Community Development Bankers Association
1444 Eye Street, Suite 201 • Washington, D.C. 20005 • (202) 689-8935 • (202) 689-8938 (fax)

September 26, 2016

Mr. Robert Ibanez
Program Manager
Community Development Financial Institutions Fund
U.S. Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC

RE: RIN 1505-AA91

Dear Mr. Ibanez:

The members of the Community Development Bankers Association (CDBA) respectfully submit the enclosed comments on the proposed rule and application changes to the Bank Enterprise Award (BEA) Program published in the Federal Register on August 10, 2016.

CDBA is the national trade association of banks and thrifts with a primary mission of promoting community development. There are 122 banks and 71 bank holding companies with the Treasury's Community Development Financial Institutions (CDFIs) designation. CDBA membership comprises 68% of the total assets of the CDFI bank sector and more than a majority of all CDFI banks.

CDFI banks strongly support the efforts of the Community Development Financial Institutions Fund (CDFI Fund) to promote investments in low income and underserved communities. We appreciate the opportunity to provide feedback to maximize the effectiveness of all programs to promote access to capital and financial services in the most underserved communities in the nation. Historically, the CDFI banks have been the most active participants in the BEA Program and any changes are of great interest to our membership.

DEFINITIONS

Subpart A of the proposed rule would make several changes to key definitions that are of great concern. Specifically, the terms "CDFI Support Activity" removed the criteria for "deposits" and would define such criteria in the applicable NOFA for each funding fund. CDBA strongly opposes this change because it will have a chilling effect of strongly discouraging non-CDFI bank applicants from either making deposits into CDFI banks, as well as discourage CDFI banks from making deposits into CDFI credit unions due to lack of certainty on what type of deposit will qualify for an award.

The publication of each annual NOFA is highly unpredictable and it occurs after the end of the annual Assessment Period. Yet, applicants are expected to engage in Qualified Activities during the Assessment Period. While we appreciate the CDFI Fund's desire to maximize its flexibility, the lack of certainty on qualifying terms of a CDFI deposit will significant reduce this type of activity among applicants.

The proposed rule would also define qualifying "Community Services'' and "Development Services" in each annual NOFA. Like deposits in regulated CDFIs, this change will discourage applicants from engaging in and reporting these activities due to the uncertainty of what activities qualify. As an alternative, the CDFI Fund could define a basic set of "Community Services" and "Development Services" in the rule, but allow the flexibility to add additional activities in the annual NOFAs.

The proposed rule would also amend the definitions of many of the Consumer lending and Community Service activities to require applicants to collect additional data on income to establish that a customer is Low or Moderate Income. Given that most of such services provides by banks are only modestly (if at all) profitable, imposing an additional data collection requirement will create barriers to engaging in and/or reporting this type of activity. We urge the CDFI Fund to keep these definitions streamlined and minimize any new data collection.

OVERALL INCREASE IN BEA QUALIFIED ACTIVITIES

The proposed application requires applicants to report their overall increase in BEA Qualified Activities from the Baseline Period to the Assessment Period. The proposed application further requires that "[i]n determining this overall increase, Applicants must report all BEA Qualified Activities in all BEA qualified census tracts (Distressed Communities) for the sub-categories or activity types, as applicable, for which it intends to apply for an Award. "

The new application, however, aggregates Distressed Community activities into two very broad new categories of activities – "Consumer Lending" and "Commercial Lending and Investments" and requires increases within these aggregate categories to receive an award. CDBA strongly opposes this approach. Demand by product types typically ebb and flow over time. Aggregating across very broad categories will make it practically impossible for most applicants to qualify for an award and will particularly penalize banks that do the smallest loans.

For example, the Consumer Loan category consists of Affordable Housing Loans, Small Dollar Consumer Loans, Home Improvement Loans, and Education Loans. An applicant may have great success in increasing its Small Dollar Consumer Loans (which are typically well below $1,000), but any reduction in even one single family Affordable Housing Loan will negate any aggregate increase in Small Dollar Consumer Loans. CDBA strongly urges the CDFI Fund to allow applicants to qualify for increases in lending by the existing categories of Qualified Activities.

GEOGRAPHIC DESIGNATION

The proposed application instructs applicants that BEA Program award amounts will be calculated based on an Applicant's increase in investments and support to CDFIs and in its own lending, investing, or service-related activities in Distressed Communities. The proposed applicant further instructs that "[w]hen determining the Baseline Period and Assessment Period amounts reported, Applicants must consider all BEA Qualified Activities and all BEA qualified census tracts when reporting these amounts, as it relates to a given sub-category or activity type, as applicable." The change is focused on achieving greater consistency between the geographic areas reported for the Baseline and Assessment Periods.

As noted in CDBA's January 29, 2015 comment letter to the CDFI Fund, this change is a concern to many CDFI banks. First, the service area and customer based of any financial institution is dynamic – not static – as demand shifts and changes. Assuming a CDFI bank will have an identical geographic footprint and customer base year-over-year does not recognize the market-oriented nature of a financial institution. Second, this change significantly reduces CDFI banks' flexibility to use BEA as a tool for supporting geographically target initiatives. Third, the change reduces the BEA Program's market responsiveness and ability to support Distressed Community activities during period of economic macro-economic decline.

1. Allowing for Changes in Service Areas: If the CDFI Fund implements this proposed change, CDBA strongly recommends that it allow banks to amend their designated service area(s) at the beginning of each funding round's Baseline Period and Assessment Period. Applicants should be permitted to make adjustments to reflect any expansion or contraction in their total markets AND make corresponding adjustments to their Baseline Period activity levels from the prior year's application.

   The CDFI Fund's adjustment process should also allow Baseline Period adjustments to reflect: (1) activities reported in the prior funding round application that were disqualified by the CDFI Fund; (2) loans or lines of credit whereby the borrower did not fully deploy the resources approved by the applicant within the required time period; and (3) other unforeseen circumstances.

2. Reducing Flexibility: The proposed change will significantly reduce the flexibility of the program and likely impact industry participation over the long run. Banks would no longer have the flexibility to use BEA to support new initiatives targeted to sub-markets within their service areas. Historically, one of the great strengths of BEA is its flexibility to allow banks to respond to ever changing market conditions and experiment with targeted initiative within the most distressed census tracts. The proposed change will largely eliminate this historic strength and make the program less useful to Distressed Communities.

3. Economic Cycles: We appreciate the CDFI Fund's desire to see banks continue to challenge themselves to do more and more Qualified Activities -- as well as impose

consistent standards across the applicant pool. Yet, requiring applicants to have consistent year-over-over increases in all Qualified Activities is not realistic. No market (or census tract) has consistent or growing demand for credit or services year-over-year. Most Distressed Community census tracts are difficult to serve even when demand exists. Downturns in the overall national, state or a local economy will be exacerbated when CDFI banks cannot access critical BEA resources at a time that the Distressed Communities they serve are feeling the most pain.

AWARD PERCENTAGES

The proposed rule would change the award percentage for all Qualified Activities in the Consumer Lending subcategory from 3% to 6% for non-CDFIs and from 9% to 18% for CDFI applicants. CDBA recommends that the award percentages for Consumer Loans and Commercial Loans be the same in order to create a level playing field between bank applicants that are primarily consumer or commercial lending institutions. To the extent that the CDFI Fund wishes to incent particular types of lending (e.g. Small Dollar Consumer Loans), the award percentage for those specific activities could be allocated higher award percentages.

AMIS

We strongly encourage the CDFI Fund to automate AMIS to perform the same chart calculations as the Excel spreadsheet version of the BEA applications. Such calculations are very helpful to applicants to understand what their total estimated award might be and to add greater transparency to the application process. The AMIS system should be able to auto populate all of Table 4. We recommend that AMIS' functionality allow data to be uploaded from an Excel file for Table 6 (Report of Transaction) to reduce data input errors and the time needed to complete the application.

INTEGRAL INVOLVEMENT OF CDFI PARTNERS

CDBA strongly supports the proposed streamlined Integral Involvement documentation requirements for CDFI Partners receiving CDFI Support from applicants. CDFI banks have been active supporters of CDFI credit unions through the BEA Program. Yet, it has been a source of great frustration for many CDFI banks that make a qualified BEA deposit and submit an application only to later have the activity disqualified because the CDFI credit union partner failed to submit the appropriate paperwork through the MyCDFI system. Allowing the paperwork to be submitted directly by the BEA applicant reduces this risk. Furthermore, streamlining the Integral Involvement form to a certification and discontinuing the mapping requirement reduces the barriers to successful partnerships between CDFI banks and CDCI credit unions.

LOAN PARTICIPATIONS

On page 38 of the BEA Program application, under "**Activities of the Applicant"** it states:

> *To be eligible for BEA Program consideration, the Applicant or a Subsidiary of the Applicant must originate all Qualified Activities.* ***Transactions carried out by Affiliates are not eligible. Loans brokered through another institution or loans purchased by the Applicant from another institution are not eligible for BEA Program consideration. [emphasis added].***

We urge you to amend this policy. Loan participations have historically been considered a Qualified Activity provided: (1) the BEA applicant was involved in the transaction at the time of origination; and (2) the loan documentation and/or participation agreement specifically named the applicant. This proposed change would effectively disallow loan participations as a Qualified Activity. Loan participations are an effective strategy for a lender to meet borrowers needs when a transaction exceeds loan limits, it has liquidity or portfolio concentration challenges, or the risk profile of the loan is high. The policy justification for the proposed change is unclear as this form of partnership helps borrowers and communities access the credit they need.

DEFINITIONS FOR QUALIFIED ACTIVITIES

CDBA strongly encourages the CDFI Fund to seek greater alignment and consistency in definitions across ALL of its program applications (e.g. BEA, CDFI Financial and Technical Assistance, New Markets Tax Credits) and various reporting systems (e.g. AMIS, CIIS, CDFI certification). In the case of regulated CDFIs (e.g. banks, credit unions), the CDFI Fund should seek greater consistency with the regulatory definitions and reporting standards. In devising standard definitions, the CDFI Fund should consider that regulated CDFIs have long-established regulatory definitions by which they report lending and other activities through the Call Reports (banks) or NCUA 5300 (credit unions). CDFI banks invest significant time and money into having regulatory compliant core systems. Over the past 20+ years, the CDFI Fund's programs and reporting systems have forced regulated CDFIs to go through the painstaking and expensive task of reclassifying their data to submit a report or an application for funding or certification.

AWARD CAPS

Section 1806.404(b) establishes that the CDFI Fund has the authority to establish award limited by Qualified Activity type in the event of insufficient funds are available to cover all estimated award amounts. The proposed rule states that "*maximum dollar amount of awards that may be awarded for the Distressed Community Financing Activities subcategories, as described in the applicable NOFA*." We are concerned about specific limits being set for Distressed Community subcategory activities. Distressed Community Activities are targeted to the most distressed census tracts of all of the CDFI Programs. These are the communities that are hardest to serve. If the CDFI Fund desires to incent more activities in the most underserved places, they should not place greater limits on these activities that other Qualified Activities.

AWARD USE

On page 37 of the proposed application, under Award Use, the chart instructions state: "Applicants are required to indicate how they intend to use their BEA Program award. Actual use of awards will be measured against projected use of awards." Historically, the CDFI Fund has given banks flexibility to use their awards for any BEA Qualified Activity. It did not ask them to commit to a specific activity prior to receipt of an award and hold them accountable for completing. The policy justification for the proposed change is unclear and this change unnecessarily reduces flexibility.

LIST OF ELIGIBLE CENSUS TRACTS

In the proposed application, the CDFI Fund states that it will publish a full list of BEA eligible census tracts. Such a list will be helpful to many applicants. We would urge, however, that the CDFI Fund also provide an appeals process if an applicant believes (based on objective government source data) that a census tract not listed might be eligible.

In conclusion, the membership of CDBA fully appreciates the thoughtful consideration of the CDFI Fund and its staff in continuously seeking to improve the effectiveness of all of its programs. We sincerely we appreciate the opportunity to comment and offer feedback on the proposed BEA rule and new application. We look forward to future discussion on these important issues.

If you have any questions, please contact Jeannine Jacokes, CDBA Chief Executive Officer, at 202-689-8935 ext. 222 or *jacokesj@pcgloanfund.org*.

Thank you for considering our recommendations.

The Membership of the Community Development Bankers Association

ABC Bank (Chicago, IL)
Albina Community Bank (Portland, OR)
Bank2 (Oklahoma City, OK)
Bank of Anguilla (Anguilla, MS)
Bank of Commerce (Greenwood, MS)
Bank of Kilmichael (Kilmichael, MS)
Bank of Lake Village (Lake Village AR)
Bank of Montgomery (Montgomery, LA)
Bank of Winona (Winona MS)
BankFirst Financial Services (Macon, MS)
BankPlus (Ridgeland, MS)
Beneficial State Bank (Oakland, CA)
Broadway Federal Bank (Los Angeles, CA)

Carver Federal Savings Bank (New York, NY)
Carver State Bank (Savannah, GA)
Central Bank of Kansas City (Kansas City, MO)
Citizens National Bank (Meridian, MS)
City First Bank of DC (Washington, DC)
City National Bank of New Jersey (Newark, NJ)
Community Bancshares of Mississippi (Brandon, MS)
Community Bank of the Bay (Oakland, CA)
Community Capital Bank of Virginia (Christiansburg, VA)
Concordia Bank & Trust (Vidalia LA)
Cross Keys Bank (St. Joseph, LA)
Farmers & Merchants Bank (Baldwyn, MS)
First American International Bank (Brooklyn, NY)
First Eagle Bank (Chicago, IL)
First Independence Bank (Detroit, MI)
First Security Bank (Batesville, MS)
First SouthWest Bank (Alamosa, CO)
FNBC Bank (Ash Flat AR)
Guaranty Bank and Trust Company (Belzoni, MS)
Illinois Service Federal Savings and Loan Association (Chicago, IL)
Industrial Bank (Washington, DC)
International Bank of Chicago (Stone Park, IL)
Mechanics and Farmers Bank (Durham, NC)
Merchants and Planters Bank (Raymond, MS)
Metro Bank (Louisville, KY)
Mission National Bank (San Francisco, CA)
Mission Valley Bank (Sun Valley, CA)
Native American Bank (Denver, CO)
Neighborhood National Bank (National City, CA)
Noah Bank (Elkins Park, PA)
Northern Hancock Bank (Newell WV)
OneUnited Bank (Boston, MA)
Oxford University Bank (Oxford, MS)
Pan American Bank (Chicago, IL)
Peoples Bank (Mendenhall, MS)
Planters Bank and Trust (Indianola MS)
Priority One Bank (Magee MS)
Richland State Bank (Rayville LA)
RiverHills Bank (Port Gibson, MS)
Savoy Bank (New York NY)
Security Federal Bank (Aiken, SC)
Sycamore Bank (Senatobia MS)
Southern Bancorp (Little Rock, AR)
Spring Bank (Bronx, NY)

Start Community Bank (New Haven, CT)
State Bank & Trust Company (Greenwood, MS)
Sunrise Banks (St. Paul, MN)
The Bank of Vernon (Vernon, AL)
The Commercial Bank (DeKalb, MS)
The First, A National Banking Association (Hattiesburg, MS)
The Jefferson Bank (Greenville MS)
United Bank (Atmore, AL)
United Bank of Philadelphia (Philadelphia, PA)
Urban Partnership Bank (Chicago, IL)