



**To:** Christopher Allison, NMTC Program Manager, CDFI Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220  
Via email to [nmtc@cdfi.treas.gov](mailto:nmtc@cdfi.treas.gov)

**Re: Response to the Community Development Financial Institutions Fund; Notice and Request for Public Comment** OMB NUMBER: 1559-0016

**Date:** March 1, 2021

#### INTRODUCTION

The Native CDFI Network (NCN) submits the following comments in response to the Community Development Financial Institutions Fund's Notice and Request for Public Comment on the New Markets Tax Credit (NMTC Program) Allocation Application for the fiscal year (FY) 2021-FY 2024 funding rounds (hereafter, the Application or Applications). NCN is the only member organization of emerging and US Treasury-certified Community Development Financial Institutions (CDFIs) that serve American Indian, Alaska Native, and Native Hawaiian communities across the United States. This diverse set of Native-serving CDFIs operates across 27 states and provides access to capital where it is most sorely needed in some of the country's most remote, rural, and disadvantaged communities. Collectively, the CDFIs have helped increase financial literacy, repair credit, expand homeownership, and grow financial assets for Native American families and entrepreneurs.

Five billion dollars run through the NMTC program annually and has proved to be a successful tool for community investment. Unfortunately, no Native-controlled Community Development Entities (CDEs) have received an allocation for the past four years. Therefore, the NMTC Program has largely failed to deliver any meaningful investment in Indian Country and Native-controlled CDEs. The lack of NMTC allocations to Native-led CDEs highlights the dire need for NMTC application improvement to support Native American communities and CDEs across the country. How is it possible to spend more than \$20 billion in four years on incentives for community development and economic growth in distressed communities, yet so next to no investments in Indian Country and Native-controlled CDEs more specifically? In September 2020, the House Ways and Means Committee sent a letter requesting the "Fund examine its allocation application and review process to identify and revise any elements that may inadvertently limit investment in Indian Country or the participation of minority CDEs." NCN supports this request to determine how investment in Indian Country is limited. Furthermore, NCN adds that the current situation where not a single Native-led CDE has received an NMTC allocation in four years is unacceptable. We look forward to addressing this matter.

This letter provides recommendations to help achieve the NMTC Program’s goal to incentivize community development and economic growth through tax credits that attract private investment to distressed communities. This note begins with some necessary background of Native CDFIs, the NMTC Program, and the intersection between the two forces for systemic change and opportunity. This note proceeds with thirteen recommendations in response to the request for public comment.

## **BACKGROUND**

NCN is deeply committed to its collective mission of creating fair access to capital and resources for Native people – primarily in low-moderate income communities. NCDFIs’ missions align with the NMTC Program’s motivations, including addressing fairness and access to housing, community development, and credit. Native communities' community development (CD) needs for lending and investment have evolved and grown since Congress established the NMTC Program in 2000. Not only have the needs grown, but in many ways, but Congress did not fully contemplate Native communities' needs when designing the law in 2000.

NCN is encouraged that the Treasury has included Indian Country in discussions and joined the House in recent NMTC discussions. NCN is appreciative of the opportunity to comment on this application. NCN recommends additional in-person visits (when such visits are safe) to even more rural credit deserts in Alaska, Montana, and South Dakota. Often, Native CDFIs alone serve these credit deserts and will surely benefit from NMTC investment.

## RECOMMENDATIONS

- 1. Establish an NMTC Native American program and baseline.** The establishment of an NMTC Native American program will help ensure the Treasury considers the unique situations of rural Native CDEs. Native-controlled CDEs receive a minimum NMTC investment, similar to the CDFI Fund's existing NACA program. On September 20, 2020, the House Ways and Means Committee sent a letter requesting information about why there is so little NMTC investment in Indian Country (see appendix). The Native American CDFI Assistance (NACA) Program at Treasury shows the importance and success of a separate program and baseline. The NACA Program is a huge success and has helped support 69 Native CDFIs serving bank deserts in Indian Country across 27 states. Similarly, NACA receives at least 5.8 – 6.6% of the overall CDFI Fund appropriations. The NMTC Program should mirror the success of the NACA program.
- 2. Clearly state that a tribal government can own a QALICB.** While all Native CDFIs (and CDEs) serve low-middle income individuals, unfortunately, rules are sometimes unclear if a tribal government can own qualified active low-income community business (QALICB). Treasury Regulation Section 1.45D-1(d)(9)(i)(D) gives guidance as to how an entity can qualify as a QALICB under the targeted population rules. Unfortunately, a tribal government cannot capitalize on the NMTC incentives at the same level as other local governments – let alone other businesses. Treasury rules should allow for tribal governments to own a QALICB that leases it back a project to any developing tribal entity. Tribal deals would be much easier and more prevalent if the glossary in the NMTC application was clear that a business owned by a tribal government is a "trade or business" and qualifies to be an NMTC borrower.
- 3. NMTC Program should provide the same access to allocation to entities offering smaller loans as entities offering larger loans.** Native CDFIs generally offer and deliver smaller loans to clients. NCDFIs offer consumer loans, small business loans, homeownership loans, and community development loans. The NMTC application should allow organizations (like many Native CDFIs) that average smaller loans to demonstrate that they have transferable underwriting and loan servicing skills that make them more than capable of doing NMTC deals.

## BACKGROUND ON CHALLENGES AND OPPORTUNITIES WITH NCDFIS IN NATIVE COMMUNITIES

American Indian, Alaska Native, and Native Hawaiian communities are located in some of the most rural and remote locations in the country and face a unique set of challenges that limit economic growth, such as underdeveloped infrastructure, complex governing structures, and limited access to capital. The Native CDFI Network's 2017 survey of Native CDFIs revealed a \$29,000 median income of the markets they served, and the FDIC estimates 41.3% of AIAN households are underbanked and 14% completely unbanked.

Despite these challenges, Native CDFIs have proven themselves as engines to help fuel growth for healthy, vibrant Native economies and communities. They have entered markets typically considered "high-risk" and have been responsible for an astounding transformation – creating businesses, jobs, homeowners and serving as the catalyst for developing local economies. The Treasury's report on Access to Capital and Credit in Native Communities highlights that CDFIs play a critical role in helping underbanked Native people access financial products and services.



The Native CDFI Network is a membership organization formed in 2009 to unify Native CDFIs serving American Indians, Alaska Natives, and Native Hawaiians. NCN's mission is to be a national voice and advocate that strengthens and promotes Native CDFIs, creating access to capital and resources for Native peoples. In support of this mission, the Native CDFI Network seeks to create opportunities to share our stories, identify our collective priorities, and strengthen our industry. In addition, NCN works to represent Native peoples in national policy dialogues and highlight CDFIs' innovative solutions in our Native communities.

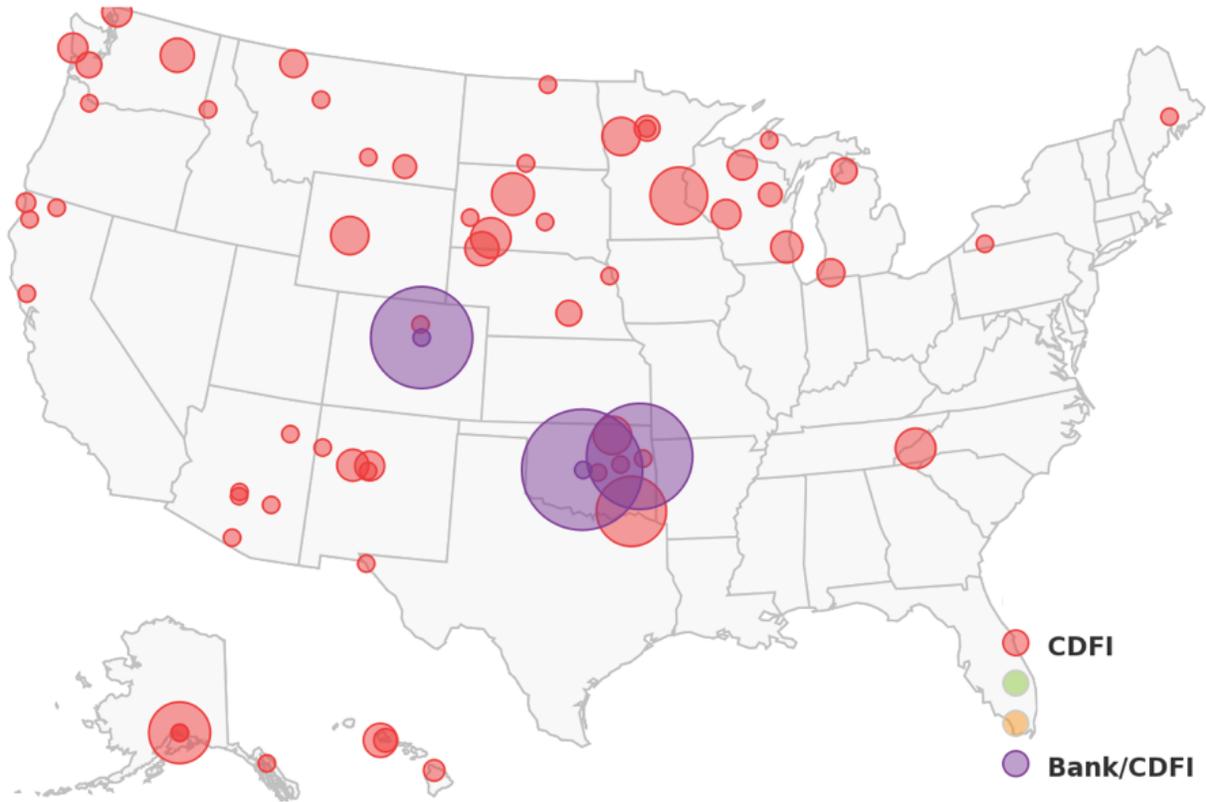
### LONG TERM OUTCOMES

NCN is encouraged by the possibility of much-needed inclusion of Indian Country in NMTC Program activities. Furthermore, NCN is hopeful to work with the Treasury to address the additional concerns outlined in this comment letter. NCN will work together to build incentives to ensure that more than 0% of Native-controlled CDEs receive an NMTC allocation in future years. Establishing a Native NMTC program and baseline and clearly stating that tribal entities can be QALICB owners will result in real investment and change in Indian Country. If a new NMTC application does not encourage increased Native CDE allocations, the status quo will prevail.

There remain many significant challenges for American Indian, Alaska Native, and Native Hawaiian communities to achieve economic opportunity; however, the NMTC program's success in the broader US shows the program's potential for Indian Country. NCN is hopeful that the next NMTC application will help advance our shared priorities and increase Indian country investment through allocations to Native-led CDEs. The Native CDFI Network looks forward to working with the Treasury to help grow the next generation of Native American consumers, entrepreneurs, and families who will engage, participate and flourish in the American economy. Please follow up with Jackson Brossy, NCN Executive Director, at [jbrossy@nativecdfi.net](mailto:jbrossy@nativecdfi.net).

APPENDIX I.

A. US TREASURY-CERTIFIED NATIVE CDFIS & EMERGING NCFDIS ACROSS THE US



Source: Federal Reserve Bank of Minneapolis – Center for Indian Country Development



APPENDIX II. HOUSE WAYS & MEANS COMMITTEE LETTER, SEPTEMBER 2020

**COMMITTEE ON WAYS AND MEANS**  
**U.S. HOUSE OF REPRESENTATIVES**  
**WASHINGTON, DC 20515**

Jodie Harris  
Director, Community Development Financial Institutions Fund  
U.S. Department of the Treasury  
1801 L Street, NW  
6th Floor  
Washington, DC 20036

Dear Director Harris:

We write regarding the New Markets Tax Credit (NMTC), which is an extremely successful tool for promoting community revitalization. We are especially pleased that the NMTC has proved successful in generating jobs and business opportunities in the most distressed rural and urban communities in America. As you know, over 75 percent of NMTC activity is in high-distress communities – those with poverty rates of above 20 percent, with median incomes at or below 60 percent of the area median, or with unemployment rates at least 1.5 times the national average. It is also important to note that over its history, more than half of NMTC investment (\$28 billion) has gone to majority-minority census tracts.

Despite this success, there is still more to be done to improve this vital tax incentive: increase investment in Indian Country. Earlier this year, the Ways & Means Committee’s Subcommittee on Select Revenue Measures convened to hear testimony on the impact of the tax code on Native American tribes. Both Native American Members of Congress and tribal witnesses testified that the NMTC is crucial for their communities. While there has been investment in Indian Country and in census tracts with native populations (approximately \$3.9 billion through 2019), the latest two NMTC allocation rounds resulted in zero allocation for Community Development Entities (CDEs) that committed 100 percent of their activities to aiding Native communities. Overall, the poverty experienced in these communities, combined with a lack of access to private capital, is evidence that more NMTC investment is needed.

In 2009, the Government Accountability Office studied the issue of applications from minority-controlled CDEs. It found that from 2005 through 2008, minority-owned CDEs were successful in about 9 percent of the NMTC applications they submitted and received about 4 percent of the credits for which they applied. By comparison, non-minority CDEs were successful in about 27 percent of their applications and received about 15 percent of what they requested. Though the study was inconclusive as to why, it suggested that “when controlling for other CDE characteristics, minority status is associated with a lower probability of obtaining an allocation.”<sup>1</sup>

For these reasons, we request that the Fund examine its allocation application and review process to identify and revise any elements that may inadvertently limit investment in Indian Country or the participation of minority CDEs. As the Subcommittee hearing made clear, we in Congress need to ensure that our tax laws do not result in systemic disparities between Indian tribes and

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<sup>1</sup> U.S. Gen. Accounting Office, *GAO-09-536, New Markets Tax Credit: Minority Entities are Less Successful in Obtaining Awards than Non-Minority Entities* 30 (2009).

**COMMITTEE ON WAYS AND MEANS**  
**U.S. HOUSE OF REPRESENTATIVES**  
**WASHINGTON, DC 20515**

other taxpayers. The same review should be done on the regulatory level to ensure that programs like the NMTC do the most good as possible across all communities.

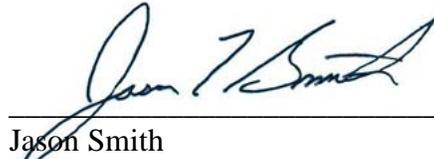
In addition, in 2016 and 2017, the CDFI Fund conducted training targeted to minority- and Native-owned CDEs that helped increase the number of awards to minority applicants. As a result, minority CDEs' success appeared to improve, with approximately 14 percent of allocations going to minority CDEs in 2017-2019, up from roughly 8 percent in previous years. Again, it is clear that more needs to be done on this issue, and we urge you to conduct further trainings as soon as possible.

Thank you for your prompt attention to this request. We look forward to learning the results of your review and working productively with you to build on the NMTC's success going forward.

Sincerely,



Richard E. Neal  
Chairman  
Committee on Ways and Means



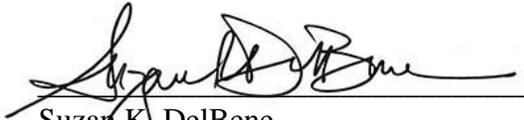
Jason Smith  
Member of Congress



Ron Kind  
Member of Congress



Tom Reed  
Member of Congress



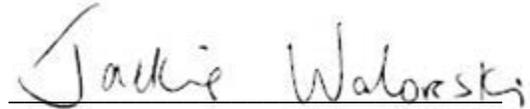
Suzan K. DelBene  
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Daniel T. Kildee  
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