

Community Development Financial Institutions Fund

§ 1806.200

(tt) *Unit of General Local Government* means any city, county town, township, parish, village or other general-purpose political subdivision of a State or Commonwealth of the United States, or general-purpose subdivision thereof, and the District of Columbia.

§ 1806.104 Waiver authority.

The Fund may waive any requirement of this part that is not required by law, upon a determination of good cause. Each such waiver will be in writing and supported by a statement of the facts and grounds forming the basis of the waiver. For a waiver in any individual case, the Fund must determine that application of the requirement to be waived would adversely affect the achievement of the purposes of the Act. For waivers of general applicability, the Fund will publish notification of granted waivers in the FEDERAL REGISTER.

§ 1806.105 OMB control number.

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1559-0005.

Subpart B—Awards

§ 1806.200 Community eligibility and designation.

(a) *General.* If an Applicant proposes to carry out Service Activities, or Distressed Community Financing Activities, the Applicant shall designate one or more Distressed Communities in which it proposes to carry out those activities. If an Applicant proposes to carry out CDFI Support Activities, the Applicant shall provide evidence that the CDFI it is proposing to support is Integrally Involved in a Distressed Community. If an Applicant proposes to carry out CDFI Support Activities, Service Activities, or Distressed Community Financing Activities, the Applicant may designate different Distressed Communities for each category of activity.

(b) *Minimum area eligibility requirements.* A Distressed Community must meet the following minimum area eligibility requirements:

(1) *Geographic requirements.* A Distressed Community must be a geographic area:

(i) That is located within the boundaries of a Unit of General Local Government;

(ii) The boundaries of which are contiguous; and

(A) The population of which must be at least 4,000 if any portion of the area is located within a Metropolitan Area with a population of 50,000 or greater;

(B) The population must be at least 1,000 if no portion of the area is located within such a Metropolitan Area; or

(C) The area is located entirely within an Indian Reservation.

(2) *Distress requirements.* A Distressed Community must be a geographic area where:

(i) At least 30 percent of the Residents have incomes which are less than the national poverty level, as published by the U.S. Bureau of the Census in the most recent decennial census for which data is available;

(ii) The unemployment rate is at least 1.5 times greater than the national average, as determined by the U.S. Bureau of Labor Statistics' most recent data, including estimates of unemployment developed using the U.S. Bureau of Labor Statistics' Census Share calculation method; and

(iii) Such additional requirements as may be specified by the Fund in the applicable NOFA.

(c) *Area designation.* An Applicant shall designate an area as a Distressed Community by:

(1) Selecting Geographic Units which individually meet the minimum area eligibility requirements set forth in paragraph (b) of this section; or

(2) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (b) of this section, provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

(d) *Designation and notification process.* The Fund will provide a prospective Applicant with data and other information to help it identify areas eligible to be designated as a Distressed Community. Applicants shall submit

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designation materials as instructed in the applicable NOFA.

§ 1806.201 Measuring and reporting Qualified Activities.

(a) *General.* An Applicant may receive a Bank Enterprise Award for engaging in any of the following categories of Qualified Activities during an Assessment Period: CDFI Related Activities, Distressed Community Financing Activities, or Service Activities. The Fund may further qualify such Qualified Activities in the applicable NOFA, including such additional geographic and transaction size limitations as the Fund deems appropriate.

(b) *Reporting Qualified Activities.* An Applicant should report only its Qualified Activities for the category in which it is seeking a Bank Enterprise Award. For example, if an Applicant is seeking a Bank Enterprise Award for Distressed Community Financing Activities only, it should report only its activities for the Distressed Community Financing Activities category.

(1) If an Applicant elects to apply for an award in either the CDFI Related Activities category or the Distressed Community Financing Activities category, it must report on all types of activity within that category except if an Applicant can provide a reasonable explanation, acceptable to the Fund in its sole discretion, as to why it cannot report on such category.

(2) Exception. An Applicant may elect not to report each type of activity within the Service Activities category.

(c) *Area served.* Service Activities and Distressed Community Financing Activities must serve a Distressed Community. An activity is considered to serve a Distressed Community if it is:

(1) Undertaken in the Distressed Community; or

(2) Provided to Low- and Moderate-Income Residents or enterprises Integrally Involved in the Distressed Community.

(d) *Limitations—(1) Low-Income Housing Tax Credits.* Financial assistance provided by an Applicant for which the Applicant receives benefits through Low-Income Housing Tax Credits, authorized pursuant to Section 42 of the Internal Revenue Code, as amended (26

U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

(2) *New Markets Tax Credits.* Financial assistance provided by an Applicant for which the Applicant receives benefits as an investor in a Community Development Entity that has received an allocation of New Markets Tax Credits, authorized pursuant to Section 45D of the Internal Revenue Code, as amended (26 U.S.C. 45D), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

(3) *Loan Renewals.* Financial assistance provided by an Applicant shall not constitute a Qualified Activity, as defined in this part, for the purposes of calculating or receiving an award if, such activity has matured and is then renewed.

(e) *Measuring the Value of Qualified Activities.* Subject to such additional or alternative valuations as the Fund may specify in the applicable NOFA, the Fund will assess the value of:

(1) Equity Investments, Equity-Like Loans, loans, grants and certificates of deposits, at the original amount of such Equity Investments, Equity-Like Loans, loans, grants or certificates of deposits. Where a certificate of deposit matures and is then rolled over during the Baseline Period or the Assessment Period, as applicable, the Fund will assess the value of the full amount of the rolled over deposit. Where an existing loan is refinanced (a new loan is originated to pay off an existing loan, whether or not there is a change in the applicable loan terms), the Fund will only assess the value of any increase in the principal amount of the refinanced loan;

(2) Project Investments at the original amount of the purchase of stock, limited partnership interest, other ownership interest, or grant;

(3) Deposit Liabilities at the dollar amount deposited as measured by comparing (i) the net change in the amount of applicable funds on deposit at the Applicant during the Baseline Period with (ii) the net change in the amount of applicable funds on deposit at the