



December 19, 2022

Jodie Harris
Director, CDFI Fund
Department of the Treasury
1500 Pennsylvania Avenue Northwest
Washington, DC 20220

RE: Request for Public Comment on CDFI Target Market Assessment Methodologies (Document Number: 2022-22767)

Dear Director Harris:

Thank you for the opportunity to comment on the pre-approved Target Market assessment methodologies for CDFI certification.

The CDFI Coalition ("Coalition") is the national voice for CDFIs of every type. The Coalition supports CDFIs nationwide to help them better provide credit, capital, development services, and financial services to underserved people and communities. In addition, the Coalition provides an opportunity for CDFIs and their many partners, including the full spectrum of community development finance funders and researchers, to have a unified voice in support of the role of CDFIs as an integral segment of the nation's financial services industry.

Below are a few general comments, followed by comments organized by target market type. Most of our comments address the increased burden of collection required by the proposed methodologies.

General Comments

Geographic Boundaries and Mapping Requirements

We strongly support the proposal's elimination of geographic boundaries and mapping requirements for target markets.

Serving Target Markets Indirectly by Expanding Employment Opportunities

The proposed certification application provides no ability for a CDFI to include loans and investments that primarily benefit a Targeted Population indirectly (especially for Low Income Targeted Populations), e.g., through providing employment.

Both the CDFI authorizing statute and the regulations are clear that a Targeted Population may be served not only directly (via loans to members of the Targeted Population) but also *indirectly*.

Statute¹:

"...financial assistance provided under this part to serve Investment Area(s) or Targeted Population(s) by developing or supporting, through lending, investing, enhancing liquidity, or other means of finance:

¹ Public Law 103-325.

....

(b) Businesses that:

- (1) Provide jobs for Low-Income persons;
- (2) Are owned by Low-Income persons"

The regulation governing certification:²

"(B) Serving Targeted Populations. An entity may serve the members of a Targeted Population directly or indirectly or through borrowers or investees that directly serve such members."

This omission may have severe repercussions for CDFIs that are small business lenders.

Because the assessment methodologies all require a CDFI to collect individual (or household) data from beneficiaries, it would be unworkable to include, for instance, a loan to a small business that has committed to employing low-income people but that cannot require income verification from employees or share that data with the CDFI.

Such a requirement would be burdensome for the employer and intrusive for the worker. The CDFI Fund should allow CDFIs a range of options for assessment of the indirect impact of financial products that create employment opportunities. For example, (1) a written benefits agreement between the CDFI and the borrower committing to targets for accessible job creation and quality job creation; (2) periodic CDFI surveys of employees at CDFI-financed businesses; and (3) borrower participation in workforce development programs and other initiatives designed to connect low-income people to jobs and training.

Complexity Could Price-Out Unsophisticated Borrowers and Under-resourced CDFIs

The complexity of data collection – particularly the collection of household income and racial data – may discourage smaller borrowers from seeking funds from CDFIs. It may also create an undue burden on smaller CDFIs. We urge the CDFI Fund to consider the impact on smaller CDFIs and borrowers in their review of proposals for additional target market verification methods.

We urge the CDFI Fund to consider the impact on smaller CDFIs and borrowers in their review of proposals for additional target market verification methods. Our comment letter includes several suggestions for secondary geographic approaches.

Census Data Challenges:

Placed-based targeting is only as good as its source data. Historically, Census data has undercounted people of color, immigrants, young children, and indigenous people. According to the Census Bureau's recent analysis,³ the problem was much worse in the 2020 Census:

"The results show that the 2020 Census undercounted the Black or African American population, the American Indian or Alaska Native population living on a reservation, the Hispanic or Latino population, and people who reported being of Some Other Race."

There was a "statistically significant undercount rate of 4.99%" of the Hispanic or Latino population in 2020, and American Indian or Alaska Native alone or in combination populations living on reservations

² § 1805.201 b(3) iii B

³ "Who Was Undercounted in the 2020 Census?" U.S. Census Bureau, March 10, 2022.

[showed] a statistically significant undercount rate of 5.64%." The 2020 census also undercounted renters by nearly 2% and overcounted homeowners. High margins of error for sub-count groups amplify these data challenges in rural census tracts. The overall result of all these issues was to dilute the percentage of low-income people counted in many census tracts.

We urge the CDFI Fund to weigh these issues when formulating its geographic eligibility policies.

Allowing CDFIs to Respond to Emerging Social Challenges

The pandemic radically altered the economic landscape in many low-income communities. Bad actors often move in and take advantage of communities when disasters strike. CDFIs must be at the forefront of the economic response during an economic disruption to ensure that federal and private resources support and empower existing residents of their target markets.

Broadly, we urge the CDFI Fund to provide mechanisms for CDFIs to shift their strategy – if needed – to respond to the *current, changing* needs of the communities they serve. For example, census data does not reflect recent plant closures, natural disasters, or public health crises. A formal policy allowing for flexibility in the face of certain events (natural disasters, sudden and severe job loss events, and other crises) would be preferred over the use of temporary, ad-hoc policy changes (as was the case during the pandemic, when the CDFI Fund adjusted targeting requirements based on the unique circumstances of the pandemic). However, waivers and policy adjustments are very much appreciated during a recession or crisis.

Challenges in Verifying Race and Income

Many proposed methods of verifying race and household income are overly intrusive and sometimes offensive to loan or credit applicants. Moreover, for regulated lenders who must comply with the Equal Credit Opportunity Act, the ability to collect data on credit applicants' race is extremely limited.

We urge the CDFI Fund to engage in discussions with the Community Financial Protection Bureau and other bank regulatory agencies to ensure that depository CDFIs can collect race and other demographic data without fear of negative reprisals from examiners.

For all the racially based target populations, we suggest the CDFI Fund allow a geographical proxy as a secondary verification method. CDFIs would be allowed to use any census tract where over 50 percent of the residents are identified as part of the respective targeted population.

We are also concerned that Native people ("OTP-Native American," "OTP-Native Alaska," and "OTP-Native Hawaiian") are the only ethnic/cultural group that the CDFI Fund would require to show verifiable proof of their affiliation with one of the three OTPs listed above. All other groups (namely Hispanics, African Americans, and People with Disabilities) do not have to meet this mandate. These verification requirements will exact an undue burden on Native CDFIs, many of whom already operate with limited staff and bandwidth, as it will require staff to expend additional administrative time collecting, filing, collating, and reporting the Tribal or cultural affiliation of their borrowers to the CDFI Fund as a condition of Treasury certification/recertification. This also will inhibit the ability of Native CDFIs to serve Native clients in a timely and efficient fashion, as it is bound to increase processing times.

OTP: Asian Americans

The CDFI Fund should create a target market supporting Asian Americans as a socially or economically disadvantaged racial minority. Many Asian American communities include significant concentrations of disadvantaged LMI populations with Limited English Proficiencies who are eligible for federally targeted financial assistance. They also have a high proportion of self-employed businesses.

OTP: Other Underserved Target Markets

The cliché that "America is a melting pot" is instructive. While segregation persists in many areas, many other communities include a broad range of historically disadvantaged racial groups, recent immigrants and refugees, people who identify as "Other" in their racial or ethnic background, and other vulnerable and underserved populations supported by CDFIs. CDFIs should not be penalized if the communities they serve include a diverse range of underserved or excluded groups.

The CDFI Fund should offer an additional category, "OTP: Other Underserved Target Markets," and allow CDFIs to propose a methodology for serving these markets. We agree with CDBA's comment that technological innovation changes how financial products and services are delivered using online and mobile channels. The CDFI Fund should work with practitioners to develop additional alternative sets of proxies or methodologies for measuring financial inclusion and service to low-income, unbanked, underbanked, and other vulnerable populations.

We concur with other commenters who pointed to cooperatively owned entities with diverse ownership spanning one or more of the OTP categories provided by the CDFI Fund.

A few possible examples of OTP: Other Underserved Target Markets: targeting majority-minority census tracts, co-op businesses, refugee populations, and survivors of gender-based violence.

Target Market Type: OTP-African American/OPT-Hispanic

We suggest the CDFI Fund allow a geographical proxy as a secondary verification method. Absent another method of identification, CDFIs would be permitted to point to the racial composition of the census tract where the business or nonprofit is located or where end users reside, as long as a majority of the tract's residents were members of the respective target population.

Target Market Type: OTP-Native American

In its Dec. 5, 2022 FAQ on Certification, the CDFI Fund states, "The CDFI Fund currently recognizes the following Native Community populations as eligible OTPs: Native Americans/American Indians with maintained tribal affiliation or community attachment; Native Alaskans residing in Alaska with maintained tribal affiliation or community attachment; and Native Hawaiians residing in Hawaii. Where noted (i.e., Native Alaskan and Native Hawaiian), members of the Native Community population must reside within the geographies identified to be eligible as a member of the OTP Target Market. "

In determining "community attachment," we recommend the following geographic proxy:

Any loan, investment, or consumer account in a census tract where more than 50% of the residents are identified as Native American.

As previously discussed, we are somewhat concerned that there is a different standard for Native Americans, Alaska Natives, and Native Hawaiians than there is for other historically disadvantaged groups.

Target Market Type: OTP-Native Hawaiian Residing in Hawaii

We recommend the CDFI Fund expand the allowable methods for assessing OTP-Native Hawaiians beyond the proposed "Hawaiian Registry Card." We request the CDFI Fund also allow the use of a birth certificate, a Department of Hawaiian Homelands lease or waitlist confirmation letter, or a Kamehameha Schools acceptance letter. Any one of those three documents is accepted by the Hawaiian Registry Program, the primary issuer of Hawaiian Registry Cards.

We recommend the following additional pre-approved verification methods:

- Any individual living in designated Hawaiian Homelands.
- Any individual with a surname that has a value of 80% or higher identifying the surname as Native Hawaiian.
- Any loan or account to an individual living in a census tract identified as 50% or greater Native Hawaiian.

Target Market Type: OTP-People with Disabilities

We applaud the CDFI Fund for including a target market for people with disabilities. CDFIs provide financial products and assistance to improve the quality of life and build personal wealth for people with disabilities and their families. For example, CDFIs have financed new, state-of-the-art aquatics centers for rehabilitation, supportive housing, and schools for children with unique learning challenges. CDFIs also finance businesses that hire or provide services to people with disabilities.

Target Market Type: Low-Income Targeted Population

Use of Geographic Proxies

The request for comment asked whether the CDFI Fund should allow the use of geographic proxies for the verification of low-income target populations "even if the proxy might overestimate the share of LITP borrowers served by an Applicant or Certified CDFI."

Data from the 2016-2020 census American Community Survey will almost certainly *underestimate* the share of LITP borrowers served in many geographic areas. We strongly urge the CDFI Fund to allow the use of geographic proxies. At a baseline, geographic proxies should be allowed as secondary methodologies if a primary method proves impossible.

As we described earlier in our comments, a recent report by the Census Bureau found that the 2020 census undercounted many low-income and historically underserved populations. In addition, beyond methodological errors and challenges in counting low-income people of color, 2016 to 2020 was a period of low unemployment and healthy wage growth. Suppose a community faced economic challenges during this period. In that case, it is almost certainly facing them today, after the economic and social disruption of the pandemic, the increase in prices, and the tightening of commercial and consumer credit.

The CDFI Fund also asks, "If the share of Low-Income households in a census tract block group is an acceptable proxy for LITP status, is 70 percent an appropriate qualifying threshold to maintain the integrity of the CDFI Certification? If no, what is an appropriate threshold?"

For the reasons outlined above, we believe that a 50 percent share of low-income residents in a census tract block group should be accepted as a proxy for maintaining certification.

Low-Income Housing Tax Credit as a Proxy

We urge the CDFI Fund to include the Low-Income Housing Tax Credit (LIHTC) as a programmatic proxy for target market verification for serving LITPs.

LIHTC's robust income verification standards and record-keeping practices have already been accepted by the CDFI Fund as part of the Capital Magnet Fund (CMF) program. In general, households in LIHTC-supported units must have incomes at or below 60% of the Area Median Income (AMI). The 2017 CMF program FAQs affirm that, for projects financed using both LIHTCs and CMF awards, recipients can "rely on the income examination and verification conducted for LIHTC to meet the tenant income determination compliance requirements for CMF." In addition, the CMF FAQs state that the CDFI Fund has "deemed that the Tenant Income Certification of a Family residing in a LIHTC-assisted property also meets the initial and annual income examination and verification requirements of the CMF Program." As a result, comparing LIHTC programmatic data to CDFI Fund definitions is straightforward and already takes place under the CMF program.

End Users of For-Profit Community Facilities

Many community facilities are operated by (or constructed by) for-profit entities. The CDFI Fund should update its proposed guidance for Low-Income Targeted Populations to include an End User option for for-profit recipients of CDFI lending. For example, this would allow the financing of specific for-profit-owned childcare centers, treatment facilities, and affordable housing developments primarily benefiting low-income people. The guidance should be updated to include an additional option that at least 50 percent of the End Users be low-income, as is permitted with nonprofit borrowers.

However, we recognize that some larger-scale investments may superficially benefit a population of more than 50 percent low-income End Users. For example, according to the American Hospital Association, more than 94 percent of hospitals have 50 percent of their inpatient days paid for by Medicare or Medicaid. For-profit hospitals have recently received negative press for using federal subsidies for community hospitals to offset the costs of expensive upgrades to their more profitable hospitals in affluent areas.⁴ Therefore, we suggest limiting the End User proxy to Medicaid recipients rather than Medicaid *and* Medicare.

Co-Ops:

When CDFIs finance co-ops, they underwrite the co-op's ability to repay the loan, not the individual owners' collective ability, and therefore do not need to collect owners' household financial data.

⁴ "Bon Secours transferred millions out of Richmond Community Hospital." Richmond Times Dispatch, https://richmond.com/lifestyles/health-med-fit/bon-secours-transferred-millions-out-of-richmond-community-hospital-records-show/article_a65073c2-c655-5e74-a0ae-53b2717bd0e3.html

Requiring CDFIs to collect personal household financial information for all owners (sometimes numbering in the thousands) would be exceedingly cumbersome, especially given data security issues.

Target Market Type: Investment Area

Clarification is needed on the 50 percent requirement for business locations:

We suggest that the requirement that at least 50 percent of the owners' business locations are located in qualifying census tracts should be relaxed and only imposed conditionally in the case of transactions with multiple geographic locations. A single-site transaction should be enough to verify that the investment is in a qualified Investment Area tract.

Low-Income Calculator

The "Low Income Calculator" is a valuable tool. It is based on 2011-2015 American Community Survey (ACS) data that is nearly a decade old, and we support the CDFI Fund's proposal to update this data periodically.

Custom Investment Area Target Market

We support the CDFI Fund's custom Investment Area Target Market changes. The current custom Investment Area option provided a loophole that allowed some financial institutions that would otherwise not meet eligibility requirements to qualify for certification. The new standard will effectively close that loophole.

Other Assessment Methodologies

We applaud the CDFI Fund for soliciting other assessment methodologies. We urge the CDFI Fund to provide broad discretion to community-based lenders, mainly existing CDFIs who have been responding to the needs of low-income communities for a decade or more. CDFIs know best how to serve their respective markets. Preventing bad actors from achieving CDFI certification need not require existing, successful CDFIs to conform to a rigid, restrictive assessment methodology. The CDFI Fund's role is to provide guidance and monitoring, establish guardrails, and evaluate funding proposals - not to set community development strategies for CDFIs. The uncertainty surrounding the certification overhaul has caused distress for CDFIs with assessment methodologies that fall outside the methods prescribed in the CDFI Fund's proposal.

Programmatic and Other Proxies

We suggest adding the following programmatic proxies, all of which have clear government-established/approved minimum standards regarding the percentage of the project slots that must be reserved for/occupied by Low-Income participants.

Child Care Development Block Grants, federally qualified health centers, Head Start, healthy food financing in USDA food deserts, organizations providing services to the homeless, LIHTC projects (as previously discussed), Section 8 rental assistance, Title 1 schools (40% or more free or reduced lunch),

In addition, we urge the CDFI Fund to provide a list of pre-approved qualifications for loans and investments in organizations with an apparent mission to serve low-income populations that do not collect income information from program beneficiaries. Examples include food banks, homeless shelters

and service providers, vocational training programs, support for migrant workers, and organizations providing social services to undocumented populations.