or more for-profit Subsidiary CDEs. The for-profit Subsidiaries do not have to be formed at the time that the non-profit CDE applies for an NMTC Allocation. However, at least one for-profit Subsidiary transferee: (i) should submit a CDE Certification Application to the Fund within 30 days after the non-profit CDE receives a Notice of Allocation from the Fund; and (ii) must be certified as a CDE prior to the Fund entering into an Allocation Agreement with the non-profit CDE and that Subsidiary transferee. The NMTC Allocation transfer must be pre-approved by the Fund, and will be a condition of the Allocation Agreement.

**(10) *In Question #10 of the Allocation Application, can I designate a service area that is different than the service area that I was certified for in my CDE Certification Application?***

The service area designated in Question #10 of a CDE's NMTC Allocation Application must be consistent with (i.e., identical to or a subset of) the service area that the Applicant was certified for in its CDE Certification approval letter, or in the case of an Applicant that has not yet been certified, the service area requested in its CDE Certification Application. The CDE certification process does not require a CDFI or SSBIC to designate a service area, but the Fund expects a CDE that is a CDFI to designate (in its response to Question #10 of the Application) a service area that is consistent with its target market designated under the CDFI Program.

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In the event that an Applicant who is not a CDFI/SSBIC intends to amend its CDE certification service area prior to submitting its Allocation Application, it may do so by sending an email to the CDFI Fund's Helpdesk at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov), with the subject line, "NMTC Program: Revision of Service Area." In this email, a CDE should include, for itself and any Subsidiary CDEs for which it is seeking to amend a service area: (1) the CDE certification control number; (2) the initial service area designated by the CDE, as well as the revised service area that the organization intends to serve; and (3) a revised Accountability Chart, indicating the most current list of board members and how they are representative of Low-Income Communities in the revised service area. If a CDFI would like to amend its target market, it should contact the program operations staff at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov) or by calling (202) 622-6355 for additional instructions. **Organizations that would like an amended service area to be considered in the context of their 2008 NMTC Allocation Application must submit this information to the Fund no later than 5:00 pm Eastern Time on March 5, 2008.**

### ***Questions on the Process for Applying for and Receiving a NMTC Allocation***

#### ***(11) How can my organization apply for NMTC Allocations?***

An organization interested in applying for NMTC Allocations in the 2008 round must submit its Allocation Application **no later than 5:00 pm Eastern Time on March 5, , 2008**. The Fund requires all Applicants to submit online Allocation Applications. Beginning in mid-January 2008, Applicants may access the online Allocation Application by logging in through myCDFI-Fund on the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov). Applicants that have not already done so are encouraged to register a user account through myCDFI-Fund as soon as possible. Please contact the Fund's IT Help Desk at (202) 622-2455 or [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov) if you are having problems registering under myCDFI-Fund. (For more information on submitting an online Allocation Application, see response to Q&A #12.)

#### ***(12) What is the process for submitting an online Allocation Application?***

To apply online, Applicants must have: (1) Internet Explorer 5.5 or higher or Netscape Navigator 6.0 or higher, and (2) Windows 98 or higher (or other system compatible with the above Explorer and Netscape software). Ideally, Applicants should have a 56 Kbps Internet connection, however, Applicants can use the online Allocation Application with a slower Internet connection. Additionally, as noted in Q&A #11, Applicants will need to establish an account

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with myCDFI-Fund (via the Fund's website [www.cdfifund.gov](http://www.cdfifund.gov)) to access the online Allocation Application.

**Start filling in the online application early.** The Fund recommends that Applicants do not type narrative responses directly into the online Allocation Application. Applicants may consider using another word-processing program (e.g., Microsoft Word) to type narrative responses, which may then be copied and pasted into the appropriate sections of the online Allocation Application. This will help protect Applicants against potential data loss (e.g., if the Applicant's online session times out, the online Allocation Application logs the Applicant out automatically).

**Keep narrative responses concise.** In most questions, Applicants will be limited to responses of no more than 3,000 characters (including spaces and punctuation), or approximately ½ page of text. In questions that require longer responses, Applicants will be permitted to enter up to 10,000 characters, or approximately 2 pages of text. Specific character limitations are clearly identified in each question requiring a narrative response. The electronic application does not permit an Applicant to save a response that has exceeded the designated character limits, so Applicants should review responses and edit them as necessary to ensure they comply with the stated character limitations. All narrative answers must be in plain text form only. The online Allocation Application will not accept any special formatting (e.g., bolding or underlining), charts, tables or other graphics not required in the application.

***(13) What attachments am I required to submit with my Allocation Application, and how do I submit them?***

The attachments requested by the Fund in the NMTC Allocation Application are as follows:

- An unmodified signature page, signed by the Authorized Representative;
- Investor letters to support data provided in Table E1; and
- Organizational charts as requested in Question #33.

**Only those attachments requested by the Fund will be considered as part of the review process.** Furthermore, the Fund will not accept any revisions or amendments to an application or the attachments once they have been submitted for review.

Once you have submitted your online Allocation Application, the system will provide instructions for submitting the signature page and any required attachments. The authorized representative must sign the unmodified, signature page. An original and four copies of this signed signature page, and

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## Community Development Financial Institutions Fund

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all attachments (in a single package), should be sent to the Bureau of Public Debt, as instructed in the application materials, and must be postmarked on or before March 7, 2008.

Some delivery companies do not provide overnight delivery to BPD's location. It is the Applicant's responsibility to select an appropriate company and to track the package for date and time of delivery. **If a signature page, with the correct signature, is not Postmarked by the applicable deadline, the entire Allocation Application will be rejected without further review.** If other attachments are not received by the applicable deadline, these items will not be given consideration as part of the review process.

**(14) *Will the information that I provide in my Allocation Application be accessible by the general public?***

The CDFI Fund does not publish proprietary or confidential information submitted by Applicants as a general practice. However, any information submitted by Applicants in Allocation Applications may be released pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and other federal laws and regulations. In general, FOIA makes a federal agency records available to the public, unless the information requested is exempt from disclosure. Trade secrets and commercial or financial information submitted by Applicants may be exempt from disclosure pursuant to the FOIA. Applicants should consult their legal counsel for further guidance on this matter.

**(15) *Can more than one Affiliated entity or member of a Common Enterprise submit an application?***

**No. Entities that are Affiliates may only collectively submit one Allocation Application per year under the NMTC Program.** An Affiliate is an entity that Controls, is Controlled by or is under common control with another entity (as determined by the Fund). Both the terms "Affiliate" and "Control" are defined in the Glossary of Terms that accompanies the Allocation Application. As an example, entity ABC is Controlled by entity XYZ. XYZ also Controls entity DEF, which in turn Controls entity HIJ. ABC, XYZ, DEF and HIJ are all considered Affiliates. Only one of these entities can submit an application in any given round. An Applicant may, however, under certain circumstances submit a consolidated application on behalf of one or more Subsidiary entities.

In addition, an entity (or its Subsidiary Allocatees) that receives an allocation may not become an Affiliate or member of a Common Enterprise (see below) with another entity (or its Subsidiary Allocatees) that receives an allocation in the same allocation round at any time after the submission of an Allocation Application to the Fund. This prohibition, however, will not apply when an investor: (i) makes QEIs in multiple Allocatees (or Subsidiary Allocatees) from

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the same allocation round; (ii) was not an Affiliate of any of the Allocatees (or Subsidiary Allocatees) prior to making the QEIs; and (iii) obtains Control of such Allocatees or (Subsidiary Allocatees) solely through common ownership and/or control of their investment decisions after the QEI is made.

In addition to assessing whether Applicants meet the definition of the term “Affiliate”, the Fund will consider: (i) whether the activities described in applications submitted by separate entities are, or will be, operated or managed as a Common Enterprise that, in fact or effect, could be viewed as a single entity; and (ii) whether the applications submitted by separate entities contain significant narrative, textual or other similarities; and (iii) whether the business strategies and/or activities described in applications submitted by separate entities are so closely related that, in fact or effect, they could be viewed as substantially identical applications. In such cases, the Fund reserves the right either to reject all applications received from all such entities or to select a single application as the only one that will be considered for an Allocation.

The Fund reserves the right to examine all facts and circumstances in determining whether multiple entities may constitute a “Common Enterprise.” In evaluating whether multiple entities constitute a common enterprise, the Fund will consider, among other things, whether such entities share: (i) principal or senior management staff or governing or advisory board members; (ii) investments and projects; (iii) investors or other funding sources; (iv) marketing and advertising; or (v) office space or other physical resources. At a minimum, a Common Enterprise would be deemed to exist if a single organization (either on its own or through Affiliated entities) were to Control (as such term is defined by the Fund) multiple organizations that apply for allocations in the same allocation round such that these organizations could, in fact or effect, be viewed as a single entity

**Example 1 [not permissible]:** ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receives an allocation award, and each enters into an Allocation Agreement with the Fund. Subsequently, both organizations contract with a management company (GHI) and, in its role as manager, GHI controls the general management, operations and investment decisions of ABC and DEF. ABC and DEF would be considered Affiliates and part of a common enterprise due to the common management control of GHI, and ABC and DEF would be in violation of their Allocation Agreements and subject to all of the remedies available to the Fund therein.

**Example 2 [permissible]:** ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receive an allocation award, and each enters into an Allocation Agreement with the Fund. Subsequently, each organization contracts with GHI to provide discreet and specific consulting and/or management services (e.g., compliance monitoring;

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loan underwriting], but at no time will GHI assume control over the general management, operations or investment decisions of ABC or DEF. In addition, the parties do not share any of the other items enumerated as indicia of a common enterprise, as set forth above. ABC, DEF and GHI would not be considered Affiliates or part of a common enterprise.

**Example 3 [permissible]:** ABC and DEF are unaffiliated entities, and each applies for an allocation of tax credits. ABC and DEF each receive an allocation award of \$1,000,000, and each enters into an Allocation Agreement with the Fund. JKL is an investor. JKL makes a \$990,000 QEI into ABC and a \$990,000 QEI into DEF, and receives a 99% ownership interest in each of the two organizations. In addition to Controlling both organizations through ownership, JKL exercises Control over the investment decisions of each entity because it has veto authority over the investment decisions made by the managing partners of ABC and DEF. JKL was not an Affiliate of either ABC or DEF prior to making the QEIs in each entity. In addition, except for a common investor (JKL), the parties do not share any of the other items enumerated as indicia of a common enterprise, as set forth above. ABC, DEF and JKL would meet the requirements for the exception to the general prohibition on multiple Allocatees becoming Affiliates or part of a common enterprise, since the common Controlling Entity (JKL): (i) was not an Affiliate of either entity prior to making its QEIs in ABC and DEF and (ii) obtained Control of ABC and DEF solely due to its common ownership and/or control of such entities' investment decisions.

**(16) *Are there any limitations with respect to using NMTCs, or the proceeds of QEIs, in conjunction with other CDFI Fund program awards?***

An investor that is an insured depository institution, or an affiliate of an insured depository institution, may not claim both NMTCs and a BEA Program award for the same investment in a CDFI-CDE.

Example 1: If a bank makes a \$1 million equity investment into a CDFI-CDE that has received NMTC Allocations from the Fund, the bank may use the equity investment for purposes of claiming NMTCs **or** it may use the equity investment to apply for a BEA Program award – it may not claim both.

Example 2: If a bank makes a \$1 million equity investment into a CDFI-CDE that has received NMTC Allocations from the Fund, and the bank also makes a \$1 million loan to the CDFI-CDE, the bank may claim NMTCs on its \$1 million equity investment and use its \$1 million loan to apply for a BEA Program award.

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A Financial Assistance (FA) Component Applicant, its Subsidiaries or Affiliates, may apply for and receive a FA award, but only to the extent that the FA activities are different from those activities for which the Applicant receives a NMTC Program Allocation.

There are currently no other specific prohibitions for using NMTCs or the proceeds of QEIs in conjunction with other Fund programs. Any future limitations will be described in the applicable Notices of Funds Availability (NOFAs) and/or NOAAs that accompany those programs.

**(17) *When will the Fund make Allocation decisions? Can my organization start to offer NMTCs to investors as soon as it receives an Allocation?***

The Fund expects to announce its NMTC Allocation decisions in October of 2008, and execute Allocation Agreements with Allocatees shortly thereafter. As soon as an Allocatee enters into an Allocation Agreement with the Fund, it may offer NMTCs to its investors. Generally, investors may claim NMTCs beginning in the taxable year in which they make a QEI in the Allocatee.

However, a CDE that receives an Allocation of NMTCs in the 2008 Allocation round may, in certain circumstances, offer NMTCs to investors that make QEIs before the CDE's Allocation Agreement is finalized. For purposes of this look-back period, the investor must have made its QEI on or after the date that the NOAA for the 2008 round was published; and the investor's seven-year credit period begins on the date that the CDE enters into an Allocation Agreement with the Fund. The CDE is required to invest substantially all of the investor's QEI proceeds in QLICs within one year of the date that the CDE enters into an Allocation Agreement with the Fund.

**(18) *What terms and conditions will be placed upon Applicants that receive NMTC Allocations from the Fund?***

Each Applicant that is selected to receive a NMTC Allocation must enter into an Allocation Agreement with the Fund before it can designate QEIs and offer tax credits to its investors. The terms and conditions set forth in an Allocation Agreement may include, but not be limited to, the following:

- (a) The amount of the NMTC Allocation;
- (b) The approved uses of the NMTC Allocation (e.g., loans or equity investments to QALICBs, loans to or equity investments in other CDEs, purchase of qualifying loans from other CDEs, etc.);
- (c) The approved service area(s) in which the QEI proceeds may be used;
- (d) The CDE's schedule for obtaining QEIs from investors;
- (e) The level of activity in Non-Metropolitan Counties, as committed to in the application;



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- (f) Reporting requirements for all CDEs receiving NMTC Allocations; and
- (g) Other information, often identified in the “Tips” in the Allocation Application.

If a CDE has represented in its Allocation Application that it intends to invest substantially all of the proceeds from its investors in QALICBs in which persons Unrelated to the CDE hold a majority equity interest, the Allocation Agreement will contain a covenant attesting to such.

**(19) *My organization applied for an Allocation of tax credits in a previous round. How do I access an electronic copy of that application and my debriefing document?***

To access your first round (CY 2001-2002) application or your debriefing document (in the case of an unsuccessful first round Applicant):

- (1) Go to the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).
- (2) Log into myCDFI-Fund, or create an account if you have not already done so.
- (3) On your myCDFI-Fund homepage, under *Quick Links* in the lower right hand corner of the screen, click on the link “2002 NMTC Handbooks”. If you do not see the link, this means that the system did not recognize your organization's EIN as having a 2002 NMTC handbooks account.

To access your second round (CY 2003-2004) application or your debriefing document (in the case of an unsuccessful second round Applicant):

- (1) Go to the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).
- (2) Log into myCDFI-Fund, or create an account if you have not already done so.
- (3) To access your debriefing - on your myCDFI-Fund homepage, in the left menu bar, click on the “Debriefings” link. Only those with “Administrator” privileges to your organization's myCDFI-Fund Account will be able to view the debriefing. If an individual with “User” privileges needs to view your organization's debriefing, s/he will have to be granted “Administrator” level privileges.
- (4) To access your submitted Application - on your myCDFI-Fund homepage, in the left menu bar, click on the “Applications” link, and then click on the “Submitted Applications” link that will appear below the first link.

To access your third round (CY 2005), fourth round (CY 2006) or fifth round (CY 2007) application or debriefing document:

- (1) Go to the Fund's website at [www.cdfifund.gov](http://www.cdfifund.gov).
- (2) Log into myCDFI-Fund, or create an account if you have not already done so.
- (3) To access your debriefing - on your myCDFI-Fund homepage, in the left menu bar, click on the “Debriefings” link. Only those with “Administrator” privileges to your organization's myCDFI-Fund Account will be able to view the debriefing. If an individual with “User” privileges needs to view your

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organization's debriefing, s/he will have to be granted "Administrator" level privileges.

(4) To access your submitted Allocation Application - on your myCDFI-Fund homepage, in the left menu bar, click on the "Applications" link, and then click on the "Submitted Applications" link that will appear below the first link.

If you are having trouble accessing any of the above, please contact our IT Help Desk at [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov) or 202-622-2455.

### ***Questions on the NMTC Allocation Application Contents***

- (20) *When requesting NMTC Allocations from the Fund, should the Applicant ask for the total amount of equity it intends to raise through NMTCs, or should it ask for the total value of the tax credits that will be available to its investors?***

The Applicant's Allocation Application request must be for the amount of QEIs the Applicant intends to raise by offering NMTCs as an incentive. For example, if a CDE wishes to raise \$10 million in equity, it would request a \$10 million Allocation from the Fund – even though the actual amount of NMTCs an investor may claim over 7 years is \$3.9 million (39% of the investment amount). An Allocatee cannot offer NMTCs on equity raised in excess of its NMTC Allocation.

- (21) *Is there a limit to the total NMTC Allocation amount that an Applicant may request in the 2008 Allocation round?***

For the 2008 Allocation round, the Fund has up to \$3.5 billion in Allocation authority available. While there is no firm limit on the amount of Allocations that an Applicant may request, the Fund does not anticipate issuing more than \$125 million in general allocation authority to any one allocatee. In order to receive an Allocation in excess of \$125 million, an Applicant will likely need to demonstrate, for example, that: (i) no part of its strategy can be successfully implemented without an Allocation in excess of \$125 million or (ii) its strategy will produce extraordinary community impact.

- (22) *If an Applicant indicates a minimum allocation amount (Q#58), will the applicant receive at least its minimum request if the applicant receives an allocation award?***

No. There is no guarantee that an Applicant will receive its minimum allocation amount request. An Applicant that indicates a minimum allocation amount may not receive an allocation if the Applicant is recommended for an allocation amount that is less than its minimum request. An Applicant should indicate a minimum allocation amount request only if that amount is critical for it to

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execute its business strategy, and the Applicant can communicate a compelling need for the request

**(23) *The Application includes several “Tips” informing Applicants that responses to certain questions may be used to populate fields in their Allocation Agreements, should they receive an allocation award. Are these the only application-specific items that will be included in the Allocation Agreements for 2008 round allocatees?***

No, not necessarily. While the Fund expects all Allocatees to engage in activities that are generally consistent with the strategies proposed in their applications, and has identified certain requirements which are almost certain to appear in the 2008 round Allocation Agreements, the Fund reserves the right to add other specific requirements to these Agreements as necessary to further programmatic goals.

**(24) *How do I complete the Allocation Application if my organization is a start-up entity?***

A start-up organization that does not itself have a track record of raising capital, offering products and services, creating community impact, etc., may reference the track record of its Controlling Entity as appropriate throughout the Allocation Application. The Fund recognizes that, in circumstances where the Controlling Entity is also a start-up, it will be difficult if not impossible for an Applicant to respond to certain questions (and complete certain tables) related to a prior track record. In such circumstances, the Applicant should be sure to emphasize, under the Management Capacity section, the relevant experiences, knowledge base, and skills of its management team to carry out its prospective activities. (For more information about who is considered a Controlling Entity, see response to Q&A #27 below and tips in the Allocation Application.)

**(25) *If an Applicant intends to use part or all of the QEI proceeds to capitalize an Affiliate CDE (e.g., capitalize a Subsidiary CDE bank), how should it complete the Allocation Application?***

Such an Applicant must be sure to:

- (a) Under Question #14, check “c” and complete the boxes underneath to indicate the type and percentage of QLICI activities that will be carried out by the Affiliate CDE.
- (b) Identify in Question #15 that the Applicant’s business strategy consists solely or partially of capitalizing the Affiliate CDE. An Applicant that intends to capitalize more than one Affiliate CDE (e.g., a CDE bank holding company

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- that intends to capitalize multiple Subsidiary CDE banks) should identify each such Affiliate CDE.
- (c) Answer all questions (and complete all tables and exhibits) as if the Affiliate CDE were itself applying for the Allocation of tax credits. An Applicant that intends to capitalize more than one Affiliate CDE or conduct only a portion of its activities with an Affiliate CDE should consolidate its and its Affiliate CDE's QLICI activities when completing tables and exhibits, but should use the narrative portions of the application to distinguish between the respective roles and activities of each Affiliate organization.
- (d) An Applicant that intends to use more than 15 percent of its QEI proceeds to capitalize a Subsidiary CDE generally may not claim the 5 priority points for investing in an Unrelated entity in Question #28 – even if the Subsidiary CDE intends to use substantially all of the proceeds to invest in Unrelated entities.

**(26) *Is there an example of what format the Fund would like to see in Questions #8a and 8b of the Allocation Application?***

The following are examples of the format, but not the substance, of what the Fund would expect to see in Question #8. For 8a, briefly describe the Applicant's business strategy (including geographic markets; products and services):

*The Applicant will use its NMTC Allocation to provide loans and equity capital investments in low-income communities located in the Delta region. The Applicant will make loans and investments in commercial and residential real estate projects to finance land development, vertical development of office, industrial, tourist, commercial and residential development projects.*

For 8b, describe how the Applicant will utilize its NMTC Allocation to enhance or improve its current activities:

*The NMTC Allocation will enable the Applicant to offer more favorable products to borrowers. With the NMTC Allocation, the Applicant intends to offer loans with interest rates that are generally two percentage points lower than its current offerings and four percentage points below market rates. The Applicant will also use more flexible underwriting standards, such as loan to value ratios as high as 95%.*

**(27) *Who can be considered a Controlling Entity, for purposes of demonstrating an organizational track record? Can an individual be considered a Controlling Entity? Can an Applicant have more than one***

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### ***Controlling Entity? Can an Applicant identify the parent of its parent company as a Controlling Entity?***

An Applicant, in Question #3 of its Allocation Application, may designate any organization as a Controlling Entity, provided that the organization controls the day-to-day management and operations (including investment decisions) of the Applicant, and otherwise meets the definition of a “Controlling Entity” pursuant to the NOAA, Glossary of Terms and related guidance [most notably the “Allocation Agreement Q&A Document” available on the Fund’s website at [www.cdfifund.gov](http://www.cdfifund.gov)]. Individuals, such as principals or the board of directors, cannot be treated as Controlling Entities for the purposes of demonstrating an organizational track record under relevant sections of the Allocation Application and Exhibits. However, an Applicant may describe such individuals’ experience and track record in the Management Capacity section.

With regard to multiple Controlling Entities, the online NMTC Allocation Application is not equipped to accept more than one Controlling Entity. Therefore, Applicants will need to select one Controlling Entity in Question #3 to use throughout the Application to assist in demonstrating track record and in completing related exhibits.

**All Applicants designating a Controlling Entity must identify the entity that has, and is expected to continue to maintain, the power to control the day-to-day management and operations (including investment decisions) of the Applicant and of any Subsidiary entities to which the Applicant may transfer its allocation of tax credit authority.** Should the Applicant receive an NMTC allocation, the entity that is designated as the Controlling Entity will need to continue in that capacity throughout the term of the Allocation Agreement with the Fund.

An Applicant may identify the parent of its parent as its Controlling Entity to demonstrate an organizational track record, provided that the “grandparent” organization has, and is expected to continue to maintain, the power to control the day-to-day management and operations (including investment decisions) of the Applicant and of any Subsidiary entities to which the Applicant may transfer its allocation of tax credit authority.

If the Applicant does not properly fill out the Controlling Entity question or continually references more than one Controlling Entity in the narrative for the Business Strategy (including track record of serving Disadvantaged Businesses or Communities), Capitalization Strategy, Community Impact or the Exhibits, the Applicant is not likely to earn as many points in the review of its application.

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**(28) *If the Applicant (or Controlling Entity) engages in activities through one or more subsidiary entities, am I permitted to present these activities on a consolidated basis for the purposes of completing the tables in Exhibit A?***

Yes -- you are permitted to consolidate the activities of one or more subsidiary entities. For example, if the Applicant (or Controlling Entity) is a bank holding company, you may, in Exhibit A, consolidate the activities of its various subsidiary operating entities (e.g., the bank, the real estate development company, the non-profit Community Development Corporation) and present them as a single set of activities. Just be sure to clearly indicate, in your narrative responses, which entities were responsible for the various activities.

**(29) *What data should I be providing in the tables in Exhibit A?***

Tables 1-4 in Exhibit A should be used to demonstrate the Applicant's (or its Controlling Entity's) overall track record of lending, investing or related activities. An Applicant need only fill out those tables that are pertinent to the types of activities that it intends to pursue with a NMTC Allocation (i.e., the types of activities checked in Q.14 of the Allocation Application). In Exhibit A, you should quantify the Applicant's general track record in the types of QLICI activities that it indicated it would offer in Question 14. For example, if the Applicant indicated that it would provide "investments in, or loans to, real estate QALICBs", then in each of the annual columns in Exhibit A-2 you should quantify any relevant track record the Applicant has of investing in, lending to otherwise supporting real estate businesses overall.

When completing a given table, Applicants should report on the totality of historical activities that could potentially qualify as NMTC investments – not just the portion of those activities that were undertaken in NMTC-eligible low-income communities. In the column "Totals to *Disadvantaged Businesses and Communities (2003-2007)*", you should report the amount of the Applicant's overall activity that was directed to businesses that: a) are located in Low-Income Communities; b) are owned by Low-Income persons; or c) otherwise have inadequate access to investment capital. In narrative to Question 19c, you should describe how you derived the information quantified in the column "Totals to *Disadvantaged Businesses and Communities (2003-2007)*" (e.g., geo-coded the entire outstanding portfolio of loans; conducted a statistical sampling of a subset of recent lending activity; etc.).

Activities that are not eligible for NMTC investments (e.g., residential rental housing; consumer loans) SHOULD NOT be included in the tables in Exhibit A. Applicants may discuss these activities in their narrative response to Question #20 of the Allocation Application.

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Please note that the following changes have been incorporated into the Tables in Exhibit A for the 2008 Application:

- (a) Applicants may choose, at their discretion, to reference either the track record of the Applicant or the Controlling Entity, even if the Applicant has its own distinct track record of activities. Applicants should, however, be sure to address in their narrative responses to Questions #19 and #20 the extent to which the Applicant has itself engaged in these activities.
- (b) In Tables 1-2, an Applicant may indicate the financial contributions of others in financing real estate and non-real estate businesses, in addition to its own capital that it has originated and put at risk. This will enable the Applicant to include projects in which it engaged in financing-related activities such as loan packaging, project management/development, etc.
- (c) Applicants are required to complete a column indicating their experience in supporting activities in non-metropolitan counties; which will enable the Fund to better determine whether the entity should received special consideration as a "Rural CDE" (see Q&A #41 below).

**(30) *There are some activities that are not clearly prohibited by the NMTC Program Income Tax Regulations, but that are also not clearly allowed. If my business strategy falls within one of these more undefined areas, how will my application be scored by the Fund?***

The Fund will evaluate each Allocation Application on a case-by-case basis, and consult with the IRS as necessary, to ensure that the activities proposed are within the guidelines set forth in the NMTC Program Income Tax Regulations. If some or all of the Applicant's proposed activities are not allowable pursuant to the NMTC Program Income Tax Regulations, the Fund may reduce the recommended amount of an Allocation as appropriate, or deny the Applicant a NMTC Allocation entirely.

**(31) *What is a non-real estate versus real estate QALICB?***

For the purposes of completing the Business Strategy section and all relevant exhibits, real estate Qualified Active Low-Income Community Businesses (QALICBs) refers to the development or leasing of a specific real estate project or projects. Investments in real estate businesses (development, management or other) in support of their business operations, as opposed to a specific project or projects, are considered non-real estate QALICB transactions. Transactions

# 2008 NMTC Allocation Application Q & A Document

## Community Development Financial Institutions Fund

*This document revises and updates the Q&A Document originally published on December 21, 2007. Modifications were made to Q&A #7, Q&A #12, Q&A #29, Q&A#40, and Q&A #41; and two new Q&As have been added (#35 and #44).*

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with QALICBs that are involved in all other types of business activities should be classified as non-real estate QALICB transactions regardless of: 1) how the business intends to use the proceeds of the transaction; or 2) whether the business intends to use any real estate owned as collateral for the loan. For example, if an Applicant provided a loan to a childcare provider for the purpose of purchasing the property where the childcare center would be housed, the Applicant would categorize this loan as a non-real estate QALICB transaction. However, if the Applicant provided a loan to a development company for the purpose of building a childcare center, and the organization's primary business is the development of community facilities, this loan would be considered a real estate QALICB transaction.

Notwithstanding the above, loans or investments made to special purpose entities that are principally owned by a non-real estate QALICB, and that were set up specifically to lease property back to the QALICB such that the QALICB is the principal user of the property, may be classified as either a "real estate QALICB" or a "non-real estate QALICB" at the discretion of the Applicant.

***(32) In Question #26(a) of the Allocation Application, how can an Applicant earn the 5 priority points for investing in Unrelated entities?***

An Applicant may earn the 5 Unrelated entity priority points by first identifying the persons who will hold the majority equity interest in the business after the CDE makes the QLICI. Second, the Applicant must determine whether such persons are related to the CDE (within the meaning of IRC § 267(b) and § 707(b)(1)). An Applicant may only earn the 5 priority points if persons Unrelated to the CDE will hold a majority equity interest in the business after the CDE makes a QLICI in the business.

In addition, in order to comply with the terms of the Allocation Agreement, persons Unrelated to the CDE are expected to continue to own a majority equity interest in the business subsequent to the CDE making the QLICI. The CDFI Fund will review any changes in such circumstances on a case-by-case basis. Applicants should refer to IRC §§ 267(b) and 707(b)(1) and consult their own tax advisors for more information about the definition of a related entity.

Please note that the Applicant's response to Question 26(a) will be determinative with respect to whether it is claiming the priority points. Question 26(b), which was added to the 2008 application, should be completed by all applicants regardless of their response to Question 26(a). Sub-question (b) was added to identify Applicants that will have notable relationships, financial or otherwise, with the projects that are financed with the QLICIs. Some examples include, but are not limited to, entities that own more than one percent of the interest in the QALICB, serve as developers or contractors on any



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projects financed by the QLICI, or will receive direct financial benefits from the preferential rates and terms offered by the Applicant.

**(33) *What are some examples of permissible and non-permissible activities for organizations that answer “yes” to Question #27b?***

In Question #27b of the Allocation Application, an Applicant can commit to targeting 75% of the aggregate dollar amount of its QLICIs within Low-Income Communities that are characterized by at least one of the following items: a) high poverty rates (30% or greater), high unemployment rates (1.5 times the national average), or low median family incomes (less than 60% of area median family income); OR b) at least two of items #4-#18 in Question #27a.

**Example 1 [permissible]** – an Allocatee invests \$90 million (90%) of its \$100 million QLICI activities in areas characterized by census tracts with poverty rates greater than 30% (item 1 in Question 27a). This example satisfies the “at least one of items 1-3” in Question 27a requirement, so this qualifies as permissible.

**Example 2 [permissible]** – an Allocatee invests \$75 million (75%) of its \$100 million QLICI activities in two transactions. One eligible deal is in a federally designated Brownfields development area (item 7 in Question 27a) and in a high migration rural county (item 14 in Question 27a); while the other eligible deal is in a HOPE VI redevelopment area (item 8 in Question 27a) and in a Federally Designated Empowerment Zone (item 5 in Question 27a). In this example, both of the transactions satisfy the “at least two of items 4-18” requirement, so this qualifies as permissible.

**Example 3 [permissible]** – an Allocatee invests \$50 million (50%) of its \$100 million QLICI activities in census tracts with an unemployment rate that is 1.7 times the national average (item 3 in Question 29a). It also invests \$25 million (25%) of QLICIs in Non-Metropolitan Census Tracts (item 16 In Question 27a) and in a High Migration Rural County (item 14 in Question 27a). In this example, 50% of the QLICI dollars satisfy the “at least one of items 1-3” requirement, and 25% of the QLICI dollars satisfy the “at least two of items 4-18” requirement. A total of 75% of the QLICI dollars meet the requirements of Question #27b. Therefore, this qualifies as permissible.

**Example 4 [not permissible]** – an Allocatee invests 100% of its QLICIs in an area that is not characterized by any of items 1-3, and is only characterized by one of the criteria in items 4-18 in Question 27a. Although the Allocatee invested 100% of its QLICIs in a Low-Income Community, it failed to satisfy either of the tests in Question #27b, since its QLICIs were made in areas that had only one (as opposed to two or more) of the criteria listed in items 4-18 of Question 27a.

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- (34) Questions #29 and #30 in the Allocation Application ask the Applicant to quantify the community and economic impacts it hopes to achieve, and to describe the underlying methodologies and assumptions supporting its projections. Should such assumptions also include a discussion of means by which the Applicant intends to achieve its goals?**

Yes. In addition to providing empirical data supporting its projections (e.g., historical levels of impacts; assumptions based on industry standards), an Applicant should also discuss the means by which it will achieve its projections; to the extent such means lend support to the Applicant's underlying assumptions. For example, if an Applicant indicates that it will create jobs for residents of low-income communities, and is partnering with a Workforce Investment Board (or similar entity) for employee referrals, then it should discuss how this partnership would enable it to meet its employment goals.

- (35) In Table C1, is the Applicant permitted to include information pertaining to both its QLICI-type activities and its non-QLICI type activities?**

Yes. The Applicant may reference all appropriate historical activities, not just its QLICI-type activities. The Applicant may reference QLICI-type activities discussed in the narrative response to Question 19 and included in the Tables in Exhibit A, as well as non-QLICI type activities discussed in the narrative response to Question 20.

PLEASE NOTE: Certain modifications have been incorporated into Table C1 and the accompanying instructions in the on-line application to help clarify this matter.

- (36) Tables 1-4 in Exhibit D include a column heading "Years with (or years providing services to) the Applicant." In completing this information, may a start-up entity refer to the years of service that an individual provided to its Controlling Entity?**

Yes, provided that the Applicant had consistently referred to the track record of its Controlling Entity throughout its Allocation Application. Also, the Applicant should be sure to indicate, in the relevant narrative portions of its application, that the information provided in Tables D1-D4 refers to the individual's record of service to the Controlling Entity.

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**(37) *How should Applicants disclose the use of consultants in the Application?***

Question #39 of the application requires the Applicant to describe the role of consultants in the design and operation of the Applicant's NMTC program. Applicants should indicate in the degree to which external individuals and organizations may influence the decision making processes of the Applicant's NMTC activities. Applicants must identify each consultant in Table D6, indicating the general area of work conducted by the consultant. Applicants should also provide in the narrative for Question#39 an estimate of the percentage of work to be performed by the consultant.

Please note that, as with the rest of the Tables in Exhibit D, the information provided in Table D6 and the corresponding narrative may be used by the Fund to determine the extent to which multiple applications may be part of Common Enterprise.

**(38) *What documents are considered acceptable to demonstrate investor commitments for Table E1?***

An Applicant who enters information into Table E1 is required to submit attachments validating the following information for each investor: name of investor, dollar amount of equity (or debt, in the case of investments into a pass-through entity) sought or obtained, status of the investment request (e.g., funds received, commitment of funds, letter of interest/intent). If an Applicant answers "Yes" to Question #49a, indicating that it intends to use a pass-through partnership entity to secure investments, the Applicant is expected to list (if applicable) both the debt and equity providers in Table E1; and to submit attachments evidencing the interest of the Equity investors and debt providers into the partnership entities.

Example: The Applicant has a commitment for a \$1 million QEI from ABC Partnership LP, which is using the leveraged QEI structure. ABC Partnership LP will receive \$600,000 in debt from 123 Bank and \$400,000 in equity from XYZ Corporation. To describe this QEI in its application, the Applicant should: (1) list a \$600,000 debt investment from 123 bank and a \$400,000 equity investment from XYZ corporation in Table E1; (2) respond "Yes" to Question #49 and discuss the structure of the QEI from ABC Partnership LP, and the commitments from 123 Bank and XYZ Corporation; and (3) submit documentation evidencing the commitment of (i) 123 Bank to provide the \$600,000 debt investment; and (ii) XYZ Corporation to provide the \$400,000 equity investment.

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If the documents are missing altogether, or do not contain such information to validate the information entered in Table E1, the Applicant will not receive credit for such transactions. Acceptable documents for a commitment include a signed and dated investment agreement or a letter indicating that the investor has made such a commitment. Likewise, a letter indicating that the investor has a demonstrated level of interest (as opposed to a stated commitment) in making an investment shall suffice as a letter of intent/interest. To demonstrate that funds have been received, an Applicant should include both a signed agreement indicating the terms of the equity investment (or debt if applicable) and proof that investment funds have been received by the Applicant (e.g., a copy of a check).

**(39) *My organization has not yet received commitments from its investors. Will this prevent it from scoring well under the Capitalization Strategy section of the application?***

Receipt of investor commitments is not a prerequisite for receiving an NMTC Allocation. Many Allocatees from the 2007 application round, for example, had not yet secured investor commitments at the time of initial application. As stated in the 2008 NOAA (and re-stated in various tips within the body of the Allocation Application):

*An Applicant will generally score well under this section to the extent that: (a) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments (emphasis added); (b) its request for Allocations is commensurate with both the level of Qualified Equity Investments it is likely to raise and its expected investment strategy to deploy funds raised with NMTCs; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to end users; (d) it is likely to leverage other sources of funding in addition to NMTC investor dollars; and (e) it intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC § 45D(b)(1)(B).*

**(40) *What types of income qualify as fees for Table FI? How will this information, and the narrative responses to Q.54 and Q.56 of the application, be considered by reviewers?***

Table FI requires the Applicant to designate the amount and source of any and all fees, compensation and profits received by that Applicant or any of its Affiliates (including, if applicable, investment partnership funds) throughout the seven year compliance period. Any QEI proceeds that are retained by the Applicant must be included in Table FI, whether those monies are charged to investors, borrowers or other entities. For example, a company that retains \$.05 of every \$1.00 in QEI proceeds for NMTC program administrative costs

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would list “500 basis points” in Row 1 under “Total Amount”. However, a company that deploys 100% of QEI proceeds into QLICs and charges a 4% fee to investors at the closing of their QEI investments would list “zero” across Row 1 and “400 basis points” in Row 2 under “Total Amount Charged to Investors”.

The Applicant should reconcile the data provided in Table FI with its narrative for Q. 56 to describe the compensation received through NMTC activities. Part (b) of Q. 56 allows the Applicant the opportunity to justify its fee structure with descriptions of how the income will ultimately benefit the NMTC program and end-users through such uses as program operations, funding reserves or supporting additional investments in low-income communities.

In general, to score well under Q.54 of the allocation application, the CDFI Fund expects applicants to be able to commit to investing at least 95 percent of QEI proceeds as QLICs; and that the fee structure discussed under Q.56 is reasonable relative to the standard fees charged in the marketplace. An Applicant that cannot make this commitment in Q.54 and/or otherwise appears to be charging higher than standard fees may still score well under these questions, provided that the Applicant can demonstrate that these higher costs of operation are critical to support the product offerings and/or will be used to provide additional benefits to the borrowers or low-income communities.

### ***Questions on Proportional Allocations of QEIs to Non-Metropolitan Counties***

#### ***(41) What is the definition of a Non-Metropolitan County?***

Non-Metropolitan Counties are counties not contained within a Metropolitan Statistical Area (MSA), as defined in OMB Bulletin No. 99-04, with respect to the 2000 Census data. This data can be readily accessed by NMTC Program users through the mapping system (CIMS) available in their MyCDFIFund accounts to determine which counties qualify as Non-Metropolitan Counties. Users can either enter a census tract number or geocode an address to determine whether the relevant census tract qualifies as an NMTC-eligible low-income community. Users can then click on the “Reports” tab, and select the “Low-Income Community Worksheet” option. Column 3 of this worksheet will indicate the name of the MSA, or will say “Non-Metropolitan Area” if the census tract is not contained within an MSA.

The CDFI Fund has also made available on its website a list of NMTC-eligible low-income census tracts with a poverty rate of at least 20 percent and/or a median family income that is at or below 80 percent of the relevant area median family income that are located in Non-Metropolitan Counties.

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**(42) *How will the Fund ensure a proportional allocation of QEIs to Non-Metropolitan Counties?***

Pursuant to Section 102(b)(6) of the Tax Relief and Health Care Act of 2006, the Fund is required to ensure that a proportional allocation of QEIs will be provided in Non-Metropolitan counties. As detailed in the 2008 NOAA, the Fund will ensure that: (i) at least 20% of all QLICIs made by allocatees under the 2008 allocation round are invested in Non-Metropolitan cCounties; and (ii) the proportion of awardees that are “Rural CDEs” is, at a minimum, equal to the proportion of applicants deemed eligible for Phase II of review that are Rural CDEs. A “Rural CDEs” is one that has historically dedicated at least 50 percent of its activities to Non-Metropolitan counties and has committed that at least 50 percent of its NMTC activities will target Non-Metropolitan counties.

The Fund will determine whether an applicant qualifies as a Rural CDE based upon its response to Question #25 of the application and the Tables in Exhibit A.. If, after initial allocation determinations are made, there is not an appropriate balance of Rural CDEs in the awardee pool, the Fund will provide allocations to additional Rural CDEs (in descending order of final rank score) until the appropriate balance is achieved. If it is necessary to add additional groups to the awardee pool to achieve this balance, the Fund will provide a uniform, across-the-board percentage reduction to all allocation amounts, so that it remains within the \$3.5 billion in total allocation authority available in the 2008 round.

Question #25 also asks all applicants to indicate both the minimum anticipated amount of QLICIs that will be deployed in Non-Metropolitan counties, and the maximum amount of QLICIs that they are willing to commit to deploy in Non-Metropolitan counties. The Fund will require every allocatee to meet the “minimum” commitment stated in the application. If, after the initial allocation determinations are made, this “minimum” commitment results in less than 20% of the dollars being invested in Non-Metropolitan counties, then the CDFI Fund shall require any or all of the allocatees to direct up to the “maximum” percentage of QLICIs to Non-Metropolitan counties until the 20 percent threshold is met. The Fund will attempt to achieve this balance by applying increases incrementally and uniformly.

**(43) *My organization is focused on an urban market. It does not intend to make any investments in Non-Metropolitan counties. Will it be disadvantaged in the 2008 application round?***

No. As described above, all adjustments to the awardee pool will be made AFTER the initial allocation determinations have been made. All organizations initially selected to receive allocations will receive allocations regardless of geographic focus. The adjustments describe above may result in an across-the-

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board percentage reduction in award amounts for all awardees, but under no circumstances will an awardee fall out of consideration due to its geographic focus.

- (44) *The CDFI Fund requires that prior-year allocatees wishing to apply for additional allocation authority achieve certain minimum threshold requirements for issuing QEIs from those prior year awards. Assuming there is an NMTC allocation round in 2009, will the 2008 round allocatees that committed to provide a significant amount of investments in Non-Metropolitan Counties receive any consideration with respect to these QEI issuance requirements?***

At this time, the CDFI Fund cannot make any guarantees with regard to a prospective 2009 NMTC allocation round. In the event of a 2009 NMTC round, the CDFI Fund will consider excluding from the QEI issuance threshold calculations a certain portion of those QEIs that have been dedicated for investments in Non-Metropolitan Counties by 2008 NMTC allocatees that pledged to invest at least 20 percent of their QLICIs in Non-Metropolitan Counties. .

### Contact Information

- (45) *Who can I contact if I have more specific questions?***

Topic of Question	Contact
Tax/compliance aspects of the NMTC Program Income Tax Regulations	IRS Email: <a href="mailto:new.market.tax.credit@irs.gov">new.market.tax.credit@irs.gov</a>
CDE certification criteria or process Allocation Application criteria or process	CDFI Fund Program Staff Ph: (202) 622-6355 Email: <a href="mailto:cdfihelp@cdfi.treas.gov">cdfihelp@cdfi.treas.gov</a>
Compliance with previous award, assistance or Allocation agreements	CDFI Fund CME Staff Ph: (202) 622-8226 Email: <a href="mailto:cme@cdfi.treas.gov">cme@cdfi.treas.gov</a>
Technology problems	CDFI Fund IT Staff Ph: (202) 622-2455 Email: <a href="mailto:ithelpdesk@cdfi.treas.gov">ithelpdesk@cdfi.treas.gov</a>

You may contact the Fund with questions until 5:00 pm, ET, on March 3, 2008. After such time, the Fund will no longer respond to questions until after the NMTC Allocation Application deadline has passed.

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***More detailed application content requirements are found in the 2008 NMTC Allocation Application and 2008 NOAA. In the event of any inconsistency between the contents of this Q & A document, the NOAA, the General Guidance, the CDE Certification Guidance, the 2008 Allocation Application, the statute that created the NMTC Program (Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000) (the “Act”), or the NMTC Program Income Tax Regulations, the provisions of the Act and the NMTC Program Income Tax Regulations shall govern.***

***All terms and phrases that are Capitalized in this document are defined in the Glossary of Terms contained in the Allocation Application.***