

respectively and 1.4288 and 2.0955 after installation of the immobilizer device. Further review of the agency's theft data published through the 2004 MY revealed that, while there is some variation, the theft rates for both lines continued to stay below the median theft rate of 3.5826. The agency agrees that the device is substantially similar to devices in other vehicles for which the agency has already granted exemptions.

For clarification purposes, the agency notes that it does not collect theft data. NHTSA publishes theft rates based on data provided by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. NHTSA uses NCIC data to calculate theft rates and publishes these rates annually in the **Federal Register**.

The agency also notes that the device will provide four of the five types of performances listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Versa vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2008 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Parts 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: December 27, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 06-9958 Filed 12-29-06; 8:45 am]

**BILLING CODE 4910-59-M**

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

#### Notice of Funds Availability (NOFA) Inviting Applications for the FY 2007 and FY 2008 Funding Rounds of the Bank Enterprise Award (BEA) Program

**Announcement Type:** Initial announcement of funding opportunity. *Catalog of Federal Domestic Assistance (CFDA) Number:* 21.021.

**DATES:** Applications for the FY 2007 funding round must be received by 5 p.m. ET on March 15, 2007 and applications for the FY 2008 funding round must be received by 5 p.m. ET on March 13, 2008. Applications must meet all eligibility and other requirements

and deadlines, as applicable, set forth in this NOFA. Applications received after 5 p.m. ET on the applicable deadline will be rejected and returned to the sender.

**Executive Summary:** This NOFA is issued in connection with the FY 2007 and FY 2008 funding rounds of the BEA Program. Through the BEA Program, the Community Development Financial Institutions Fund (the Fund) encourages Insured Depository Institutions to increase their levels of loans, investments, services, and technical assistance within Distressed Communities, and financial assistance to Community Development Financial Institutions (CDFIs) through grants, stock purchases, loans, deposits, and other forms of financial and technical assistance, during a specified period.

#### I. Funding Opportunity Description

##### A. Baseline Period and Assessment Period Dates

A BEA Program award is based on an Applicant's increases in Qualified Activities from the Baseline Period to the Assessment Period. For the FY 2007 funding round, the Baseline Period is calendar year 2005 (January 1, 2005 through December 31, 2005), and the Assessment Period is calendar year 2006 (January 1, 2006 through December 31, 2006). For the FY 2008 funding round, the Baseline Period is calendar year 2006 (January 1, 2006 through December 31, 2006), and the Assessment Period is calendar year 2007 (January 1, 2007 through December 31, 2007).

##### B. Program Regulations

The regulations governing the BEA Program can be found at 12 CFR part 1806 (the Interim Rule) and provide guidance on evaluation criteria and other requirements of the BEA Program. The Fund encourages Applicants to review the Interim Rule. Detailed application content requirements are found in the application related to this NOFA. Each capitalized term in this NOFA is more fully defined either in the Interim Rule or the application.

##### C. Qualified Activities

Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103(mm)). CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities (12 CFR 1806.103(pp)). Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project

Investments; Education Loans; Commercial Real Estate Loans and related Project Investments; Home Improvement Loans; and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). Service Activities include Deposit Liabilities, Financial Services, Community Services, Targeted Financial Services, and Targeted Retail Savings/Investment Products (12 CFR 1806.103(o)).

When calculating BEA Program award amounts, the Fund will count only the amount an Applicant reasonably expects to disburse for a Qualified Activity within 12 months from the end of the Assessment Period. Subject to the exception outlined in Section I. G.1. of this NOFA, in no event shall the value of a Qualified Activity for purposes of determining a BEA Program award exceed \$10 million in the case of Commercial Real Estate Loans or any CDFI Related Activities (i.e., the total principal amount of the transaction must be \$10 million or less to be considered a Qualified Activity).

#### D. Designation of Distressed Community

An Applicant applying for a BEA Program award for carrying out Distressed Community Financing Activities, Services Activities, or CDFI Support Activities must designate one or more Distressed Communities. Each CDFI Partner that is the recipient of CDFI Support Activities from an Applicant must also designate a Distressed Community. The CDFI Partner can identify a different Distressed Community than the Applicant. Applicants providing Equity Investments to a CDFI, and CDFI Partners that receive Equity Investments, are not required to designate Distressed Communities. Please note that the CDFI Partner's designated Distressed Community must meet the requirements of the BEA Program and that a Distressed Community as defined by the BEA Program is not the same as an Investment Area as defined by the CDFI Program, or a Low-Income Community as defined by the New Markets Tax Credit (NMTC) Program.

1. *Definition of Distressed Community:* A Distressed Community, defined in the Interim Rule at 12 CFR 1806.103(t) and more fully described in 12 CFR 1806.200, must meet the following minimum geographic, population, poverty, and unemployment requirements:

(a) *Geographic requirements.* A Distressed Community must be a geographic area: (i) That is located within the boundaries of a Unit of

General Local Government; (ii) the boundaries of which are contiguous; and (A) The population of which is at least 4,000 if any portion of the area is located within a Metropolitan Area with a population of 50,000 or greater; (B) the population must be at least 1,000 if no portion of the area is located within such a Metropolitan Area; or (C) the area is located entirely within an Indian Reservation.

(b) *Economic distress requirements.* A Distressed Community must be a geographic area where:

(i) At least 30 percent of the Residents have incomes that are less than the national poverty level, as published by the U.S. Bureau of the Census in the most recent decennial census for which data is available; and (ii) the unemployment rate is at least 1.5 times greater than the national average, as determined by the U.S. Bureau of Labor Statistics' most recent data, including estimates of unemployment developed using the U.S. Bureau of Labor Statistics' Census Share calculation method.

2. *Designation of Distressed Community:* An Applicant or CDFI Partner (as appropriate) shall designate an area as a Distressed Community by:

(a) Selecting Geographic Units which individually meet the minimum area eligibility requirements; or

(b) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (1) of this section provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

An Applicant engaging in Distressed Community Financing Activities or Service Activities designates a Distressed Community by submitting: (i) A List of Eligible Census Tracts; and (ii) a Map of the Distressed Community.

An Applicant that engaged in CDFI Support Activities only (or CDFI Support Activities and Equity Investments) may designate the same Distressed Community as any one of its CDFI Partners by signing and submitting with its application, a certification (included in the application materials) that it is designating the same Distressed Community as its CDFI Partner. A CDFI Partner designates a Distressed Community by submitting: (i) A List of Eligible Census Tracts; (ii) a Map of the Distressed Community; and (iii) a Statement of Integral Involvement demonstrating that the CDFI Partner is Integrally Involved in the Distressed Community.

Applicants and CDFI Partners must use the CDFI Fund Information

Mapping System (CIMS) to designate Distressed Communities. CIMS is accessed through *myCDFIFund* and contains step-by-step instructions on how to create and print the aforementioned List of Eligible Census Tracts and Map of the Distressed Community. *MyCDFIFund* is an electronic interface that is accessed through the Fund's Web site (<http://www.cdfifund.gov>). Instructions for registering with *myCDFIFund* are available on the Fund's Web site. If you have any questions or problems with registering, please contact the CDFI Fund IT HelpDesk by telephone at (202) 622-2455, or by e-mail to [ITHelpDesk@cdfi.treas.gov](mailto:ITHelpDesk@cdfi.treas.gov).

#### E. CDFI Related Activities

CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities provided to eligible CDFI Partners. In addition to regulatory requirements, this NOFA provides the following:

1. *Eligible CDFI Partner:* CDFI Partner is defined as a CDFI that has been provided assistance in the form of CDFI Related Activities by an Applicant (12 CFR § 1806.103(o)). For the purposes of this NOFA, an eligible CDFI Partner is an entity that has been certified as a CDFI as of the date of application.

2. *Limitations on eligible Qualified Activities provided to certain CDFI Partners:* An Applicant that is also a CDFI cannot receive credit for any financial assistance or Qualified Activities provided to a CDFI Partner that is also an FDIC-insured depository institution or depository institution holding company.

3. *Certificates of Deposit:* Section 1806.103(q) of the Interim Rule states that any certificate of deposit placed by an Applicant or its Subsidiary in a CDFI that is a bank, thrift, or credit union must be: (i) Uninsured and committed for at least three years; or (ii) insured, committed for a term of at least three years, and provided at an interest rate that is materially below market rates, in the determination of the Fund. For purposes of this NOFA, "materially below market interest rate" is defined as an annual percentage rate that does not exceed 100 percent of yields on Treasury securities at constant maturity as interpolated by Treasury from the daily yield curve and available on the Federal Reserve website at [www.federalreserve.gov/releases/H15/update](http://www.federalreserve.gov/releases/H15/update). For example, for a three-year certificate of deposit, Applicants should use the three-year rate posted for U.S. Government securities, Treasury Constant Maturity on H. 15 (Selected Interest Rates) Daily Release. The

Federal Reserve updates the H. 15 daily at approximately 4:00 p.m. ET. Certificates of deposit placed prior to that time may use the rate posted for the previous day. The annual percentage rate on a certificate of deposit should be compounded quarterly, semi-annually, or annually. In addition, Applicants should determine whether a certificate of deposit is insured based on the total amount the Applicant or its Subsidiary has on deposit on the day the certificate of deposit is placed. For example, if an Applicant purchased a \$100,000 3-year certificate of deposit from a CDFI in April, 2003 and the Applicant purchases another \$100,000 certificate of deposit from the same CDFI in May, 2004, then the second certificate of deposit should be treated as uninsured for purposes of calculating the annual percentage rate. The Applicant must note, in its BEA Program application, whether the certificate of deposit is insured or uninsured.

#### *F. Equity-Like Loans*

An Equity-Like Loan is a loan provided by an Applicant or its Subsidiary to a CDFI, and made on such terms that it has characteristics of an Equity Investment (consistent with requirements of the Appropriate Federal Banking Agency), as such characteristics may be specified by the Fund (12 CFR 1806.103(y)). For purposes of this NOFA, Equity-Like Loans must meet the following characteristics:

1. At the end of the initial term, the loan must have a definite rolling maturity date that is automatically extended on an annual basis if the CDFI borrower continues to be financially sound and carry out a community development mission;
2. Periodic payments of interest and/or principal may only be made out of the CDFI borrower's available cash flow after satisfying all other obligations;
3. Failure to pay principal or interest (except at maturity) will not automatically result in a default of the loan agreement; and
4. The loan must be subordinated to all other debt except for other Equity-Like Loans.

Notwithstanding the foregoing, the Fund reserves the right to determine, in its sole discretion and on a case-by-case basis, if an instrument meets the above-stated characteristics of an Equity-Like Loan. Applicants must submit to the Fund for review, not later than 45 days prior to the end of the applicable Assessment Period, all documents evidencing loans that they wish to be considered as Equity-Like Loans. The purpose for this request is to enhance the Fund's ability to provide feedback to

Applicants as to whether a transaction meets the Equity-Like Loan characteristics prior to the end of the applicable Assessment Period. The Fund will not redraft instruments, provide language for Applicants, or render legal opinions related to Equity-Like Loans. However, the Fund, in its sole discretion, may comment as to the consistency of a proposed instrument with the above-stated Equity-Like Loan characteristics. Such information will allow Applicants, if they so choose, to modify the instruments to conform to the program requirements prior to the end of the Assessment Period. This process is intended to prevent circumstances in which an Applicant executes loan documents without review by the Fund only to learn after the close of the Assessment Period that the transaction is ineligible for purposes of a BEA Program award. The Fund cannot guarantee timely feedback to Applicants that submit the aforementioned documentation less than 45 days prior to the end of the applicable Assessment Period.

#### *G. Distressed Community Financing Activities*

Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments, Education Loans, Commercial Real Estate Loans and related Project Investments, Home Improvement Loans, and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). In addition to the regulatory requirements, this NOFA provides the following additional requirements.

1. *Commercial Real Estate Loans and related Project Investments:* For purposes of this NOFA, eligible Commercial Real Estate Loans (12 CFR 1806.103(l)) and related Project Investments (12 CFR 1806.103(ll)) are generally limited to transactions with a total principal value of up to and including \$10 million. The Fund will calculate award amounts in accordance with Section VIII.B. of this NOFA. Notwithstanding the foregoing, the Fund, in its sole discretion, may consider transactions with a total principal value of over \$10 million, subject to review and approval of the Applicant's "community benefit statement." The Applicant must demonstrate that the proposed project offers, or significantly enhances the quality of, a facility or service not currently provided to the Distressed Community. The application form contains additional information on how to fulfill this requirement.

2. *Reporting certain Financial Services:* The Fund will value the administrative cost of providing certain Financial Services at the following per unit values:

(a) \$100.00 per account for Targeted Financial Services;

(b) \$50.00 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services;

(c) \$5.00 per check cashing transaction times the total number of check cashing transactions;

(d) \$25,000 per new ATM installed at a location in a Distressed Community;

(e) \$2,500 per ATM operated at a location in a Distressed Community;

(f) \$250,000 per new retail bank branch office opened in a Distressed Community; and

(g) In the case of Applicants engaging in Financial Services activities not described above, the Fund will determine the account or unit value of such services.

3. In the case of opening a new retail bank branch office, the Applicant must certify that it has not operated a retail branch in the same census tract in which the new retail branch office is being opened in the past three years, and that such new branch will remain in operation for at least the next five years.

Financial Service Activities must be provided by the Applicant to Low- and Moderate-Income Residents. An Applicant may determine the number of Low- and Moderate-Income individuals who are recipients of Financial Services by either:

(a) Collecting income data on its Financial Services customers; or

(b) Certifying that the Applicant reasonably believes that such customers are Low- and Moderate-Income individuals and providing a brief analytical narrative with information describing how the Applicant made this determination.

## **II. Award Information**

### *A. Award Amounts*

Subject to funding availability, the Fund expects that it may award approximately \$10 million for FY 2007 BEA Program awards, and approximately \$10 million for FY 2008 BEA Program awards, in appropriated funds under this NOFA. The Fund reserves the right to award in excess of said funds under this NOFA, provided that the appropriated funds are available and the Fund deems it appropriate. Under this NOFA, the Fund anticipates a maximum award amount of \$500,000 per Applicant. The Fund, in its sole

discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate. Further, the Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA. The Fund reserves the right to re-allocate funds from the amount that is anticipated to be available under this NOFA to other Fund programs, particularly if the Fund determines that the number of awards made under this NOFA is fewer than projected.

When calculating award amounts, the Fund will count only the amount an Applicant reasonably expects to disburse on a transaction within 12 months from the end of the Assessment Period. Subject to the exception outlined in Section I. G.1. of this NOFA, in no event shall the value of a Qualified Activity for purposes of determining a BEA Program award exceed \$10 million in the case of Commercial Real Estate Loans or any CDFI Related Activities (i.e., the total principal amount of the transaction must be \$10 million, or less to be considered a Qualified Activity).

#### B. Types of Awards

BEA Program awards are made in the form of grants.

#### C. Notice of Award and Award Agreement

Each awardee under this NOFA must sign a Notice of Award and an Award Agreement prior to disbursement by the Fund of award proceeds. The Notice of Award and the Award Agreement contain the terms and conditions of the award. For further information, see Section IX. of this NOFA.

### III. Eligibility

#### A. Eligible Applicants

The legislation that authorizes the BEA Program specifies that eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured by December 31, 2006 for the FY 2007 funding round and by December 31, 2007 for the FY 2008 funding round to be eligible for consideration for a BEA Program award under this NOFA.

1. *Prior awardees:* Applicants must be aware that success in a prior round of any of the Fund's programs is not indicative of success under this NOFA. Prior BEA Program awardees and prior awardees of other Fund programs are eligible to apply under this NOFA, except as follows:

(a) *Failure to meet reporting requirements:* The Fund will not

consider an application submitted by an Applicant if the Applicant, or an entity that Controls (as such term is defined in paragraph (g) below) the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund) is a prior Fund awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award or allocation agreement(s), as of the application deadline(s) of this NOFA. Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received.

(b) *Pending resolution of noncompliance:* If an Applicant that is a prior awardee or allocatee under any Fund program and if: (i) It has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or allocation agreement, the Fund will consider the Applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee and if such entity: (i) Has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or allocation agreement, the Fund will consider the applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance.

(c) *Default status:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee or allocatee under any Fund program if, as of the applicable application deadline of this NOFA, the Fund has made a final determination that such Applicant is in default of a previously executed assistance, award or allocation agreement(s). Further, an entity is not eligible to apply for an award pursuant to this NOFA if, as of the applicable application deadline, the Fund has made a final determination that another

entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund); (i) Is a prior Fund awardee or allocatee under any Fund program, and (ii) has been determined by the Fund to be in default of a previously executed assistance, award or allocation agreement(s).

(d) *Termination in default:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee or allocatee under any Fund program if, within the 12-month period prior to the application deadline of this NOFA, the Fund has made a final determination that such Applicant's prior award or allocation terminated in default of the assistance, award or allocation agreement and the Fund has provided written notification of such determination to such Applicant. Further, an entity is not eligible to apply for an award pursuant to this NOFA if, within the 12-month period prior to the application deadline of this NOFA, the Fund has made a final determination that another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program whose award or allocation terminated in default of the assistance, award or allocation agreement and the Fund has provided written notification of such determination to the defaulting entity.

(e) *Undisbursed balances:* The Fund will not consider an application submitted by an Applicant that is a prior Fund awardee under any Fund program if the Applicant has a balance of undisbursed funds (defined below) under said prior award(s), as of the application deadline of this NOFA. Further, an entity is not eligible to apply for an award pursuant to this NOFA if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee under any Fund program, and has a balance of undisbursed funds (defined below) under said prior award(s), as of the application deadline of this NOFA. In the case where another entity Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee under any Fund program, and has a balance of undisbursed funds under said prior award(s), as of the application deadline

of this NOFA, the Fund will include the combined awards of the Applicant and such affiliated entities when calculating the amount of undisbursed funds.

(f) For the purposes of this section, "undisbursed funds" is defined as: (i) In the case of prior BEA Program award(s), any balance of award funds equal to or greater than five (5) percent of the total prior BEA Program award(s) that remains undisbursed more than three (3) years after the end of the calendar year in which the Fund signed an award agreement with the Awardee, and (ii) in the case of prior CDFI Program or other Fund program award(s), any balance of award funds equal to or greater than five (5) percent of the total prior award(s) that remains undisbursed more than two (2) years after the end of the calendar year in which the Fund signed an assistance agreement with the awardee.

"Undisbursed funds" does not include (i) tax credit allocation authority allocated through the New Markets Tax Credit Program; (ii) any award funds for which the Fund received a full and complete disbursement request from the awardee as of the application deadline of this NOFA; and (iii) any award funds for an award that has been terminated, expired, rescinded, or deobligated by the Fund.

(g) For purposes of this NOFA, the term "Control" means: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of Voting Securities (as defined in 12 CFR 1805.104(mm) of any legal entity, directly or indirectly or acting through one or more other persons; (2) control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any legal entity; or (3) the power to exercise, directly or indirectly, a controlling influence over the management, credit or investment decisions, or policies of any legal entity.

(h) *Contact the Fund:* Accordingly, Applicants that are prior awardees and/or allocates under any Fund program are advised to: (i) Comply with requirements specified in assistance, award and/or allocation agreement(s), and (ii) contact the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of a prior award(s). All outstanding reports, compliance or disbursement questions should be directed to the Grants Management and Compliance Manager by e-mail at [gmc@cdfi.treas.gov](mailto:gmc@cdfi.treas.gov); by telephone at (202) 622-8226; by facsimile at (202) 622-6453; or by mail to CDFI Fund, 601 13th Street, NW., Suite 200 South,

Washington, DC 20005. The Fund will respond to Applicants' reporting, compliance or disbursement questions between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through March 13, 2007 (for the FY 2007 funding round) and through March 11, 2008 (for the FY 2008 funding round) (one business day before the application deadline). The Fund will not respond to Applicants' reporting, compliance or disbursement telephone calls or e-mail inquiries that are received after 5 p.m. ET on March 13, 2007 until after the funding application deadline of March 15, 2007 for the FY 2007 funding round or after 5 p.m. ET on March 11, 2008 until after the funding application deadline of March 13, 2008 for the FY 2008 funding round.

2. *Cost sharing and matching fund requirements:* Not applicable.

3. *Prohibition against double funding:* No CDFI may receive a BEA Program award if it has:

(a) An application pending for assistance under the CDFI Program (12 CFR part 1805, *et seq.*);

(b) Directly received assistance from the Fund under the CDFI Program within the 12-month period prior to the date the Fund selected the Applicant to receive a BEA Program award; or

(c) Ever received assistance under the CDFI Program for the same activities for which it is seeking a BEA Program award.

An insured depository institution investor (and its affiliates and Subsidiaries) may not receive a BEA Program award in addition to a New Markets Tax Credit Program allocation for the same investment in a Community Development Entity, as defined at 26 U.S.C. 45D(c).

#### IV. Application and Submission Information

##### A. Address to Request Application Package

Applicants may submit applications under this NOFA in paper form (except as provided below for the Report of Transactions). Shortly following the publication of this NOFA, the Fund will make the FY 2007 BEA Program application materials available via Grants.gov. The Fund will make the FY 2008 application available via Grants.gov approximately 2 months prior to the end of the Assessment Period for the FY 2008 funding round (November 2007).

##### B. Application Content Requirements

Detailed application content requirements are found in the

application related to this NOFA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation. Additional information, including instructions relating to the submission of the application via Grants.gov and supporting documentation, is set forth in further detail in the application. Please note that, pursuant to OMB guidance (68 FR 38402), each Applicant must provide, as part of its application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number. In addition, each application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the Internal Revenue Service (IRS) confirming the EIN. Incomplete applications will be rejected and returned to the sender.

An Applicant may not submit more than one application in response to either the FY 2007 funding round or FY 2008 funding round.

##### C. Form of Application Submission

Applicants must submit applications under this NOFA via Grants.gov with certain required documentation via paper according to the instructions in the Application. Applications sent by facsimile or by e-mail will not be accepted. In order to submit an Application via Grants.gov, Applicants must complete a multi-step registration process. Applicants are encouraged to allow at least two to three weeks to complete the registration process.

Paper Applications: If an applicant is unable to submit an application through Grants.gov, it must submit to the Fund a request for a paper application using the BEA Program Paper Application Submission Form. The BEA Program Paper Application Submission Form may be obtained from the Fund's Web site at <http://www.cdfifund.gov> or the form may be requested by e-mail to [paper\\_request@cdfi.treas.gov](mailto:paper_request@cdfi.treas.gov) or by facsimile to (202) 622-7754. The request must be received by 5 p.m. ET on February 1, 2007 (for the FY 2007 Funding Round) or February 1, 2008 (for the FY 2008 Funding Round). The completed BEA Program Paper Application Submission Form should be directed to the attention of the Fund's Chief Information Officer and must be sent by facsimile to (202) 622-7754. These are not toll free numbers. Paper applications must be submitted in the format and with the number of copies specified in the application instructions.

**MyCDFIFund Accounts:** All Applicants must register User and Organization accounts in myCDFIFund, the Fund's Internet-based interface by the applicable Application deadline. Failure to register on MyCDFIFund could result in the Fund being unable to accept the application. As myCDFIFund is the Fund's primary means of communication with Applicants and Awardees, organizations must make sure that they update the contact information in their myCDFIFund accounts. For more information on myCDFIFund, please see the "Frequently Asked Questions" link posted at <https://www.cdfifund.gov/myCDFI/Help/Help.asp>.

#### **D. Application Submission Dates and Times**

1. **Grants.gov Applications:** The deadline for receipt of applications via Grants.gov for the FY 2007 funding round is 5 p.m. ET on March 15, 2007. The deadline for receipt of paper documentation at the BPD address specified below is March 19, 2007. The deadline for receipt of applications via Grants.gov for the FY 2008 funding round is 5 p.m. ET on March 13, 2008. The deadline for receipt of paper documentation at the BPD address specified below is March 17, 2008. Applications and other required documents and other attachments received after 5 p.m. ET on the applicable date will be rejected. Please note that the document submission deadlines in this NOFA and/or the funding application are strictly enforced. The Fund will not grant exceptions or waivers for late delivery of documents including, but not limited to, late delivery that is caused by third parties such as the United States Postal Service, couriers or overnight delivery services. Nor will the Fund afford Applicants the opportunity to provide missing documentation after said deadline(s).

2. **Paper applications:** Paper applications must be received in their entirety by the applicable time and date, including an original (i.e., not a photocopy or faxed copy) Applicant Information Form signed by the identified Authorized Representative, a letter or other documentation from the Internal Revenue Service confirming the Applicant's Employer Identification Number (EIN), and all other required paper attachments.

#### **V. Intergovernmental Review**

Not Applicable.

#### **VI. Funding Restrictions**

Not Applicable.

#### **VII. Addresses**

Paper documentation must be sent to: CDFI Fund Grants Manager, BEA Program, Bureau of Public Debt, 200 Third Street, Room 10, Parkersburg, WV 26101. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480-5450. The Fund will not accept applications in its offices in Washington, DC. Applications and attachments received in the Fund's Washington, DC offices will be rejected and returned to the sender.

#### **VIII. Application Review Information**

##### **A. Priority Factors**

Priority Factors are the numeric values assigned to individual types of activity within a category of Qualified Activity. A Priority Factor represents the Fund's assessment of the degree of difficulty, the extent of innovation (including, for example, pricing), and the extent of benefits accruing to the Distressed Community for each type of activity. The Priority Factor works by multiplying the change in a Qualified Activity by its assigned Priority Factor to achieve a "weighted value." This weighted value of the change would be multiplied by the applicable award percentage to yield the award amount for that particular activity. For purposes of this NOFA, the Fund is establishing Priority Factors for the Distressed Community Financing Activities category only, as follows:

Qualified activities	Priority factor
Affordable Housing Loans .....	3.0
Education Loans .....	3.0
Home Improvement Loans .....	3.0
Small Business Loans and related Project Investments .....	3.0
Affordable Housing Development Loans and related Project Investments .....	2.0
Commercial Real Estate Loans and related Project Investments .....	2.0

##### **B. Award Percentages, Award Amounts, Selection Process**

The Interim Rule describes the process for selecting Applicants to receive BEA Program awards and determining award amounts. Applicants will calculate and request an estimated award amount in accordance with a multiple step procedure that is outlined in the Interim Rule (at 12 CFR 1806.202). The Fund will use the Applicant's estimated award amount as the basis for calculating the actual award amount that an Applicant may receive. As outlined in the Interim Rule

at 12 CFR 1806.203, the Fund will determine actual award amounts based on the availability of funds, increases in Qualified Activities from the Baseline Period to the Assessment Period, and each Applicant's priority ranking. In calculating the increase in Qualified Activities, the Fund will determine the eligibility of each transaction for which an Applicant has applied for a BEA Program award. In some cases, the actual award amount calculated by the Fund may not be the same as the estimated award amount requested by the Applicant.

In the CDFI Related Activities category (except for Equity Investments), if an Applicant is a CDFI, such estimated award amount will be equal to 18 percent of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated award amount will be equal to 6 percent of the increase in Qualified Activity for the category. Notwithstanding the foregoing, the award percentage applicable to an Equity Investment, Equity-Like Loan, or Grant in a CDFI shall be 15 percent of the increase in Qualified Activity for the category. For the Distressed Community Financing Activities and Service Activities categories, if an Applicant is a CDFI, such estimated award amount will be equal to 9 percent of the weighted value of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated award amount will be equal to 3 percent of the weighted value of the increase in Qualified Activity for the category.

If the amount of funds available during the funding round is insufficient for all estimated award amounts, Awardees will be selected based on the process described in the Interim Rule at 12 CFR 1806.203(b). This process gives funding priority to Applicants that undertake activities in the following order:

1. CDFI Related Activities;
2. Distressed Community Financing Activities, and
3. Service Activities.

Within each category, Applicants will be ranked according to the ratio of the actual award amount calculated by the Fund for the category to the total assets of the Applicant. Within the Distressed Community Financing category as well as the Service Activities category, Applicants that are certified CDFIs will be ranked first, and then Applicants that have carried out such Distressed Community Financing Activities and Service Activities in a Distressed Community that encompasses an Indian Reservation.

The Fund, in its sole discretion: (i) May adjust the estimated award amount that an Applicant may receive; (ii) may establish a maximum amount that may be awarded to an Applicant; and (iii) reserves the right to limit the amount of an award to any Applicant if the Fund deems it appropriate.

For purposes of calculating award disbursement amounts, the Fund will treat Qualified Activities with a total principal amount of less than \$250,000 as fully disbursed. Awardees will have 12 months from the end of the Assessment Period to make disbursements for Qualified Activities and 18 months to submit to the Fund disbursement requests for the corresponding portion of their awards, after which the Fund will rescind and deobligate any outstanding award balance and said outstanding award balance will no longer be available to the Awardee.

The Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the Fund deems it appropriate; if said changes materially affect the Fund's award decisions, the Fund will provide information regarding the changes through the Fund's Web site.

There is no right to appeal the Fund's award decisions. The Fund's award decisions are final.

## **IX. Award Administration Information**

### **A. Notice of Award**

The Fund will signify its selection of an Applicant as an Awardee by delivering a signed Notice of Award and Award Agreement to the Applicant. The Notice of Award will contain the general terms and conditions underlying the Fund's provision of an award including, but not limited to, the requirement that an Awardee and the Fund enter into an Award Agreement. The Applicant must execute the Notice of Award and return it to the Fund along with the Award Agreement. The Fund reserves the right, in its sole discretion, to rescind its award and Notice of Award if the Awardee fails to return the Notice of Award or Award Agreement, signed by the Authorized Representative of the Awardee, along with any other requested documentation, by the deadline set by the Fund.

By executing a Notice of Award, the Awardee agrees that, if information (including administrative errors) comes to the attention of the Fund that either adversely affects the Awardee's eligibility for an award, or adversely affects the Fund's evaluation of the Awardee's application, or indicates

fraud or mismanagement on the part of the Awardee, the Fund may, in its discretion and without advance notice to the Awardee, terminate the Notice of Award or take such other actions as it deems appropriate.

**1. Failure to meet reporting requirements:** If an Applicant, or an entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund) is a prior Fund awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award or allocation agreement(s), as of the date of the Notice of Award, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds, until said prior awardee or allocatee is current on the reporting requirements in the previously executed assistance, award or allocation agreement(s). Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received. If said prior awardee or allocatee is unable to meet this requirement within the timeframe set by the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

**2. Pending resolution of noncompliance:** If an Applicant is a prior Fund awardee or allocatee under any Fund program and if: (i) It has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the Fund has yet to make a final determination regarding whether or not the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds, pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if another entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and if such entity: (i) Has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation

agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds pending full resolution, in the sole determination of the Fund, of the noncompliance. If said prior awardee or allocatee is unable to meet this requirement, in the sole determination of the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

**3. Default status:** If, at any time prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that an Applicant that is a prior Fund awardee or allocatee under any Fund program is in default of a previously executed assistance, award, or allocation agreement(s) and has provided written notification of such determination to the Applicant, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the Fund. Further, if, at any time prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that another entity which Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and is in default of a previously executed assistance, allocation or award agreement(s) and has provided written notification of such determination to the defaulting entity, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the Fund. If said prior awardee or allocatee is unable to meet this requirement, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

**4. Termination in default:** If, within the 12-month period prior to entering into an Award Agreement under this NOFA, the Fund has made a final



determination that an Applicant that is a prior Fund awardee or allocatee under any Fund program whose award or allocation terminated in default of such prior agreement and the Fund has provided written notification of such determination to such organization, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds. Further, if, within the 12-month period prior to entering into an Award Agreement under this NOFA, the Fund has made a final determination that another entity which Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant (as determined by the Fund), is a prior Fund awardee or allocatee under any Fund program, and whose award or allocation terminated in default of such prior agreement(s) and has provided written notification of such determination to the defaulting entity, the Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of award proceeds.

#### B. Award Agreement

After the Fund selects an Awardee, the Fund and the Awardee will enter into an Award Agreement. The Award Agreement shall provide that an Awardee shall: (i) Carry out its Qualified Activities in accordance with applicable law, the approved application, and all other applicable requirements; (ii) comply with such other terms and conditions (including recordkeeping and reporting requirements) that the Fund may establish; and (iii) not receive any monies until the Fund has determined that the Awardee has fulfilled all applicable requirements.

#### C. Administrative and National Policy Requirements

Not applicable.

#### D. Reporting and Accounting

Not applicable.

#### X. Agency Contacts

The Fund will respond to questions and provide support concerning this NOFA and the funding application between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through close of business March 13, 2007 for the FY 2007 funding round (one business day before the application deadline) and through close of business March 11, 2008 for the FY

2008 funding round (one business day before the application deadline).

The Fund will not respond to questions or provide support concerning the application after 5 p.m. ET on March 13, 2007 for the FY 2007 funding round, until after the application deadline of March 15, 2007. The Fund will not respond to questions or provide support concerning the application after 5 p.m. ET on March 11, 2008 for the FY 2008 funding round, until after the application deadline of March 13, 2008.

Applications and other information regarding the Fund and its programs may be downloaded and printed from the Fund's Web site at <http://www.cdfifund.gov>. The Fund will post on its website responses to questions of general applicability regarding the BEA Program.

**A. Information Technology Support:** Technical support can be obtained by calling (202) 622-2455 or by e-mail at [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov). People who have visual or mobility impairments that prevent them from creating a Distressed Community map using the Fund's website should call (202) 622-2455 for assistance. These are not toll free numbers.

**B. Programmatic Support:** If you have any questions about the programmatic requirements of this NOFA, contact the Fund's Program office by e-mail at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov), by telephone at (202) 622-6355, by facsimile at (202) 622-7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll-free numbers.

**C. Grants Management Support:** If you have any questions regarding the administrative requirements of this NOFA, including questions regarding submission requirements, contact the Fund's Grants Manager by e-mail at [grantsmanagement@cdfi.treas.gov](mailto:grantsmanagement@cdfi.treas.gov), by telephone at (202) 622-8226, by facsimile at (202) 622-6453, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

**D. Compliance and Monitoring Support:** If you have any questions regarding the compliance requirements of this NOFA, including questions regarding performance on prior awards, contact the Fund's Compliance Manager by e-mail at [cme@cdfi.treas.gov](mailto:cme@cdfi.treas.gov), by telephone at (202) 622-8226, by facsimile at (202) 622-6453, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

**E. Legal Counsel Support:** If you have any questions or matters that you believe require response by the Fund's Office of Legal Counsel, please refer to

the document titled "How to Request a Legal Review," found on the Fund's Web site at <http://www.cdfifund.gov>. Further, if you wish to review the Award Agreement form document from a prior funding round, you may find it posted on the Fund's website (please note that there may be revisions to the Award Agreement that will be used for Awardees under this NOFA and thus the sample document on the Fund's website should not be relied upon for purposes of this NOFA).

**F. Communication with the CDFI Fund:** The Fund will use its myCDFIFund Internet interface to communicate with Applicants and Awardees under this NOFA. Awardees must use myCDFIFund to submit required reports. The Fund will notify Awardees by e-mail using the addresses maintained in each Awardee's myCDFIFund account. Therefore, the Awardee and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, e-mail addresses, fax numbers, phone numbers, and office addresses) in their myCDFIFund account(s). For more information about myCDFIFund, please see the Help documents posted at <https://www.cdfifund.gov/myCDFI/Help/Help.asp>.

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: December 20, 2006.

**Peter Dugas,**

*Acting Director, Community Development Financial Institutions Fund.*

[FR Doc. E6-22334 Filed 12-29-06; 8:45 am]

**BILLING CODE 4810-70-P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### Application and Renewal Fees Imposed on Surety Companies and Reinsuring Companies; Increase in Fees Imposed

**AGENCY:** Financial Management Service, Fiscal Service, Department of the Treasury.

**SUMMARY:** Effective December 31, 2006, The Department of the Treasury, Financial Management Service, is increasing the fees it imposes on and collects from surety companies and reinsuring companies.

**FOR FURTHER INFORMATION CONTACT:** Surety Board Branch at (202) 874-6765.

**SUPPLEMENTARY INFORMATION:** The fees imposed and collected, as referred to in 31 CFR 223.22, cover the costs incurred