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August 8, 2022

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

CC: Marica Sigal, Deputy Director for Policy and Programs, CDFI Fund; Daniel Aiello, Senior Advisor, Office of the Deputy Director for Policy and Programs, CDFI Fund; Jason Boehlert, Program Manager for Legislative and External Affairs, CDFI Fund

Re: Critical Changes Needed to the CDFI Equitable Recovery Program Eligibility Guidelines

Greetings Director Harris,

We hope this finds you well.

On behalf of the Native CDFI Network (NCN), the only national organization exclusively dedicated to serving and supporting Native CDFIs, we write to make you aware of two issues of concern with the CDFI Fund's CDFI Equitable Recovery Program (CDFI ERP), and respectfully request the CDFI Fund address these issues so that Treasury-certified Native CDFIs can take full advantage of the CDFI ERP and its intended benefits.

#### **Background and Purpose of CDFI ERP**

The Consolidated Appropriations Act, 2021 (Act; Section 523 of Division N; Pub. L. 116-260) provided \$1.75 billion to the Community Development Financial Institutions Fund (CDFI Fund) to award Community Development Financial Institutions (CDFIs) grants to respond to the economic impacts of the COVID-19 pandemic. *Awards provided to CDFIs are to expand lending, grant making, and investment activity in low- or moderate-income communities and to borrowers, including minorities, that have significant unmet capital or financial service needs and **were disproportionately impacted by the COVID-19 pandemic** and to enable CDFIs to build organizational capacity and acquire technology, staff, and other tools necessary to accomplish the activities under a CDFI ERP Award.* The CDFI Fund will be awarding these funds through its newly established CDFI Equitable Recovery Program (CDFI ERP). Native Americans had the highest mortality rate ratio and Native Americans most disproportionately impacted by COVID-19. Research on COVID-19 mortality revealed that mortality rates for Native Americans was 2.8 times higher than for Whites in the same sample. The standardized mortality ratio for Native Americans is also considerably higher than values for both Black and Latino populations.

**The first issue of concern** involves the Program's **ERP-Eligible Geographies**. As you know, all CDFI ERP eligible activities must serve ERP-Eligible Geographies with the exception of up to 10% of an ERP award amount, which may be deployed outside of ERP-Eligible Geographies to serve low- or moderate-income persons and businesses (including non-profit

organizations) that have been disproportionately impacted by the COVID–19 pandemic and are located in CDFI Eligible Markets. The CDFI Fund’s list of ERP-Eligible Geographies presently includes Alaska Native Village Statistical Areas, Federal American Indian Reservations, State American Indian Reservations, Hawaiian Home Lands, Joint Use Areas, Off-Reservation Trust Lands, Oklahoma Tribal Statistical Areas, State Designated Tribal Statistical Areas, and Tribal Designated Statistical Areas (TDSAs). However, notably absent are the **federally designated service counties/service areas** that encompass a significant portion of the service population of many Native CDFIs across the country. Excluding these federally designated service counties/service areas from the list of ERP-Eligible Geographies will effectively prevent a considerable number of Native CDFIs from participating in the CDFI ERP, as their current service portfolios far exceed the aforementioned 10% maximum threshold for servicing outside of those Geographies. Ultimately, the exclusion of federally designated service counties/service areas from the CDFI ERP mapping tool and list of approved geographies leaves a substantial number of Native CDFI’s unable to participate in the program. As a result, thousands of Native Americans will not receive much-needed financial services and technical assistance support.

Last week alone, NCN has received notices from more than a dozen other Native CDFIs indicating that the current ERP-Eligible Geographies list would also disqualify them from participating in the Program because of the list’s exclusion of their service counties/service areas. This exclusion also stands to disproportionately impact Native CDFIs serving Native nations without federally recognized land bases, but whose federal restoration acts clearly define that tribal citizens residing in those nations’ service counties are deemed to be residing on or near a reservation.

One Native CDFI’s service area covers the entire state of Oklahoma; the current ERP-Eligible Geographies list creates significant ERP eligibility gaps across this service area, particularly in more populated areas featuring heavy concentrations of Native persons and businesses who are in need and would benefit greatly from the Program. Samish Indian Nation; also, Native fishermen, divers, and aquatic harvesters, such as members of Lummi Nation - the largest Native fishing fleet in the Salish Sea (Puget Sound), who do not reside within the bounds of the reservation, are not included. The service area of another Native CDFI consists of 15 federally designated counties in Nebraska, South Dakota, and Iowa, much of which falls outside the geographies recognized in the current ERP-Eligible Geographies list.

Based on the definition in your glossary of Federal American Indian Reservations that means areas that have been set aside by the United States for the use of tribes, the exterior boundaries of which are more particularly defined in the final tribal treaties, agreements, executive orders, federal statutes, secretarial orders, or judicial determinations, as defined by the United States Census Bureau.” The restoration acts of these Native nations and other federal guidance clearly affirm that citizens of these Native nations residing in these nations’ service counties/service areas shall be deemed to be residing on or near an Indian reservation. As such, they should be fully included in the ERP Eligible Geographies.

**Given this documented reality, NCN and its member Native CDFIs respectfully request that the CDFI Fund amend the ERP-Eligible Geographies list to include federally designated service counties/service areas so that all eligible Native CDFIs can access this important Program. Non-land-based tribes Restoration Acts clearly provides/defines that tribal members residing in those counties SHALL be deemed to be residing on or near a reservation.**

**The second issue of concern** is with regard to the Audit requirements. The current Audit requirements edge out several Native CDFIs who are recently Certified serving these communities and tribal lands most impacted by COVID and recovery. With the standing requirement of submitting two consecutive annual audits, many of the recently Certified Native CDFI's that were intending to submit an application are ineligible to apply for these funds. These otherwise eligible Native CDFI's are compliant with CDFI Fund requirements for annual certification, which includes providing annual Financial Reviews and/or at least one completed audit. This requirement is a challenge for small, newly established Native CDFIs.

**NCN and its member Native CDFIs respectfully request that the CDFI Fund rescind the 2-year audit requirement for the CDFI Equitable Recovery Program (ERP) Application.**

We look forward to discussing this requested amendment to the CDFI ERP eligibility guidelines with you and your staff. Please let us know if you have any questions and when you would like to schedule a conversation.

Sincerely,

*Pete Upton*

Pete Upton  
NCN Board Chair/Interim Executive Director  
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[Comments received the week of August 1, 2022 from Native CDFI's impacted by current ERP Geographies.](#)

- Pokagon Band of Potawatomi, Gun Lake Tribe, Little River Band of Ottawa Indians. I also looked at other Michigan Tribes and some of those areas are not included.
- All counties in Arizona, New Mexico, and Utah that are not currently included in the ERP Eligible Geographies should be included as eligible. Hundreds of thousands of Native Americans from numerous tribes live throughout the Southwest.
- Based on the definition in their glossary of Federal American Indian Reservations that means areas that have been set aside by the United States for the use of tribes, the exterior boundaries of which are more particularly defined in the final tribal treaties, agreements, executive orders, federal statutes, secretarial orders, or judicial determinations, as defined by the United States Census Bureau." Non-land-based tribes Restoration Acts clearly provides/defines that tribal members residing in those counties *SHALL* be deemed to be residing on or near a reservation.
- The program meant to assist with COVID impacts by Government is missing Native American and Rural Communities, again! Reconsider requirements for ERP to consider Native lands and impact areas for Native CDFIs. Audit requirements edge out several Native CDFIs who are serving these communities and tribal lands who are most impacted by COVID and recovery. Consider Rapid Response Program as model to deploy capital! Our regional group, Northwest Native Lenders Network and Affiliated Tribes of NW Indians (ATNI) has sent letter to CDFI and our State Senators to express these issues.
- I am still seeking clarification (sent an email) on geographic eligibility for the CDFI ERP grant application. Our nonprofit organization, Spruce Root is a Native CDFI operating and funding programs and businesses in rural Southeast Alaska. I've highlighted the census tracts we have funded/lended to on the list of eligible geographies and looked at the map and identified that our rural communities meet at least one of the eligible categories on the excel spreadsheet plus they are in Alaska Native Village Statistical Areas, so does that meet geographic eligibility criteria?
- Ironically, due to the COVID pandemic, our operational launch was delayed throughout the 2020 year. Our organization's Executive Director and Chief Financial Officer had prior oversight and management of the combined programs (Credit, Business Services, Homeownership) in the Tribal government structure with corresponding overall single audits. Several Native CDFI's in our region were also tethered to their Tribal government and also deemed ineligible.
- Limiting ERP funding to 3x their average annual distribution adversely limits Native CDFIs ability to effectively serve Native Americans within our service area. Capital funding needs of Native Americans are far greater than the majority of Native CDFIs have been able to historically secure and deploy among what are arguably the most underserved members of our nation. The United States was built 100% on Native American land. Therefore, Native Americans should be eligible for ERP funds regardless of where they live in the U.S. Limiting ERP funding to Native Americans living in ERP eligible geographies is a *continuance of paternalistic colonialism, forcing Native Americans back onto reservations and surrounding communities*. This level of control over Native Americans lives must stop. Geographic requirements limit Native CDFIs and Native Americans ability to prosper and live lives comparable to others in our nation. Please adequately fund and empower Native CDFIs by removing geographic restriction so they can more effectively serve Native Americans regardless of where they live in our nation.
- Eastern portion of the Nez Perce Reservation is covered on ERP map. Our large portion of our market is not covered by ERP map.
- We serve the entire state of Oklahoma. There are big gaps on eligibility on the map- such as in the more populated areas
- Samish Indian Nation; also, Native fishermen, divers and aquatic harvesters, such as members of Lummi Nation - the largest Native fishing fleet in the Salish Sea (Puget Sound), and who do not reside within the bounds of the reservation, are not included.