



**Community
Development
Financial
Institutions
Fund**

NMTC Program

New Markets Tax Credit 2011 Application Q&A

May 2011

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I. 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 CDFI 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 *Community Development Entity (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 CDFI Fund.

The CDFI Fund is currently accepting applications from organizations seeking designation as *CDEs*. An organization seeking such a designation should review the CDFI Fund's *CDE Certification Guidance* and a document titled "*CDE Certification Q&A*" prior to submitting its *CDE Certification Application* to the CDFI Fund. These documents are available on the CDFI Fund's website at www.cdfifund.gov. *Community Development Financial Institutions (CDFIs)* certified by the CDFI 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 CDFI Fund's website at www.cdfifund.gov.

(3) What are the deadlines and dates that I need to know if my organization intends to apply for NMTC Allocations in 2011?

Deadline	Deadline Date
CDE Certification: If the <i>Applicant</i> has not yet been certified as a <i>CDE</i> (see Q&A #4), its <i>CDE Certification Application</i> must be...	<i>Postmarked</i> on or before June 22, 2011.
Request to modify CDE Certification service area (see Q&A #28): Requests must be <u>received</u> by...	5:00 pm, ET, on June 22, 2011.
<i>Allocatees</i> that require the CDFI Fund to certify <i>Subsidiary CDEs</i> in order to meet the <i>QEI</i> issuance thresholds must submit their Certification Application for <i>Subsidiary CDEs</i> by . . .	5:00 pm, ET, on July 8, 2011.
Questions Regarding Application: The last date to contact the CDFI Fund with any questions regarding completion or submission of the 2011 <i>Allocation Application</i> is...	5:00 pm, ET, on July 25, 2011.
Application: Online <i>Allocation Applications</i> must be <u>submitted electronically</u> by...	5:00 pm, ET, on July 27, 2011.
Application Attachments: Supporting documents must be submitted electronically by...	5:00 pm, ET, on July 29, 2011.
<i>Allocatees</i> that require the CDFI Fund to add certified <i>Subsidiary CDEs</i> to an Allocation Agreement in order to meet the <i>QEI</i> issuance thresholds must submit their Allocation Agreement Amendment requests to the CDFI Fund by . . .	5:00 pm, ET, on September 13, 2011.
QEI Issuance thresholds (see Q&A #7): Previous <i>Allocatees</i> must meet the necessary <i>QEI</i> issuance thresholds by...	11:59 pm, ET, on October 14, 2011.
Final Award Decisions to be announced. . .	January 2012.

II. QUESTIONS ON ELIGIBILITY AND CDE CERTIFICATION

(4) Who is eligible to apply for NMTC Allocations?

In order to be eligible to apply for *NMTC Allocations* from the CDFI Fund in the 2011 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 CDFI Fund or have a *CDE Certification Application* pending with the CDFI Fund. Entities seeking a 2011 *NMTC Allocation* must submit a *CDE Certification Application* that is *Postmarked** on or before **June 22, 2011**. **An entity whose *CDE Certification Application* is not submitted within this timeframe is not eligible to apply for a 2011 *NMTC Allocation*.**

**As defined by 26 CFR 301. 7502-1. In general, the CDFI 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*

(5) My organization submitted its *CDE Certification Application* prior to the June 22, 2011 deadline, and received a confirmation that it was received. Will the CDFI Fund be able to make a determination regarding my certification status prior to July 27, 2011? If not, how will this affect my ability to submit an *NMTC Allocation Application* to the CDFI Fund?

Due to the volume of *CDE Certification Applications* that are expected to be submitted before the applicable deadline, the CDFI Fund may not complete reviews on all *CDE Certification Applications* prior to the applicable *Allocation Application* due date. However, the CDFI 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 June 22, 2011. The CDFI 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 previously received an *NMTC Allocation*, a CDFI Program award 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 CDFI Fund's CDFI Program, Bank Enterprise Award (BEA) Program, Capital Magnet Fund (CMF), or any other CDFI Fund program,

and prior *Allocatees* under the NMTC Program, are generally eligible to apply for *NMTC Allocation* under the 2011 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.

The CDFI Fund will also consider the extent to which the *Applicant* (and *Affiliates*, as determined by the CDFI Fund) has complied with the terms and conditions and other requirements of any previous or existing assistance, Allocation or award agreements with the CDFI Fund.

Accordingly, *Applicants* that are prior awardees or *Allocatees* under any other CDFI 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 CDFI 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 *Affiliate* that is a prior CDFI Fund awardee or *Allocatee*, has submitted all required reports to the CDFI 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*.

<p>(7) Are CDEs with a prior allocation award(s) required to issue a minimum amount of Qualified Equity Investments in order to be eligible for a subsequent award?</p>
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Yes. *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 CDFI Fund will only consider as “issued” those *QEIs* that have been recorded and finalized (as opposed to listed as “pending”) in the CDFI Fund’s Allocation Tracking System. *Allocatees* and their *Subsidiary* transferees, if any, are advised to access the CDFI 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 CDFI 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 July 8, 2011 in order to guarantee that the CDFI Fund

completes all necessary approvals prior to the *QEI* issuance deadline of October 14, 2011.

Applicants should be aware that these *QEI* issuance requirements represent the minimum threshold requirements that must be met in order to submit an application. As stated in the *NOAA*, the CDFI Fund reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process – including an *Applicant's* track record of raising *QEIs* and/or deploying its *QLICIs*.

(8) 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 Program, Native Initiatives Funding and BEA Program awards made to the *Applicant* (including awards made to any *Affiliate*, as determined by the CDFI Fund) to determine whether more than 5% of the total award amount has not yet been disbursed as of the 2011 NMTC application deadline. Capital Magnet Fund (CMF) Awards will not be considered as part of this calculation for the 2011 NMTC *Allocation Application* round. 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 2006, 2007, 2008 and 2009 (“includable CDFI/NI awards”). With respect to the BEA Program, the CDFI Fund will only take into account awards made during FY 2006, 2007 and 2008 (“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. 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 CDFI 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 CDFI Fund or deobligated by the CDFI 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:

Prior Awardee Name	Prior Awardee Number	Fund Program	Prior Award Amount	Amount Disbursed By CDFI Fund As of		Undisbursed Funds
				Application Deadline*		
CDFI and NACA Program Awards						
FY 2011 Applicant or Affiliate	03CD00XXXX	CDFI	\$ 100,000	\$ 100,000	\$ -	-
FY 2011 Applicant or Affiliate	04CD00XXXX	CDFI	\$ 200,000	\$ 150,000	\$ 50,000	-
FY 2011 Applicant or Affiliate	05CD00XXXX	CDFI	\$ 300,000	\$ 300,000	\$ -	-
FY 2011 Applicant or Affiliate	06CD00XXXX	CDFI	\$ 400,000	\$ 400,000	\$ -	-
FY 2011 Applicant or Affiliate	07CD00XXXX	CDFI	\$ 500,000	\$ 400,000	\$ 100,000	-
FY 2011 Applicant or Affiliate	08NA00XXXX	NACA	\$ 175,000	\$ 175,000	\$ -	-
FY 2011 Applicant or Affiliate	09NA00XXXX	NACA	\$ 275,000	\$ 250,000	\$ 25,000	-
Above CDFI and NACA Amounts Not Includable (gray shaded)			\$ (600,000)	\$ (550,000)	\$ (50,000)	
Includable CDFI and NACA Program Awards			\$ 1,350,000	\$ 1,225,000	\$ 125,000	

BEA Program Awards						
FY 2011 Applicant or Affiliate	03BE00XXXX	BEA	\$ 150,000	\$ -	\$ 150,000	-
FY 2011 Applicant or Affiliate	04BE00XXXX	BEA	\$ 250,000	\$ 250,000	\$ -	-
FY 2011 Applicant or Affiliate	05BE00XXXX	BEA	\$ 350,000	\$ 300,000	\$ 50,000	-
FY 2011 Applicant or Affiliate	06BE00XXXX	BEA	\$ 450,000	\$ 450,000	\$ -	-
FY 2011 Applicant or Affiliate	07BE00XXXX	BEA	\$ 550,000	\$ 550,000	\$ -	-
FY 2011 Applicant or Affiliate	08BE00XXXX	BEA	\$ 650,000	\$ -	\$ 650,000	-
Above BEA Amounts Not Includable (gray shaded)			\$ (750,000)	\$ (550,000)	\$ (200,000)	
Includable BEA Program Awards			\$ 1,650,000	\$ 1,000,000	\$ 650,000	

Total Includable Awards \$ 3,000,000 \$ 2,225,000 \$ 775,000

Percentage Undisbursed (\$775,000 / \$3,000,000) 26%

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

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

Explanation of Award Number: 061 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 \$1,350,000, of which \$125,000 is undisbursed, and the total includable BEA awards are \$1,650,000 of which \$650,000 is undisbursed. Therefore, the total includable awards are \$3,000,000 of which \$775,000 remains undisbursed. Since this \$775,000 exceeds five percent of the total includable awards of \$3,000,000 (the actual percentage as shown above is 26%), this *Applicant* would be deemed ineligible to participate in the FY 2011 allocation round.

(9) 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 anticipated *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 CDFI 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 the initial closing. *Allocatees* must submit such request for amendments to the CDFI Fund for approval and processing. Upon review, the CDFI 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*.

(10) 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 CDFI Fund within 60 days after the non-profit *CDE* receives a *Notice of Allocation* from the CDFI Fund; and (ii) must be certified as a *CDE* prior to the CDFI 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 CDFI Fund, and will be a condition of the *Allocation Agreement*.

III. QUESTIONS ON THE PROCESS OF APPLYING FOR AND RECEIVING AN NMTC ALLOCATION

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

An organization interested in applying for *NMTC Allocations* in the 2011 round must submit its *Allocation Application* **no later than 5:00 pm Eastern Time on July 27, 2011**. The CDFI Fund requires all *Applicants* to submit online *Allocation Applications*. Beginning in late June 2011, *Applicants* may access the online *Allocation Application* by logging in through myCDFI Fund on the CDFI Fund's website at 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 CDFI Fund's IT Help Desk at (202) 622-2455 or 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, CDFI Fund recommends that *Applicants* use Internet Explorer version 8 on Windows XP, and optimally at least a 56Kbps Internet connection in order to meet the electronic application submission requirements. Use of other browsers (e.g., Firefox), other versions of Internet Explorer, or other systems (e.g., Mac) might result in problems during submission of the application. Additionally, as noted in Q&A #11, *Applicants* will need to establish an account with myCDFI Fund (via the CDFI Fund's website www.cdfifund.gov) to access the online *Allocation Application*.

Start filling in the online application early. The CDFI 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 2,000 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), bulleted lists, charts, tables or other graphics not required in the application. Please compose your responses to Application questions without these elements to enhance Application readability for Phase 1 Reviewers.

Allow adequate time to prepare and submit your application. *The CDFI Fund advises all Applicants to submit their electronic application by July 25, 2011.* This is the last day by which *Applicants* can contact the CDFI Fund with questions. If you encounter difficulties after 5:00 PM ET on July 25, 2011, you will not be able to obtain assistance from CDFI Fund staff. In addition, there will likely be considerable traffic on the CDFI Fund's website on July 27, 2011; which may slow down the system and lead to delays in submission.

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

All Applicants will be required to submit attachments electronically through their myCDFIFund account. You will be able to upload the attachments after the application is submitted. After submission, log in to myCDFI Fund, access the *Applicant's* organization, and navigate to Applications /Submitted Applications. Locate and click on the link for the 2011 NMTC application, and go to the Application Status page. Click on the "Upload Attachments" link below the Application Details section and the Upload Attachments page will open. Follow the instructions on the screen to upload your attachments. CDFI Fund recommends that attachments have a size limit of 5 megabytes (MB) in order to ensure submission.

Please expect system slowdowns in the hours immediately preceding the Application due time at 5:00 pm ET on July 27, 2011. If you are unable to submit your attachments at this time, please try again the following day. You will be able to submit your attachments until 5:00 pm ET July 29, 2011.

Attachments must be submitted by 5:00 pm, Eastern Time, on July 29, 2011. If the attachments are not received by the applicable deadline, they will not be given consideration as part of the review process. The attachments requested by the CDFI Fund in the NMTC *Allocation Application* are as follows:

- Investor letters to support data provided in Table E1; and
- Organizational charts as requested in Question 29.
- *Applicant's Authorized Representative* and *Controlling Entity Representative* (if applicable) Signature Pages

Only those attachments requested by the CDFI Fund will be considered as part of the review process. Furthermore, the CDFI Fund will not accept any revisions or amendments to an application or the attachments once they have been submitted for review. As stated in the 2011 *NOAA*, the CDFI Fund reserves the right to reject an

application if the Applicant *Authorized Representative* signature page is not received by the stated deadline.

(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 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.

Should the *Applicant* be selected to receive a New Markets Tax Credit Allocation, the CDFI Fund reserves the right to publish the *Applicant's* response to select questions in the *Applicant* Information Section and Business Strategy section. Currently, this information includes the *Controlling Entity* Name (Q. 3(a)), City and State of *Applicant* Headquarters (Q. 4), Contact Person Information(Q. 5(d)), Service Area (Qs. 7 & 8), Percentage of major urban vs. minor urban vs. rural (Q. 9), Predominant Financing Activity (Q. 10), and Required percentage of activities in Non-metropolitan areas (Q. 22).

The CDFI Fund will also generate a profile of the *Applicant* based on their response to certain questions in the Application. A sample profile is included below:

Template:

_____ (CDE name from Q. 2a) is a _____ (answer to Q. 2c) and will use its 2011 NMTC allocation to predominately provide _____ (answer to Q. 10). The CDE intends to offer: equity (Y/N), *Equity Equivalent* terms and conditions (Y/N), senior debt (Y/N) and/or Subordinated debt (Y/N) (answer to Q. 14(a)) investments. It committed that 100 percent of its investments will _____ (answer to Q. 15).

Template with information for a sample CDE:

XYZ CDE, LLC is a Certified CDFI and will use its 2011 NMTC allocation to predominately provide operating business financing. The CDE intends to offer equity and subordinate debt investments. It committed that 100 percent of its investments will be provided in the form of equity; equity-equivalent financing; debt with interest rates at least 50 percent below market; or debt that otherwise satisfies at least 5 indicia of flexible or non-traditional rates and terms.

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

No. Entities that are *Affiliates*, or members of a Common Enterprise, 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 CDFI 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 CDFI Fund. This prohibition, however, does not apply when an investor: (i) makes QEIs in multiple *Allocatees* (or *Subsidiary Allocatees*) from the same 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 because of common ownership of the *Allocatees* (or *Subsidiary Allocatees*) after making the QEIs.

In addition to assessing whether *Applicants* meet the definition of the term “*Affiliate*,” the CDFI 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 CDFI 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 CDFI 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 CDFI 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 CDFI 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.

In the case of governmental entities, the CDFI Fund may accept applications submitted by *Affiliated* entities, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and are operated and/or managed by distinctly dissimilar boards and staff, including identified consultants. In such cases, the CDFI Fund reserves the

right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the \$125 million cap.

Example 1 [not 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 CDFI 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 CDFI 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 CDFI Fund. Subsequently, each organization contracts with GHI to provide discreet and specific consulting and/or management services (e.g., compliance monitoring; 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 CDFI 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 in that 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 *QEI*s 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 *QEI*s in ABC and DEF and (ii) obtained *Control* of ABC and DEF solely due to its common ownership by making a *Qualified Equity Investment* in each entity.

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

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 CDFI 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 *CDFI* 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.

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.

A Capital Magnet Fund (CMF) Awardee, its Subsidiaries or Affiliates may apply for and receive a NMTC Program Allocation, but only to the extent that the activities used for its CMF award 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 *QEI*s in conjunction with other CDFI 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 CDFI Fund make Allocation decisions? Can my organization start to offer NMTCs to investors as soon as it receives an Allocation?

The CDFI Fund expects to announce its *NMTC Allocation* decisions in January 2012, and execute *Allocation Agreements* with *Allocatees* shortly thereafter. As soon as an *Allocatee* enters into an *Allocation Agreement* with the CDFI 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 2011 Allocation round may, in certain circumstances, offer NMTCs to investors that make *QEI*s 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 2011 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 CDFI Fund. The *CDE* is required to invest substantially all of the investor's *QEI* proceeds in *QLICIs* within one year of the date that the *CDE* enters into an *Allocation Agreement* with the CDFI Fund.

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

Each *Applicant* that is selected to receive a *NMTC Allocation* must enter into an *Allocation Agreement* with the CDFI 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;
- (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 a previous (CY 2003-2010) Application:

- (1) Login to myCDFIFUND and access your organization.
- (2) Click the "Applications" link on the left-hand side of the screen, and then click the "Submitted Applications" sub-link that will appear.
- (3) If you do not see the submitted application, a myCDFIFUND account administrator must allow your access by performing the following steps:
 - (1) Login to myCDFIFUND and access the organization,
 - (2) Click the "Organization Profile" link on the left-hand side of the screen,
 - (3) A new set of sub-links will appear and click the "Users" sub-link,
 - (4) Click the icon next to the name of the user,
 - (5) In the "Section Access" area, click the "Applications" link,
 - (6) Place a checkmark in the "Read/Modify" box for the selected application(s) and click the "Update User Role" button.

To access a previous debriefing(s):

- (1) Login to myCDFIFUND and access your organization.

(2) Click the "Debriefings" link on the left hand side of the screen, and select the debriefing for the year you wish to review.

(3) If you do not have a "Debriefings" link or do not see a debriefing, a myCDFIFUND account administrator must allow your access by performing the following steps:

(1) Login to myCDFIFUND and access the organization,

(2) Click the "Organization Profile" link on the left-hand side of the screen,

(3) A new set of sub-links will appear and click the "Users" sub-link,

(4) Click the icon next to the name of the user,

(5) In the "Section Access" area, click the "Debriefings" link,

(6) Place a checkmark in the "Read/Modify" box for the selected debriefing(s) and click the "Update User Role" button.

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

IV. QUESTIONS ON THE NMTC ALLOCATION APPLICATION CONTENTS

A. SELECTING AN AMOUNT OF NMTCs TO REQUEST

- (20) When requesting NMTC Allocations from the CDFI 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 CDFI 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 2011 Allocation round?**

For the 2011 Allocation round, the CDFI Fund will have the availability of \$3.5 billion in Allocation authority. While there is no firm limit on the amount of Allocations that an Applicant may request, the CDFI 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 (Question 44), 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 execute its business strategy, and the Applicant can communicate a compelling need for the request.

B. GENERAL QUESTIONS ON THE CONTENTS OF THE ALLOCATION APPLICATION

(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 2011 round Allocatees?

No, not necessarily. While the CDFI 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 2011 round *Allocation Agreements*, the CDFI 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 CDFI 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 #26 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 13, 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 14(c) 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 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 23 – even if the *Subsidiary CDE* intends to use substantially all of the proceeds to invest in *Unrelated* entities.

(26) For the purposes of completing the 2011 Application, should the Applicant use 2000 or 2010 Census data to determine and qualify investment activities?

The CDFI Fund recognizes that 2010 U.S. Census data is not likely to be available in sufficient detail prior to the time that an *Applicant* submits its *Allocation Application* to the CDFI Fund, and that *Applicants* are currently relying upon 2000 Census data to identify deals and obtain investor *Commitments*. Currently, *Applicants* are still expected to use 2000 U.S. Census data to determine investment qualifications. Once the U.S. Census Bureau completes its data release of the five-year American Community Survey for 2006-2010 and the CIMS data system is updated based on these data, the CDFI Fund will consult with the IRS and then provide guidance as to how *CDEs* can continue to use 2000 Census data for proposed *QLICs*, while also incorporating the results of the 2006-2010 American Community Survey data.

For additional guidance on what the CDFI Fund expects in an *Applicant's* discussion of a general pipeline of potential NMTC investments, please see Application Q&A #34.

C. APPLICANT INFORMATION SECTION

(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*?

An *Applicant*, in Question 3 of its *Allocation Application*, may designate any organization as a *Controlling Entity*, provided that the organization meets the definition of a “*Controlling Entity*” pursuant to the Glossary of Terms included in the 2011 Application. 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 CDFI 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.

(28) In Questions 7 and 8 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*?

No, the service area must be identical to 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 or has a service area amendment pending, the service area requested in its *CDE Certification Application* or service area amendment. **This is a change for the 2011 Application Round.** The *CDE* certification process does not require a *CDFI* or *SSBIC* to designate a service area, but the CDFI Fund expects a *CDE* that is a *CDFI* to designate (in its response to Question 7 and 8 of the Application) a service area that is identical to its target market designated under the CDFI Program. If an *Applicant* plans to focus its investment on a subset of its service area for a particular Allocation round, it may describe this in the Business Strategy section of the Application.

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 Office of Certification, Compliance, Monitoring and Evaluation at ccme@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 existing 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 ccme@cdfi.treas.gov or by calling (202) 622-6330 for additional instructions.

Organizations that would like an amended service area to be considered in the

context of their 2011 NMTC *Allocation Application* must submit this information to the CDFI Fund no later than 5:00 pm Eastern Time on June 22, 2011.

D. BUSINESS STRATEGY SECTION

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

For the purposes of completing the Business Strategy section and all relevant exhibits, financing provided to real estate *Qualified Active Low Income Community Business (QALICB)* refers to entities whose predominant business activity is the development (including construction of new facilities and rehabilitation/enhancement of existing facilities), management or leasing of real estate.

Transactions with *QALICBs* whose predominant business activity includes all other types of business activities should be classified as non-real estate businesses 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 a 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 transaction. However, if the *Applicant* provided a loan to a real estate development company whose predominant business is the development of community facilities, for the purpose building a childcare center, this loan would be considered financing a real estate transaction.

Notwithstanding the above, loans or investments made to a special purpose entity that is *Controlled* by or under common *Control* with an operating company, and that was set up specifically to lease the property back to the operating company such that the operating company 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 *CDE*. An operating company is considered the principal user of the *QALICB*’s property if it is the occupant of a majority (e.g., greater than 50%) of the rentable square footage of the *QALICB*’s property. The *QALICB* may lease the balance of its property to one or more third parties.

(30) For the purposes of answering Questions 14 and 15, how is the interest rate calculated for NMTC investments made through the A-B leverage structure?

The interest rate should be calculated by taking the weighted average of the interest rate on the A loan and on the B loan, provided these transactions are part of a simultaneous closing. For example, if the interest rate on a \$7 million A loan in the leverage structure is 7.0% and the interest rate on a \$3 million B loan is 1.0%, then the weighted average interest rate will be 5.2%. If the market interest rate was 8.0%, then the interest rate on the NMTC financing would be 35% below market.

For additional guidance on compliance with this requirement, please see the “New Markets Tax Credit: Compliance and Monitoring Frequently Asked Questions” document.

(31) 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 the *Applicant*) and present them as a single set of activities. If the *Applicant* uses its *Controlling Entity*'s track record in Exhibit A, that data may include the *Applicant*'s track record when the *Applicant* is a *Subsidiary* of the *Controlling Entity*. However, please be sure to clearly indicate, in your narrative responses, which entities were responsible for the various activities.

(32) 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 (e.g., the types of activities checked in Question 13 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 #13. 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*. *Applicants* do not need to demonstrate or verify that the activities quantified in the annual columns were provided to businesses that definitively meet the criteria of a *QALICB*. In the column “Totals to *Disadvantaged Businesses and Communities* (2006-2010)”, 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 18(b), you should describe how you derived the information quantified in the column “Totals to *Disadvantaged Businesses and Communities* (2006-2010)” (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 19(a) of the *Allocation Application*.

Please note that the following changes were incorporated into the Tables in Exhibit A starting with 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. Please note that the *Controlling Entity*'s track record may include activities undertaken by the *Applicant*. *Applicants* should, however, be sure to address in their narrative responses to Questions #18 and #19 the extent to which the *Applicant* has itself engaged in these activities.
- (b) In Row 3 of Tables A1-A2, 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 CDFI Fund to determine whether the entity should received special consideration as a "Rural *CDE*" (see Q&A #54 below).

(33) Is the *Applicant* permitted to include information pertaining to both its *QLICI*-type activities and its non-*QLICI* type activities? If so, where should these activities be discussed?

Yes. The *Applicant* may reference all appropriate historical activities, not just its *QLICI*-type activities. In the narrative response to Question 18, the *Applicant* should discuss its *QLICI*-type activities and include these in the Tables in Exhibit A. In the narrative response to Question 19, it should discuss its non-*QLICI* type activities. Non-*QLICI* type activities should not be included in Exhibit A.

(34) What expectations does the CDFI Fund have that the general pipeline projects articulated in response to Question 20 will be completed with the requested NMTC Allocation?

The CDFI Fund does not expect that an *Applicant* will necessarily complete any or all of the projects discussed as part of a general pipeline in its Application. The CDFI Fund recognizes that some projects may become infeasible and new opportunities may arise. However, the CDFI Fund does expect that the *Applicant* will complete projects that are

consistent with the business strategy outlined in Section 1 of the Application and achieve community impacts consistent with the impacts highlighted by the Applicant in Section 2 of the Application. The purpose of Question 20 is for the Applicant to illustrate the types of projects it intends to finance with its NMTC Allocation, to demonstrate an understanding about what types of projects are compatible with the intent of the NMTC program, and to indicate how NMTC financing fits into the overall capital stack of the projects it undertakes. This section also allows the Applicant to demonstrate that it is able to identify and underwrite viable NMTC projects.

Applicants are cautioned against repeating the same pipeline projects in multiple applications without explaining why the projects are reappearing. The CDFI Fund reserves the right to use evidence of repeated pipeline projects to decrease an Applicant's recommended allocation.

(35) 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 CDFI Fund?

The CDFI 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 IRS Tax Regulations. If some or all of the Applicant's proposed activities are not allowable pursuant to the IRS Tax Regulations, the CDFI Fund may reduce the recommended amount of an Allocation as appropriate, or deny the Applicant a NMTC Allocation entirely.

(36) In Question 23 of the Allocation Application, how can an Applicant earn the 5 priority points for investing in Unrelated entities?

An Applicant may earn 5 priority points for committing to use "substantially all" of its QEI proceeds to make investments in one or more businesses in which persons Unrelated to the Applicant hold the majority equity interest ("Unrelated Entities"). Whether a QALICB is related to a CDE is determined under IRC Sections 267(b) and 707(b)(1).

A CDE that has committed to invest in Unrelated Entities will be in compliance with its Allocation Agreement only if persons Unrelated to the CDE will hold a majority equity interest in the QALICB immediately after a QEI is made in the CDE, but before the CDE uses the proceeds of that QEI for making its initial QLICI in the QALICB. The CDE must determine whether such persons are related to the CDE (within the meaning of IRC §267(b) and §707(b)(1)) in consultation with its own tax advisors. The CDFI Fund will assess compliance with the Unrelated Entities requirement at either the Allocatee CDE or Subsidiary CDE level, depending upon which entity receives the QEI investment and makes the corresponding QLICI. The revised rule applies to all QLICIs made on or after April 15, 2010.

Anti-Abuse Provision: The CDFI Fund may review any subsequent changes in *QALICB*, *Allocatee CDE*, or *Subsidiary CDE* ownership resulting in common ownership between the *Allocatee CDE* (or *Subsidiary CDE*) and the *QALICB* on a case-by-case basis to determine whether a principal purpose of a transaction or a planned series of transactions is to achieve a result that is inconsistent with the purposes of this rule.

(37) If an Applicant intends to combine historic tax credits with NMTCs and use a lease pass-through structure in which the CDE will be the 100% owner of the Master Tenant, and therefore a lessee of the QALICB and/or a member of the QALICB, does the Applicant need to describe this relationship in its response to Question 24(c)?

Yes, the *Applicant* should disclose this relationship in Question 24(c). The *Applicant* may discuss how this relationship adds value to the *QALICB* both in the response to Question 24(c) and in the response to Question 24(f). The scoring criteria do not penalize the *Applicant* for using a lease pass-through structure to twin New Markets Tax Credits with Historic Tax Credits, provided the *Applicant* articulates how this structure adds notable added value to the *QALICB*.

E. COMMUNITY IMPACT SECTION

(38) What are some examples of permissible and non-permissible activities for organizations that answer “yes” to Question 25(a)?

In Question 25(a) 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) severe distress, *Non-Metropolitan Counties*, or targeted populations; OR b) at least two of items 4-16 in Question 25(a).

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 25). This example satisfies the “at least one of items 1-3” in Question 25 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 25) and in a Federal Native Area (item 9 in Question 25); while the other eligible deal is in a HOPE VI redevelopment area (item 8 in Question 25) and in a Federal Economic Development Zone (item 5 in Question 25). In this example, both of the transactions satisfy the “at least two of items 4-16” requirement in Question 25, so this qualifies as permissible.

Example 3 [permissible] – an *Allocatee* invests \$50 million (50%) of its \$100 million *QLICI* activities in an area of severe distress with high poverty rates (30% or greater) (item 1 in Question 25). It also invests a \$25 million (25%) *QLICIs* in Colonias areas (item 11 In Question 25) and in a Local Economic Zone (item 13 in Question 25). 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 4-16” requirement. A total of 75% of the *QLICI* dollars meet the requirements of Question 25. 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 4-16 in Question 25. Although the *Allocatee* invested 100% of its *QLICIs* in a *Low-Income Community*, it failed to satisfy either of the tests in Question 25(a), since its *QLICIs* were made in areas that had only one (as opposed to two or more) of the criteria listed in items 4-16 of Question 25(a).

(39) Can the Applicant discuss indirect or induced jobs in its response to Question 26(a)(1), Job Creation?

No, only direct jobs may be discussed in response to Q.26(a)(1). An *Applicant* can discuss the extent its investments will result (or have resulted) in indirect jobs in its response to Question 28 on the catalytic impact of its investments.

(40) Question #26(a)(4) asks the Applicant whether it expects its investments in QALICBs will result in the provision of goods and services to Low-Income Persons or residents of Low-Income Communities. What are some examples of goods and services to Low-Income Communities?

QALICBs that provide goods and services to Low Income Communities and Low Income People include both for-profit and non-profit *QALICBs*. Examples of for-profit *QALICBs* include, but are not limited to: restaurants, dry cleaning, retail shopping, pharmacies or full service supermarkets and other fresh food options. Examples of non-profit *QALICBs* that provide services to *Low-Income Persons* or *LIC* residents include, are but not limited to, charter schools, healthcare or childcare facilities or facilities that provide social services or job training. *Applicants* will be scored more favorably if they illustrate that the goods and services offered by these *QALICBs* meet demonstrated community needs.

(41) Question #26(c) in the Allocation Application asks the Applicant whether it will commit to providing at least 20% of developed units as affordable housing units. If an Applicant’s response is “No”, what information should an Applicant disclose in providing a justification?

An *Applicant* will generally obtain a higher score if it responds “Yes” to Question 26(c) when its NMTC activities include financing housing units. The *Applicant* must discuss the affordability of housing in mixed-use projects, if the *Applicant* (or an *Affiliate*) is

providing financing to a mixed use project that includes housing units, even if NMTCs will not be used to finance the housing portion of the project. If the *Applicant's* financing activities will result in the development or rehabilitation of housing units, yet the *Applicant* responds “No” to Question 26(c), then it will need to explain why it does not anticipate meeting this *Commitment* (e.g. its financing sources preclude financing of housing units).

(42) In Question 28, how does the Fund want Applicants to discuss additional private investment as a result of the proposed QLICs described in the Business Strategy section?

To the extent the *Applicant's* pipeline projects are part of or coordinated with local economic development plans, the *Applicant* can discuss the expected additional private investments (e.g., new businesses opened, new housing developed, etc) included in such plans. The *Applicant* should discuss how it will monitor additional investments or economic activity surrounding its *QLICs* going forward. *Applicants* may also discuss the projected amount of indirect jobs or additional dollar value of economic activity projected to be created as a result of the NMTC investment. If the *Applicant* has a track record of financing projects that catalyze additional private investment, the *Applicant* should discuss this track record as a basis for making future projections.

F. MANAGEMENT CAPACITY SECTION

(43) Table C1 includes 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 C1 and C2 refers to the individual's track record of service to the *Controlling Entity*.

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

Applicants must identify each consultant in Table C1, indicating the general area of work conducted by the consultant. *Applicants* should also provide, in the narratives for Questions 30-32, an estimate of the percentage of work to be performed by the consultant. *Applicants* must disclose the use of consultants where applicable and will not be penalized in the Application scoring for the use of consultants. The CDFI Fund recognizes that *CDEs* may gain greater efficiencies by outsourcing certain functions for their NMTC transactions to organizations that have already built the capacity to efficiently manage these processes.

G. CAPITALIZATION STRATEGY SECTION

(45) 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, and *Letter of Interest/Intent*). If an *Applicant* answers “Yes” to Question 37(a), 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 37(a) 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.

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).

(46) 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*. However, the vast majority of *Allocates* from prior application rounds secured some investor *Commitments* at the time of initial application. As stated in the 2011 *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).

(47) In Table E2, can an Applicant rely upon the track record of its Controlling Entity?

In order to list the track record of the *Controlling Entity* in Table E2, the *Applicant* must designate a *Controlling Entity* in Question 3. If the information reflects the *Controlling Entity*, it may include in the aggregate the track record of all *Affiliates*, including the *Applicant*. Be sure to clearly indicate, in your narrative to Question 36, which entities were responsible for the various types and amounts of investments noted in Table E2.

(48) In Question 40, does the Applicant need to indicate that it will be receiving QEIs from an Affiliate if the Applicant or an Affiliate is also a managing or non-managing member of the investment fund created as part of the leverage structure with an ownership interest of less than 1%?

No, the *Applicant* does not need to indicate that they will be receiving *QEIs* from *Affiliates* if they are receiving the *QEIs* through an investment fund in which the *Applicant* or an *Affiliate* is a managing or non-managing member with ownership interest of less than 1%. The *Applicant* only needs to answer “Yes” if an *Affiliate* is either a debt or equity investor in the investment fund itself.

(49) What types of income qualify as fees for Table F1? How will this information, and the narrative responses to Question 42 and Question 43 of the application, be considered by reviewers?

Table F1 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 F1, 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 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 Fund recognizes that the *Applicant* may have different fees associated with its different product lines or different types of *QALICBs* financed. The columns titled

“Low” and “High” allow the *Applicant* to provide a range of fees to reflect the different costs associated with different financing products or business lines. The “Average” column should provide the weighted average fee across the *Applicant’s* different product lines and anticipated investments.

The *Applicant* should reconcile the data provided in Table F1 with its narrative for Question 43 to describe the compensation received through NMTC activities. Part (b) requests additional information on fees charged during multi-*CDE* transactions, if applicable. Part (c) of Question 43 allows the *Applicant* the opportunity to discuss its cost of operations.

In general, to score well under Question 42 of the *Allocation Application*, the CDFI Fund expects *Applicants* to be able to commit to investing at least 95 percent of *QEI* proceeds as *QLICIs*; and that the fee structure discussed under Question 43 is reasonable relative to the standard fees charged in the marketplace. An *Applicant* that cannot make this commitment in Question 42 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.

V. QUESTIONS ON PROPORTIONAL ALLOCATIONS OF *QEIs* TO *NON-METROPOLITAN COUNTIES*

(50) 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 myCDFI Fund 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*.

(51) Question 22(a) requires the *Applicant* to indicate whether at least 50 percent of the *Applicant’s* (or its *Controlling Entity’s*) financing activities have been directed to *Non-Metropolitan Counties*. What activities are eligible to be used as the basis for calculating the 50 percent figure?

Activities will be considered eligible if they are the *Applicant’s* (or its *Controlling Entity’s*) direct financing activities (as shown in Exhibit A) and these activities occurred in *Non-Metropolitan Counties* as defined in OMB Bulletin 99-04. Activities in areas considered rural (as defined in Section 520 of the Housing Act of 1949) that do not lie in *Non-Metropolitan Counties* cannot be included for the purposes of demonstrating a track record of investment in *Non-Metropolitan Counties* in Exhibit A.

(52) How will the CDFI 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 CDFI Fund is required to ensure that a proportional allocation of *QEIs* will be provided in *Non-Metropolitan Counties*. As detailed in the 2011 *NOAA*, the CDFI Fund will: (i) strive to reach the goal that 20% of all *QLICs* made by *Allocatees* under the 2011 allocation round are invested in *Non-Metropolitan Counties*; and (ii) ensure that 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 the dollar value of its direct financing activities to *Non-Metropolitan Counties* and has committed that at least 50 percent of its NMTC activities will target *Non-Metropolitan Counties*.

The CDFI Fund will determine whether an *Applicant* qualifies as a Rural *CDE* based upon its response to Question 22 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 CDFI 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 CDFI 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 2011 round subject to authorization.

Question 22 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 CDFI 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* in an effort to meet the 20 percent threshold. The CDFI Fund will likely attempt to achieve this balance by applying increases incrementally and uniformly. *Applicants* should be careful to select a “maximum” percentage that they will be prepared to meet regardless of the size of their final award.

(53) 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 2011 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 described above may result in an across-the-board percentage reduction in award amounts for potential awardees with non-metropolitan commitments of less than 20%, but under no circumstances will an Applicant fall out of consideration due to its geographic focus.

However, an *Applicant* that: i) makes a minimum commitment of 25 percent or greater in response to Question 22(b), ii) has a track record of at least three years of serving *Non-Metropolitan Counties* and a strong strategy for deploying NMTC investments in these communities; iii) and is ranked highly enough to be considered for an allocation may receive a larger *NMTC Allocation* than would otherwise be the case, regardless of designation as a “Rural *CDE*.”

(54) 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 2012, will the 2011 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?

At this time, the CDFI Fund cannot make any guarantees with regard to a prospective 2012 *NMTC Allocation* round. In the event of a 2012 *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 2011 *NMTC Allocatees* that pledged to invest at least 50 percent of their *QLICIs* in *Non-Metropolitan Counties*.

VI. CONTACT INFORMATION

(55) Who can I contact if I have more specific questions?

Topic of Question	Contact
Tax/compliance aspects of the IRS Tax Regulations	IRS Email: new.market.tax.credit@irs.gov
<i>Allocation Application</i> criteria or process	CDFI Fund NMTC Program Staff Ph: (202) 622-6355 Email: cdfihelp@cdfi.treas.gov
<i>CDE</i> certification criteria or process; Compliance with previous award, <i>Assistance</i> or <i>Allocation Agreements</i>	CDFI Fund CCME Staff Ph: (202) 622-6330 Email: ccme@cdfi.treas.gov
Technology problems	CDFI Fund IT Staff Ph: (202) 622-2455 Email: IThelpdesk@cdfi.treas.gov

You may contact the CDFI Fund with questions until **5:00 PM Eastern Time, on July 25, 2011**. After such time, the CDFI Fund will no longer respond to questions until after the NMTC *Allocation Application* deadline has passed.

* * * *

More detailed application content requirements are found in the 2011 NMTC *Allocation Application* and 2011 *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 2011 *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 italicized in this document are defined in the Glossary of Terms contained in the *Allocation Application*.