Enterprise™

July 6, 2010

Mr. Greg Bischak
Program Manager for Financial Strategies and Research
CDFI Fund
U.S. Department of the Treasury
601 13th Street, NW, Suite 200 South
Washington, DC 20005

Dear Mr. Bischak:

Enterprise Community Partners, Inc. and its affiliates (collectively "Enterprise") appreciate the U.S. Department of the Treasury's continuing effort to reduce paperwork and respondent burden, and the opportunity to comment on the CDFI Fund's Annual Report forms (and related documents, including the CDFI Program assistance agreement, the NACA Program assistance agreement, and the NMTC Program allocation agreement) and the Institution Level Report (ILR) and the Transaction Level Report (TLR) required for participants in the CDFI Program, the Native American CDFI Assistance Program, and the New Markets Tax Credits Program.

Enterprise, a national organization with both nonprofit and for profit arms, has invested over $10 billion dollars in loans, grants and tax credit equity to finance community development projects and create over 270,000 units of affordable housing. Enterprise believes that decent, affordable homes and stronger communities are essential elements of a more even playing field for low-income families. Enterprise has received awards/allocations and reported to the CDFI Fund for over 10 years through it's lending arm Enterprise Community Loan Fund (ECLF), one of the country's largest certified national housing CDFIs, and ESIC New Markets Partners LP (ENMP), a Qualified Community Development Entity (CDE) that work in unison with our parent organization and affiliates to provide a "single source" for community development financing needs and expertise.

We appreciate the CDFI Fund's continuous initiative to automate, streamline and update the technology for their Awardee/Allocatee reporting process. We understand that the CDFI Fund's collection of data could provide a valuable resource for the industry. As we explain in further detail below, we can see opportunities for efficiency in how this information is collected, organized, and maintained for the CDFI FA & TA Program and the New Markets Tax Credit Program.

CDFI FA & TA Program

We concur with the comments provided by the Opportunity Finance Network (OFN), of which Enterprise is a member, and would also like to emphasize a number of key principles and points that OFN made in its comment letter:

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1. *The CDFI Fund Should Be a Source of High-Quality Data for the CDFI Industry*
The CDFI Fund's data should be useful not only to the CDFI Fund in evaluating compliance and impact, but should also serve the needs of advocates making the case for the CDFI Fund and for further investment in CDFIs; CDFIs trying to better understand their own markets and performance; researchers investigating the work of CDFIs; and public and private investors trying to better understand the industry. To serve these purposes and to position the CDFI Fund as a source of information about the entire CDFI industry, the CDFI Fund should begin to collect and publish a small number of data points on an annual basis from certified CDFIs as well as from awardees. This would allow the data collected from an organization to be accurate, simplified and consolidated and enable the CDFI Fund to evaluate the effectiveness and impact of its program.

2. *Collection Transaction-Level Data*
We strongly encourage the CDFI Fund to reconsider its strategy for collecting and consolidating transaction-level data, and to use input from CDFI practitioners to identify those data points most useful, most available to and able to be collected from the greatest number of CDFIs, and of the best use for describing CDFIs' impact. The TLR report currently has data fields that are mandatory, conditionally required or optional. The optional data fields and subjective fields that answer "don't know" or "not applicable" could be eliminated from this report. Currently, the CDFI Fund is not able to insure the accuracy of the answers or evaluate, compare, and aggregate the information properly due to the information not being provided and/or being reported inconsistently by each organization.

3. *Data Should Be Made Public*
The CDFI Fund must make its data collection publicly available in a timely manner, within 180 days from the end of its collection cycle, so that it is relevant and useful. This will help organizations to better benchmark their own institutions and allow industry advocates and associations to accurately tell the CDFI story. If advocates, investors, and researchers know that the CDFI Fund can provide sound information about the CDFI industry, the CDFI Fund can help position CDFIs as a key supporter of community development strategies in the financial services landscape.

4. *Minimize the Burden on CDFIs*
The CDFI Fund should minimize the number of changes and new data points from year to year. In the rare cases in which it must require new or different data points, such points should be collected only in the current year and going forward; the CDFI Fund should not require CDFIs to incorporate new data points retroactively. Additionally, the CDFI Fund should collect data no more frequently than annually. More frequent data collection would be unduly burdensome, particularly in the case of transaction-level data, and would not add additional value to the CDFI Fund's purposes.

Awardees continue to put in long reporting hours and take up limited staff resources from daily operations in order to complete the rigorous reporting requirements. On average ECLF has logged 75 hours each year to complete the Awardee annual reporting. During years of "system" upgrades time spent has exceeded 100 hours. Additionally, organizations must provide the resources to maintain, convert and translate the data to meet the CDFI Fund's criteria and format.

One suggestion to minimize the burden of the CDFI Fund reporting is to store validated data and information from previously certified reports on the Awardee's *MyCDFI Fund* website or a comparable data warehouse. All validated information would be stored on the site and the Awardee would be responsible for updating data/information required for the annual reporting period, such as new originations or inactive loans. Information from the previous year would be applied to the current year and remain validated in the system, unless the Awardee chooses to remove a data field. This will create efficiency for the Awardee and allow Awardees more time to focus on the accuracy and quality of new information collected and reported. Another alternative is to require the Awardee to report only new originations in the TLR report, instead of reporting on the total portfolio.

5. *Improve Infrastructure*
We have found the CDFI Fund's "system" upgrades to create the TLR report upload to be more time consuming. When new fields are added or the system programming changes, data that had been previously validated the year before is no longer relevant and is unable to be validated due to new data errors. When this happens, an organization must scrutinize each data field to find the problem point in the TLR report. For an organization with over 150 loans and reporting approximately 100 data fields, this can be over 1,500 cells to cross reference manually! The CDFI Fund must upgrade and streamline its system to be seamless to the end user.

Many non profits and community development organizations do not have the resources to maintain or set up the technology necessary to track the required or optional impact data fields for the CDFI Fund reporting. Below are a couple suggestions for reporting system improvements:

- The CDFI Fund could issue TA award grants to organizations to purchase, maintain and upgrade software that is compatible with CDFI Fund's CIIS system. Supporting organizations in purchasing and upgrading software to be compatible with CIIS would ensure accuracy, quality and clarity of the information collected. The TA award would also assist the Awardee to move from manual reporting of data to a more streamlined and automated reporting system.
- The CDFI Fund could enhance its systems by incorporating a data warehouse, where the data is centralized and stored. As stated under paragraph 2, the data would be managed on the Awardee's *MyCDFI* website.

Additionally, most of the ILR information is collected during the CDFI's certification process or updated on the Awardee *MyCDFI Fund* website. For example, general organization information, organizational structure, populations served, geography financed, and other data fields are stored and accessed through these channels. This information is also inputted by the Awardee into the ILR report. A suggestion would be to store the CDFI organization's information on the *MyCDFI* website under "Organization Profile" and require each CDFI to maintain and update this information. The Fund could set up an auto fill that would pull the organization's information from these channels into the ILR.

New Markets Tax Credit Program

In addition to the comments in this letter, we concur with the comments provided by the Novogradac NMTC Working Group, of which Enterprise is a member. Consistent with comments above regarding the CDFI programs, we believe that the CDFI Fund has an important responsibility to collect community impact data that helps quantify and support the impact of the NMTC program, as well as to collect information that allows the CDFI Fund to monitor a CDE's compliance with NMTC requirements. In order to make the information collected useful, the data needs to be requested in clear and consistent manner. If the CDFI Fund is unable to aggregate and evaluate the information it collects then it serves little practical utility for the NMTC industry. The remainder of our comments regarding specific data point instructions and system utility are provided with the goal that improvements in these areas will help ease the cost and time burden to CDEs as well as to make easier the CDFI Fund's work in reporting on the NMTC industry.

Enterprise was fortunate to participate in several focus group discussions with the CDFI Fund in the spring of 2010 regarding CIIS reporting, the majority of our comments were also touched on during those calls.

General / overall comments:

- We request that the CDFI Fund update its Rationale document that is posted on the CDFI Fund website – the version that is posted currently is from 2005. Understanding the rationale behind the data points, and the goals of the CDFI Fund in requesting certain information could help CDEs more appropriately answer the questions or allow the CDEs to suggest other data points or interpretations that may be more efficient ways of reaching the CDFI Fund's goals.

- When new data points/instructions/versions of CIIS are implemented the changes should become effective at some point in the future – perhaps 6 months after the instructions are issued. This is necessary because there is a rolling deadline for CIIS reporting and currently the CDFI Fund can make changes at any time, so changes could be issued just one week before a CDE is required to report. Under the current system CDEs must then report under the new instructions which could create an undue burden to collect new information or upgrade internal systems on short notice. We recommend that an announcement of the new instructions be made, and perhaps a red-line comparing the new instructions to the old instructions should be available. In some cases the data point itself does not change but the underlying instructions might change and such a comparison document would insure that CDEs are using the most updated instructions.

- We recommend that the instructions be reordered so that the disbursement and address data points are not in the middle of the Notes and Project instructions. This makes the instructions seem a bit disjointed.

- Note that we utilize the Excel upload format for the TLR, and therefore our comments are more specific to that method of reporting, and are based on the instructions dated September 10, 2009.

ILR Instructions / System Comments

- The ILR system is somewhat cumbersome. The utility of the information could be improved and the reporting time burden could be reduced if the QEI Distribution Table (13) could automatically populate with the information provided in the prior year.

- Section V (29 & 30) regarding source of flexible term comparables - The option to comment is only available if Question 29 is answered as "Other". It may be helpful to have the option to comment regardless of the answer in 29.

- Additional clarity around the use of RQI or reinvestment identifiers could be helpful to allow CDEs that use direct tracing methods to more accurately identify QEI proceeds that are reinvested.

TLR System

The CDFI Fund has a challenging task to collect this volume of information from so many CDEs and the functionality of the actual CIIS reporting system makes this task more challenging. The process of uploading or entering data, validating it, correcting errors and certifying is time consuming and not always intuitive. We believe the time and cost burden to CDEs could be reduced with some system improvements. For example, if the FIPS code was required for each transaction then address validation errors could be prevented. When an address validation error occurs it can be time consuming to have to manually enter the FIPS code and get the system to update both the parent and "child" notes.

Instruction Questions – detailed instruction comments
Notes-Investments Tab

- NI-E – Original Loan / Investment Amount – current instructions require upward adjusters on equity deals to be updated and included in the "original loan/investment amount" – recommendation – change the instructions to only require the true original investment amount, any additions are captured in the disbursements tab. If you need to see the additions in the Notes-Investments tab, then we recommend adding a new data field to capture these increases.

- NI-K – Rehabilitation Amount – recommendation – delete this data field, as we don't think it is relevant, especially on a note by note level. If information about rehabilitation amount is needed, we recommend asking for it at the project level, and don't limit the amount of rehab to the total QLICI investment. [Description of current problem: this question is asking what portion of each financial note went towards the rehab (rather than acquisition). CDEs are required to allocate the total cost of rehab across the various financial notes it provided and / or across other sources of financing. For example, a project's total development cost = $100; $10 is acquisition and $90 is rehab. The CDE provided 3 financial notes: $12, $9 and $6. Other sources of financing provided the remaining $73 of the needed financing. CDEs must use their judgment to determine if all of the $12, $9 and $6 went to rehab, or if some portion of each note went to both acquisition and rehab (on a pro-rated basis). CDEs also cannot currently report a rehab amount greater than the financial note.]

- NI-L – Origination fees – recommendation – move this data point to the Project tab; also need to define 'origination fees' or change the title to request information on "Fees to CDE or Affiliates" – this way it would capture placement fees, syndication fees and other fees charged at closing. Changing this data point could impact how CDEs report one of the flexible terms, however, adding clarity to this would also provide more transparency to fees in the NMTC industry.

- NI-X – Lien Position – the instructions should be clarified to allow CDEs to report any subordinate loans, not only those that are subordinate to 3rd parties. This would be consistent w/ data point NI-AH (Subordinated Debt) which only allows you to check "subordinate" if you also select "lien position" different than "First"; also add instructions to clarify to the use of "other" – recommend using "other" if there is no mortgage or you don't have collateral in the "primary asset" (such as equipment in a business loan). Currently, the instructions are written in the context of another lender receiving priority, but it is good to note that the same CDE lender could have more than one note to the project and one note have first priority and the others have second or third.

- NI-AK – "below market rate required?" – Recommendation – change title to "Flexible terms required" because allocation agreement requires below market interest rate OR other flexible terms. Also, add instructions about when to use yes, no or N/A. In theory deals done under rounds 1 – 3 should be no, rounds under 4-7 should be yes. N/A might be for any rounds that allocatees committed less than 100%.

- NI-AL and AM – Below Market Interest Rate and Interest Rate Comparable – recommendation – delete these data points; compliance on flexible terms should only be monitored at the time of the original investment. If these data points are maintained, then "Annual Update Required" should be added to the instructions.

- NI-AI through NI-AL, NI-AS, NI-AW – these fields are currently required even if reporting an equity investment. Recommendation – add an option for N/A to be used for equity transactions; or make this conditionally required only for Notes.

- NI-BM – we recommend that the CDFI Fund either delete this data point or provide additional clarification about how a CDE should value its equity investments. Is this a value based on the true economic return – which could be minimal – or based on the tax credits the investor is receiving – which could be misleading in a transaction with both equity and debt QLICIs? This is an area that could have IRS implications if the value of the equity is very low, or could appear to be a grant.

- NI-BN – Projected Internal Rate of Return – we recommend that the CDFI Fund provide additional guidance about why this information is being required and how it should be calculated. Typically, financial projections are done at the time of the financing and CDEs are not recalculating the return each year. Also, the return is calculated from the perspective of the tax credit investor for the transaction overall and not on an individual note / investment level. Currently the Investor's IRR is reported in ATS, therefore the TLR could be duplicative.

- NI-BO – Projected Grant to QALICB – we recommend that this data point be deleted, or re-framed to ask about the subsidy or projected maximum benefit that is going to the QALICB. The way this data point is currently phrased is at odds with IRS requirements that prohibit forgivable loans.

Disbursement Tab

We recommend that the Disbursement Address fields be deleted, and that additional clarification be provided so that the Project Address as reported on the Addresses tab provides the necessary information.

Projects Tab

- PRJ-E – Loan to value – is currently required on all deals with a term loan; however, this concept applies mainly to real estate loans. CDEs need flexibility in cases where the loan is unsecured and there is no collateral to value. This can be difficult to calculate because appraisals are not always done. Results look like LTV is extremely high – especially in deals where NMTC debt is subordinate to other debt, and where issues around "true debt" already exist. There is probably inconsistency among how CDEs are calculating this. This question highlights some additional benefits of the NMTC program, beyond just interest rates or amounts left in the deal after a put/call and so the information could be useful if presented in a consistent and measurable manner.

- PRJ-F – Debt Service Coverage Ratio – we recommend that the CDFI Fund clarify the instructions – is this asking for the DSC required in the loan documents at underwriting, or actual results after stabilization? There typically is no DSC at origination because most loans are being made to companies that were recently formed. Also, non-profits and SPEs that rent back to operating businesses may not have meaningful DSC results. These types of questions highlight some additional benefits of the NMTC program, beyond just interest rates or amounts left in the deal after a put/call.

- PRJ-N, O, P – recommendation – add "annual update required" because ownership/control can change each year

- PRJ-U, AT – DS/FCOS – we request that the CDFI Fund provide additional clarification - should this include only FCOS that is a QLICI activity? Or also hours spent working on structuring the transaction even if it was not QLICI activity? This data point highlights the need for more guidance around FCOS.

- PRJ- AE, AF, AG, AH – Square footage – recommendation – add instructions to request gross square footage rather than net rentable.

- PRJ-AI – Asking Rent per Square Foot – we recommend (1) clarify instructions to ask for actual rent if known (2) mark annual update required and (3) change instructions to ask for rent per square foot per **year** rather than per month. Instructions currently ask for "proposed average asking rent per square foot per month" – we feel this should be updated annually once the project is complete and the "actual rents" are known.

- PRJ-AN – Community Facility – we recommend that the CDFI Fund provide a definition of "community facility" – public libraries? Government offices for health and welfare programs? Theaters, recreation centers, medical clinics?

- PRJ-AO, AP, AQ, AR, AS Capacity of community facility – we recommend that the CDFI Fund clarify the instructions to require actual or projected results, as well as if CDEs should report total capacity or actual number served. (For example, a day care center could have capacity for 50 children, but only have 30 enrolled.)

- PRJ-AQ – Capacity of Health Care Facility – recommendation – instructions currently asks for number of patients served per year – clarify whether CDE should report number of visits per year that the facility could handle ("capacity") or the actual number of people served. Also, clarify if CDEs should report the number of distinct patients or total number of visits – for example 100 patients each visit an average of 3 times per year for 300 total visits? This would be projections at first, and upon completion should be "annual update required" and CDEs could be asked to report actual results.

- PRJ-AT – DS/FCOS – we recommend correcting the instructions because there appears to be a typo. Currently these instructions include: "If the QALICB is a SPE created by an operating business to lease back property to that parent business, report jobs at the parent business" but this question is not about jobs.

- PRJ-AZ – QALICB Type – RE vs. NRE, recommendation – use the wording from the 2010 NMTC Application Tip for Question 13, which no longer requires that the operating company be a QALICB under the "user discretion" section.

- PRJ-BD, BE, BF, BG, BH – Below Market Interest Rate (Project) – we recommend that these data points be deleted; or change instructions to require information at origination. Compliance on flexible terms should only be monitored at the time of the original investment.

- PRJ-CA thru CS – instructions need to be clarified for responses about areas of higher distress; and to clarify how a CDE should respond if the category either isn't considered higher distress in certain allocation rounds (hot zones in Round 5 for example).

- PRJ-CC – we recommend that the instructions be clarified instructions to say "equal to *or less than* 70 percent but greater than 60 percent…"

- PRJ-CD – we recommend that the instructions be clarified instructions to say "equal to <u>*or greater than*</u> 1.25 but less than 1.50…"

- There are some inconsistencies between the questions required on interest rates / timing / etc: Here is a summary of what is currently required, and our recommendations which are noted above:

		Origination	Reporting period end
Financial Note	Interest Rate	only after 12/31/05 (NI-O)	no time limit (NI-P)
	Below Market Rate	"yes/no", no time limit (NI-AI) –	"yes/no", only after 12/31/05 (NI-AL) recommend deleting this requirement
	comparable rate	Provide comparable only after 12/31/05 (NI-AJ)	
	comparable rate source		only after 12/31/05 (NI-AM) recommend deleting this requirement
Project	Below Market Rate		"yes/no" (PRJ-BD) – recommend deleting or requiring at origination
	Blended interest rate		state rate, no time limit (PRJ-BE) - recommend deleting or requiring at origination
	Comparable blended interest rate		state rate, no time limit (PRJ-BF) - recommend deleting or requiring at origination
	Comparable rate source		only after 12/31/05 (PRJ-BG) - recommend deleting or requiring at origination

<u>Overall TLR comments:</u>

In addition to the comments listed above regarding specific data points, there are several categories of questions which require additional guidance to enhance their usefulness. The need for such clarification highlights that CDEs could be interpreting and answering these questions differently, making aggregating the data and measuring the overall impact of the NMTC program very difficult.

- All jobs questions – CDEs need more guidance around whether actual vs. projected numbers should be reported and how often numbers should be updated. Clarity is also needed on whether both direct and indirect jobs should be reported; and if there is a preferred method for calculating projections.

- Flexible terms – CDEs need more guidance about what market we should be comparing to (other CDEs, commercial banks, CDFIs, etc), and how to apply the "flexible terms". For example:

PRJ-BW – "Lower than Standard Loan Loss Reserve Requirement" – needs to be defined. Loan loss reserves are generally booked by the Lender (CDE) and have nothing to do with more flexibility at the Borrower level. Is this question trying to determine how much of the QEI proceeds are being held by the CDE rather than going to benefit the project? If yes, then the question should be rephrased. This data point has significant implications because a lot of groups may be using this to meet their flexible terms requirements without understanding what they are really responding to. Depending on the meaning of such a reserve, the CDFI Fund should determine if this data point is more appropriate at the Notes level or the Project level.

- Investee vs. QALICB guidance – sometimes it does not make sense to report information about the Parent business and so instructions may need to be clarified to insure CDEs are providing information that is useful to the CDFI Fund.

We sincerely thank the U.S. Department of the Treasury for the opportunity to share our views regarding the information collections process and systems. We look forward to working with you to continue to shape the future direction of the CDFI Fund and its programs. Please contact Kristin Siglin at ksiglin@enterprisecommunity.org if you have questions about our response.

Sincerely,

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