



Policy & Advocacy Office
122 C Street NW, Suite 505
Washington, DC 20001

Executive Director Office
211 W 3rd Street
Grand Island, NE 68801

December 5, 2022

Jodie Harris, Director
Community Development Financial Institutions (CDFI) Fund
Departmental Offices, Department of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: Public Comment on CDFI Certification Application (OMB Control Number: 1559–0028)

Dear Director Harris and CDFI Fund staff:

The Native CDFI Network (NCN), the largest and only national membership organization solely dedicated to serving and supporting Native community development financial institutions (CDFIs), welcomes this opportunity to provide comment on the [CDFI Certification Application \(OMB Control Number: 1559–0028\)](#). NCN’s comments were developed through extensive consultation with and input from NCN’s member Native CDFIs and other key Indian Country stakeholders, including findings derived from a comprehensive survey of Native CDFIs assessing the impacts the CDFI Fund’s proposed changes to the CDFI Certification Application and policies will have on their ability to best serve Native people *and* achieve/retain Treasury certification (these survey results are referenced throughout). The comments are formally supported by the 37 co-signatory organizations listed at the end of this document.

NCN appreciates the CDFI Fund’s stated goals of ensuring the new CDFI Certification Application and its policies “provide the flexibility necessary for CDFIs to grow and to serve the hardest to reach distressed communities” and “maintain the integrity of what it means to be a certified CDFI from a mission perspective.”¹ We also support some of the proposed changes, such as removing geographic restrictions for Native CDFI board members. However, the proposed CDFI Certification Application and policies contain several troubling provisions that will make it exceedingly difficult for currently certified Native CDFIs to recertify and “emerging” Native CDFIs to achieve certification in the first place (we address these in detail below). If finalized as proposed, the Application and policies run the risk of disqualifying a substantial portion of certified Native CDFIs, thus diminishing the reach and impact of Native CDFIs nationally.

For this reason, we respectfully request the Fund not finalize the CDFI Certification Application and policies until these issues of grave concern to Native CDFIs are addressed through direct consultation between the Department of the Treasury/CDFI Fund and Native CDFIs. To that end, we call upon the Treasury and the CDFI Fund to convene a formal listening session on the CDFI Certification Application and Target Market Assessment Methodologies with all due haste. This listening session should include Native CDFI leaders, key Treasury and CDFI officials, and high-ranking representatives of other key federal agencies (notably the Department of the Interior and USDA) who have a vested interest in ensuring that federal funding and programs supporting Native CDFIs and Indian Country community and

¹ NCN also appreciates the CDFI Fund’s efforts “to provide greater transparency and clarity around the criteria that entities must meet to obtain and maintain CDFI Certification” (<https://www.govinfo.gov/content/pkg/FR-2022-11-04/pdf/2022-24082.pdf>, p. 66787).

economic development broadly is in coordinated alignment, not direct conflict. This approach to meaningful consultation hopefully will lead to a new CDFI Certification Application and Target Market Assessment Methodologies that support Native CDFIs and don't stand in their way.

The Vital Role Native CDFIs Play

As the CDFI Fund explains on its website, Native CDFIs' origins can be traced to the 1994 Congressional legislation authorizing the Fund's creation, which contained among its provisions the mandating of a study examining lending and investment practices in Native communities.² Titled the Native American Lending Study, the study identified 17 major barriers to investment in Indian Country, and "affirmed the importance of developing Native CDFIs to play a key role in the broader effort to lead Native Communities into the nation's economic mainstream."³

In the two decades since the study's release, Native CDFIs have proven themselves vital engines for fueling the growth of healthy, vibrant Native economies and communities. In the CDFI Fund's own words, Native CDFIs are "an important part of the CDFI Fund's mission to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States," and they are making a "considerable impact" by "helping to transform their communities. They are creating businesses and jobs in places that desperately need them. They are providing personal financial education and business training to persons who have been excluded from our nation's economic mainstream. They are helping to change the lives of the people they serve."⁴ In short, Native CDFIs epitomize what the CDFI Fund sees as the hallmark for CDFI certification: "those working at the margins and beyond to consciously and deliberately make impact."⁵

Currently, a total of 64 Treasury-certified Native CDFIs (down from its recent peak of 72 certified Native CDFIs) – serving rural reservation communities as well as urban Native populations – can be found in 27 states across the country, and there are roughly 20 "emerging" Native CDFIs following closely in their footsteps.

The Troubling Proposed Changes to the CDFI Certification Application

Despite the extraordinary economic progress certified and emerging Native CDFIs are cultivating across Indian Country through their intimate understanding of the unique needs of the communities they serve and the customized programs and products they create to address those needs, there still exist significant unmet needs for capital, credit, training, technical assistance, and financial capability building across Native communities. Simply put, Indian Country needs *more* Native CDFIs, *not less*. It needs *more* Native CDFIs that can achieve and retain Treasury certification and the access to capital and credit that certification unlocks for them, *not less*. While the overall number of certified CDFIs has grown exponentially from less than 200 in 1997 to more than 1,400 institutions in 2022 – which the CDFI Fund cites as a major reason for the timing and nature of the proposed changes to the CDFI Certification Application and policies – Indian Country has experienced only modest growth, with the number of certified Native CDFIs growing from 50 in 2008 to just 64 currently.⁶ This despite the fact that there are 574 federally recognized tribal nations spread across 36 states.

Yet the proposed changes to the CDFI Certification Application and policies (including the Target Market Assessment Methodologies, which NCN will comment on separately) threaten to derail Native CDFIs' ability to sustain and grow this economic progress by needlessly placing them in a no-win position: drastically change the way they operate and the types of needs-based programs and products they offer simply to conform to the CDFI Fund's proposed rigid certification requirements, or forego attaining/retaining certification, which will result in significantly reduced access to

² <https://www.cdfifund.gov/programs-training/programs/native-initiatives>

³ https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi7205_fs_ni_updatedfeb20.pdf

⁴ <https://www.cdfifund.gov/sites/cdfi/files/documents/native-american-strategic-plan.pdf>, PDF p. 3.

⁵ <https://www.cdfifund.gov/node/1017926>

⁶ <https://www.cdfifund.gov/sites/cdfi/files/documents/native-american-strategic-plan.pdf>, PDF p. 13. In 2008, the CDFI Fund also identified that "more than 60 organizations are at various stages of development and moving toward certification as Native CDFIs" (ibid.). Today, as mentioned above, the number of emerging Native CDFIs is far less.

the capital and credit they need to serve their clients. Several of the proposed changes will force many Native CDFIs to make this untenable choice, most notably the following six:

1. Prohibiting interest-only mortgage loans, mortgage loans with balloon payments, and mortgage loans with terms longer than 30 years: Under the proposed CDFI Certification changes, CDFIs will now have to write mortgages that include: (a) no negative amortization, interest-only payments, or balloon payments; (b) adjustable-rate mortgages underwritten at the maximum rate in the first five years; (c) an original maximum term of 30 years; and (d) total points and fees generally not exceeding three percent of the loan amount.⁷ Yet many Native CDFIs offer interest-only loans and loans with balloon payments to provide affordable homeownership opportunities to Native clients that otherwise would not have access to mortgage loans. For example, one Native CDFI offers a 30-year amortized mortgage loan product that features a five-year balloon payment. The CDFI works with borrowers to help ensure they can refinance their loans with the local credit union before the balloon payment is due. This prepares and incentivizes borrowers to enter the financial mainstream, as well as allowing the CDFI to turn over capital more quickly to serve a much larger number of home buyers. Other innovative interest-only and/or balloon loan products offered by Native CDFIs that help Native people access affordable and flexible capital to meet their needs include home equity lines of credit, construction loans, housing development loans, and down payment assistance loans. Many of these would no longer be allowed under the proposed new limitations. Some Native CDFIs also offer terms on mortgage loans longer than 30 years to make them affordable, including USDA loans they deploy featuring terms of 38 years. Although longer-term mortgage loans could lead to a slower accumulation of equity, they provide families with housing security through fixed housing payments — not to mention the pride of homeownership.

Collectively, Native CDFIs have supported many Native clients in becoming successful homeowners through these loan products. Altogether, according to NCN’s November 2022 survey results, *over one-third (38.10%) of Native CDFIs currently provide one or more of these types of loans*, which would be disallowed under the proposed CDFI Certification Application and policies. This prohibition would significantly reduce the ability of Native individuals and families to achieve housing security and become homeowners. Native communities are already faced with extreme challenges in attracting mortgage lenders. Eliminating or reducing existing mortgage products offered by Native CDFIs or, even worse, reducing the number of Native CDFIs because they cannot meet certification requirements will only serve to further exacerbate the lack of capital access available to these financially and economically underserved communities.

These proposed changes also appear to be inconsistent with the CDFI Fund’s stated commitment to “increase interagency coordination of Federal funding for Native CDFIs,”⁸ as the changes directly conflict with the criteria, terms, and requirements of several other key sources of federal funding upon which Native CDFIs heavily rely (like the aforementioned USDA home loans several Native CDFIs utilize). *Action: NCN calls upon the CDFI Fund to remove these prohibitions for certified Native CDFIs from the final CDFI Certification Application and policies, as they are destined to decrease the number of mortgage loans Native CDFIs can make to an already severely underserved Native population when it comes to homeownership financing, and they also threaten to cause a significant decrease in the overall number of certified Native CDFIs.*

2. Predominance as a Financing Entity and restricting CDFI staff time dedicated to Development Services: Under the proposed CDFI Certification changes, a CDFI applying for CDFI certification/re-certification must demonstrate the direct provision of Financial Products and/or Financial Services is the applicant’s *predominant* business activity, which includes both assets and staff time.⁹ We do not take issue with requiring a predominance of assets to be dedicated to financing, as this demonstrates that an entity is indeed focused primarily on financing. However, by necessity, the staff of many Native CDFIs spend considerable time providing development services such as credit repair assistance, general financial capability building trainings, and other supportive activities to prepare the communities, businesses, and individual clients they serve to grow their assets and wealth through homeownership, small business development, and consumer

⁷ https://www.cdfifund.gov/sites/cdfi/files/2022-10/CDFI_Certification_Application_Preview_Final_10322.pdf, p. 35.

⁸ <https://www.cdfifund.gov/sites/cdfi/files/documents/native-american-strategic-plan.pdf>, PDF p. 5.

⁹ https://www.cdfifund.gov/sites/cdfi/files/2022-10/CDFI_Certification_Application_Preview_Final_10322.pdf, p. 54.

loans. Altogether, according to NCN's survey results, *almost two-thirds (65.12%) of Native CDFIs spend more than 30% of their staff time on activities the CDFI Fund considers Development Services, and almost one-third (27.91%) spend more than 50% of their staff time on these Development Services.* Often the smallest loans (credit builder loans, small business microloans, etc.) – which Native CDFIs provide in abundance – require the largest investment of staff time for supportive development services to build a pipeline of qualified borrowers and ensure their immediate and long-term success. It is the very reason Native CDFIs were created, and it is what distinguishes them from traditional lenders. As one Native CDFI leader shared with NCN, “How can we secure a good loan without adequate development services to support that loan?” Under the proposed CDFI Certification Application, which require a predominance of staff time be spent on financing, many of these NCDFIs will no longer qualify for certification. *Action: Either there should be no rule stating that the predominance of staff time must be dedicated to direct financing activities, OR the Fund should maintain the most recent requirement that a majority of staff time must be dedicated to a **combination** of financing activities and Development Services.*

3. Barring youth-based services as qualifying Development Services: Under the proposed CDFI Certification changes, “workshops for children or broad audiences” and related types of activities would no longer be considered qualifying Development Services.¹⁰ Directly responding to community needs, over three-quarters of Native CDFIs (78.57%, according to NCN's November 2022 survey results) offer as a prominent part of their services youth-focused financial literacy trainings, entrepreneurship trainings, matched savings programs, and other programs that collectively prepare Native youth to grow their personal assets and wealth and eventually successfully utilize the loan products Native CDFIs offer. However, under the proposed CDFI Certification Application and policies, these would no longer qualify as Development Services and thus presumably could not be paid for with CDFI Financial Assistance (FA) Award dollars, which would create increased financial strain on Native CDFIs intent on continuing to provide these difference-making services. Offering youth development services help Native CDFIs build a future pipeline of qualified borrowers. For example, many Native CDFIs have offered financial literacy or entrepreneurship training to high school-aged youth. Once youth turn 18, they are eligible for a loan. A microenterprise or credit builder loan can help a young person build their financial capacity and lay the foundation for wealth building. Many of a Native CDFI's development services do not immediately translate into a loan; clients often will complete a training and return one or two years later with the seed having previously been planted. Youth are no different in this regard. Native CDFIs provide youth development services with an eye on achieving their community development and access to affordable capital missions, as well as supporting the long-term sustainability of their organization. It is essential to be able to continue to build these critical habits for young people to build a Native CDFI's loan pipeline and help ensure future generations have the best opportunity for a healthy financial future. *Action: Youth-based services should be counted as Development Services because they have proven to create systemic progress in the communities Native CDFIs serve and cultivate a pipeline of future borrowers.*

4. Eliminating “unstructured conversations with consumers on Development Service matters” as a qualifying Development Service: One-on-one technical assistance and coaching is one of the most important services a Native CDFI offers to potential and existing borrowers. Oftentimes, a client will walk into a Native CDFI office to talk about their business or financial situation. These conversations with technical assistance providers are often unstructured, but typically lead to Native CDFI staff helping the client understand the next steps in preparing to apply for or qualify for a loan. In addition, these are critical conversations to building a strong relationship with many Native CDFI clients who have been distrustful of financial institutions due to past discrimination and other issues. These relationships are critical to enhancing clients' odds of success. While we assume the Fund is not trying to eliminate one-on-one technical assistance as a qualifying development service, labeling “unstructured” versus “structured” is unclear and will create additional confusion and complexity when providing and tracking these important services. *Action: Eliminate “unstructured conversations” from the list of activities that do not qualify as Development Services.*

5. Accountability requirements that exclude: (1) staff members of the Applicant and/or its Affiliates/Subsidiaries and their families, (2) board members with and active Financial Product from the Applicants, and (3) board members that receive financial compensation for their services (other than board service-related expenses): The Native population is

¹⁰ https://www.cdfifund.gov/sites/cdfi/files/2022-10/CDFI_Certification_Application_Preview_Final_10322.pdf, p. 79.

by the far the smallest of the Other Target Populations (OTP) groups. In addition, a large majority of Native CDFIs serve rural and remote areas with limited populations. These factors often make attracting qualified board members quite challenging. Excluding board members with family relations or who have an active loan with the Native CDFI whose board they are sitting on could put many Native CDFIs at risk of falling below the CDFI Fund's proposed Accountability requirements. Furthermore, Native CDFIs strive to use qualified local contractors whenever possible. Sometimes a board member is the most qualified person to perform a contracted service for the organization. According to NCN's November 2022 survey results, *over one-third (37.21%) of Native CDFIs have board members that are related to staff, and almost 40% (39.53%) of Native CDFIs have made loans to board members* (these board members will not qualify as Accountable even if their organization already has bylaws that address conflicts of interest, potentially preventing some Native CDFIs from meeting the proposed Accountability requirements). Most Native CDFIs have developed and follow strong conflict of interest policies to address these issues while still allowing for the most qualified individuals to serve in important board and staff positions. *Action: Exempt Native CDFIs from these Accountability exclusions.*

6. Requiring the submission of a board-approved strategic plan evidencing a community development strategy: Under the proposed CDFI Certification changes, a board-approved strategic plan will be required for all Native CDFIs applying for certification/re-certification.¹¹ Developing and ratifying strategic plans are time-consuming and expensive, especially for small and emerging Native CDFIs who have limited staff and institutional capacity and financial resources and who are stretched thin prioritizing the delivery of mission-critical services. *Action: Drop this requirement for Native CDFIs given the undue burden it will place on many capacity challenged Native CDFIs.*

Closing

NCN shares the CDFI Fund's unerring commitment to creating ample and fair access to capital and resources for Native people, primarily those in low-income communities. We applaud the Fund's desire to strengthen and clarify the Certification/Recertification process, as well as many of the proposed changes. We ask the Fund to please give serious consideration to the issues we have addressed above. Without the changes we have requested, many emerging and existing Native CDFIs will no longer qualify for certification, creating a significant setback in the transformative progress the Native CDFI industry and the CDFI Fund have been able to achieve over the last two decades. We appreciate your dedication to the work we do and look forward to continuing to work with the Fund to ensure that the new CDFI Certification Application explicitly enhances the ability of Native CDFIs to secure investment capital and do difference-making work in Native communities, and underserved people and communities across the country. The same holds true for the Target Market Assessment Methodologies, and NCN will be submitting formal comments addressing those by the December 19, 2022 deadline.

Sincerely,

Pete Upton
Board Chair/Interim CEO, Native CDFI Network
pete@nativecdfi.net

ORGANIZATIONAL CO-SIGNATORIES:

Mary Miner
Vice President of Community Development
Alaska Growth Capital BIDCO, Inc.

Sean Winters
Executive Director
Chi Ishobak, Inc.

¹¹ https://www.cdfifund.gov/sites/cdfi/files/2022-10/CDFI_Certification_Application_Preview_Final_10322.pdf, p. 34.

Cindy Logsdon
Chief Executive Officer
Citizen Potawatomi Community Development Corporation

Gabriel Layman
President
Cook Inlet Lending Center, Inc.

Lakota Vogel
Executive Director
Four Bands Community Fund

Charlene Virgilio
Executive Director
Four Directions Development Corporation

Jacqueline Pata
Chief Executive Officer
Haa Yakaawu Financial Corporation

Laura Aguirre
Chief Executive Officer
Hawaii First FCU

Cristy Labanon
Chief Executive Officer
Hawaiian Lending & Investments

Kara Chow
Deputy Director
Homestead Community Development Corporation

Lesly Bautista-Nelson
Financial Institution Director
Hoopa Development Fund - Credit and EDA Division

Tawney Brunsch
Executive Director
Lakota Funds

Nancy Jordan
Interim Executive Director
Lummi CDFI

Kit Fordham
Executive Director
Mni Sota Fund

Andrea Main
Executive Director
NACDC Financial Services, Inc.

Chris James
President & CEO
National Center for American Indian Enterprise Development

Pete Upton
Executive Director
Native360 Loan Fund, Inc.

Dave Castillo
Chief Executive Officer
Native Community Capital

Cindy Mittlestadt
Fund Manager
Native Edge Finance

Rollin M. Wood
Executive Director
Native Partnership for Housing, Inc.

Renay Dossman
President
Neighborhood Development Center

Jonelle Yearout
Executive Director
Nimiipuu Community Development Fund

Dave Tovey
Executive Director
Nixyáawii Community Financial Services

Cindy Hendrickson
Executive Director
Northern Shores Community Development

Kevin Walker
President and CEO
Northwest Area Foundation

Ted Piccolo
Executive Director
Northwest Native Development Fund

Chrystel Cornelius
CEO and President
Oweesta Corporation

Michael J. McCafferty
Executive Director
Oyate Community Development Corporation

Suzanne Anarde
Chief Executive Officer
Rural Community Assistance Corporation

Robin Danner
Chairman
Sovereign Council of Hawaiian Homestead Associations

Britney Hiseley
Executive Director
Tatanka Funds, Inc.

Russell Seagle
Executive Director
The Sequoyah Fund, Inc.

Alicia Burns
Executive Director
Westwater Financial, Inc.

Julia Nelmark
Chief Executive Officer
White Earth Investment Initiative

David Gouwens
Chief Operating Officer
Wisconsin Native Loan Fund

Sara Barbour
Interim Executive Director
Yurok Alliance for Northern California Housing

Lisa Wagner
President
Bluestem Consulting, Inc.