



December 5, 2022

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

**RE: Community Development Financial Institutions Program—Certification Application  
(OMB Number: 1559–0028)**

Dear Ms. Harris:

On behalf of NeighborWorks America (statutorily the Neighborhood Reinvestment Corporation) I want to thank the CDFI Fund (“the Fund”) for the opportunity to again provide comments regarding the standards and criteria for CDFI certification. Please note that these comments have not been submitted to or approved by NeighborWorks America’s Board. They were developed based on analysis from subject matter experts within the NeighborWorks staff as well as consultation with network organizations who have received or are pursuing CDFI certification from the Fund. They reflect the view of NeighborWorks America management and do not necessarily represent the views of its Board members, either collectively or as individuals.

NeighborWorks offers specialized supports to our network organizations that engage in lending, particularly to the 82 U.S. Treasury-designated Community Development Financial Institutions currently in the network. CDFIs play a critical role in promoting homeownership by offering first and second mortgages, down payment assistance for homebuyers, and rehabilitation loans. They also support the broader community development industry by offering commercial loans for economic development, real estate development, and community facilities, as well as consumer loans. In recent years, NeighborWorks has invested heavily in building the capacity of network organizations engaged in lending lines of business, both by supporting existing CDFIs as well as those organizations who are interested in becoming certified CDFIs.

Loans made by NeighborWorks network CDFIs have tremendous local impact. In FY 2021, the most recent year for which complete data is available, network CDFIs made 5,653 residential loans

totaling \$333 million. In addition, NeighborWorks America organizations made \$7.6 billion in commercial loans, split between economic development (91 percent), real estate development (5 percent), and other types of projects (3 percent). In addition to the principal investment, the commercial loans made by CDFIs leveraged \$6.9 billion in additional investment. For FY 2021, NeighborWorks assisted 71 network organizations to successfully compete for a total of over \$104 million in awards from the CDFI Fund. NeighborWorks also supports network organizations who are interested in becoming CDFIs to assess their readiness.

In December 2020, NeighborWorks filed comments on a previous iteration of this application. The construction of and definitions embedded within the application effectively serve as the policy governing which organizations can qualify as CDFIs. Because the application serves as the gateway for admission, its impact cannot be understated. We are pleased that the Fund took a thoughtful approach to addressing many of the issues we raised at that time. However, significant issues remain unaddressed. We are grateful for the opportunity to continue our engagement with the Fund on this critical issue, and we are pleased to offer the following comments in response to the CDFI Fund's solicitation of public comment on the CDFI Certification Application.

### **Achieving Balance**

NeighborWorks wholeheartedly supports the Fund's focus on ensuring that only those entities that meet the spirit and mission of the CDFI program can qualify for certification. At the same time, it is critical to ensure that narrower definitions and heightened thresholds do not impinge on the creativity and flexibility that are so fundamental to CDFIs' ability to serve customers and communities whose needs are unmet by the traditional financial services sector. As we previously commented, it is our aspiration that the Fund create the necessary safeguards via the primary mission test, which could then allow the Fund to provide CDFIs with additional flexibilities to tailor the products, services, and delivery mechanisms to meet the needs of their customers. As this letter will describe in more detail, we do not believe the proposed application succeeds in striking the appropriate balance between the safeguards necessary to protect the CDFI brand and the flexibilities needed to achieve the mission.

CDFIs were created to bring access to financial services to marginalized and underserved communities. To effectively do this, CDFIs have had to think differently than traditional financial institutions. These differences show up in everything from the way that CDFIs conduct outreach and marketing, to the products they offer, or the supportive services they provide. Without the ability to reach customers where they are, to invest in building them up as customers, and to offer them terms and conditions that meet their unique circumstances, CDFIs simply would not be able to deliver on their mission. These elements make up the "secret sauce" that enables CDFIs' success. If implemented as proposed, the new eligibility criteria discussed in detail below would

curtail the flexibilities to utilize these strategies, leaving CDFIs to recreate the inadequacies of the traditional financial sector. Unfortunately, the unintended consequences that would result from the proposed changes would severely curtail the approaches available to CDFIs, with many having to alter their business practices in order to maintain their certification.

One notable area of improvement in the proposed application is the clarity and certainty which it provides around certain thresholds. While some of these thresholds were previously understood in practice (e.g., the requirement to be predominantly a financing entity for a full fiscal year before applying for certification), we support articulating them explicitly through the application. The guidance for creating new entities is also helpful.

### **Reporting Burden**

As an organization that collects and analyzes data from grantees to demonstrate the impacts of our resources, NeighborWorks is sympathetic to the Fund's desire to collect additional data. Comprehensive data collection can inform strategies, demonstrate outcomes, and play a critical role in building support for the work of the Fund and the community development sector as a whole. However, NeighborWorks is concerned that the proposed reporting will create burdens that are too great for small or emerging CDFIs. The TLR will be new for groups that have not yet received certification and never received an award, and requiring them to prospectively report this data could present an insurmountable obstacle to achieving certification. As a result, NeighborWorks recommends that the Fund scale back this proposal and require this data only of those organizations that are under an active FA or TA award. This change would provide a more appropriate balance between the Fund's desire to better understand the work of CDFIs and the needs of small and emerging CDFIs to achieve and maintain certification.

Of the CDFIs in the NeighborWorks network, 24 organizations did not receive an FA or TA award between 2014 and 2020. These organizations elected to maintain their certification for the cache or entrée it provides in other applications, and the burdens imposed on them would be significantly and unduly increased. While they may appear dormant from the perspective of the Fund, we know that they continue to engage in lending activities. NeighborWorks is concerned that far more would be lost than gained by weeding out these CDFIs and encourages the Fund to tailor its actions so as not to inadvertently penalize these organizations.

Based on past challenges with technology infrastructure, we would urge the Fund to ensure that the necessary investments are in place to successfully collect this information and allow for it to be used for meaningful evaluation. The incremental burden being placed on CDFIs can only be justified if the data collected is utilized to advance programmatic design or policy. Historically, the CDFI Fund has been understaffed, leading NeighborWorks to be concerned that the Fund may

not have the capacity to dedicate resources to make meaningful use of this information. NeighborWorks also urges the Fund to make any data collected available to the public in an appropriately deidentified fashion. Access to these data would allow CDFIs, researchers, public policy makers, and other interested stakeholders to better understand the work of CDFIs and the value they bring to their communities. This data could help to demonstrate the differences between the populations served, products offered, and capital sources accessed by CDFIs and the traditional marketplace, helping to illustrate the value-add of the CDFI sector.

In general, NeighborWorks urges the Fund to focus on the clarity of its reporting and application guidance while ensuring that Fund staff are accessible and knowledgeable enough to assist organizations with the data requirements. Uncertainty often leads organizations to feel that they must rely on the expertise of expensive consultants to interpret and understand the requirements, draining resources away from other purposes.

### **Comments on Specific Application Sections**

NeighborWorks shares the Fund's interest in safeguarding the significance of the CDFI designation. It is in the spirit of this mutual understanding that we offer the following comments.

- **Eligible Financial Products:** NeighborWorks is pleased that the Fund is considering all financial products originated during the full fiscal year, not just those that remain on the balance sheet at a particular point in time. NeighborWorks recommends including deferred loans in the list of eligible financial products. The Fund should fully distinguish these from forgivable loans. NeighborWorks is disappointed that only forgivable loans with a payment due within 12 months of origination are listed as eligible financial products. Forgivable loans that do not require payments are one of the most powerful tools that organizations like NeighborWorks possess for bringing sustainable homeownership within reach. In fact, NeighborWorks has helped over 24,000 families become homeowners through our LIFT Down Payment Assistance Program. Like LIFT, HOME funds provided through local DPA and closing cost programs, and others encourage longevity and are distinct from grants. Just like other loan products, these loans still require origination activity and portfolio management. They are serviced and, depending on how the organization does their accounting, they also may appear on the entity's balance sheet. Even some traditional loans contain a clause permitting the loan to be forgiven at resale if proceeds are insufficient to cover repayment.
- **Primary Mission Test:** The intentionality behind the addition of the term "purposefully" (p. 33) as relates to the primary mission test is commendable. Careful application of this standard can help to achieve the Fund's goal of rooting out those entities that do not sincerely seek to serve as true CDFIs.

- **Responsible Financing Practices:** NeighborWorks is very concerned by the proposed restrictions on financing practices, and the construction of the application such that any entity that runs afoul of any of the limitations is automatically excluded from certification. While NeighborWorks supports the Fund’s desire to ensure that certified entities engage in responsible financing practices, the standards for assessing this should not be overly prescriptive such that they improperly limit CDFIs’ ability to serve consumers. For example, CDFIs within the NeighborWorks network have created alternatives to payday lending products that meet consumers’ needs for access to financing without subjecting them to the predatory and abusive practices of others serving this market. Given the complexity of the space in which CDFIs operate, NeighborWorks urges the Fund to adopt a more nuanced approach.
  - **PM13.2:** Although in some cases a high default rate can be indicative of predatory or unsustainable lending, a 5% annual default rate is too low a threshold for exclusion and is incompatible with the types of lending that CDFIs do. The CDFI Fund’s own Small Dollar Loan Program implicitly acknowledges this reality, encouraging lending to populations that might otherwise be ineligible and providing loan loss reserves to facilitate these programs. Ironically, if imposed, a 5% default rate would force CDFIs to dramatically curtail their service to the marginal customers that they were created to serve.
  - **PM16:** Many CDFIs currently offer loan products that would be deemed in violation of the proposed standards. Without question, when used improperly, certain loan features can be extremely harmful to borrowers. However, CDFIs have carefully and creatively used these same features to tailor products that meet their customers’ needs. NeighborWorks is particularly distressed by the limitations on loans with interest-only or balloon payments (PM16.1) and terms in excess of 30 years (PM 16.3). The following are a few examples of how these features are used within the confines of what NeighborWorks considers to be responsible lending practices:
    - Some CDFIs structure loans with balloon payments for LIHTC projects, with the balloon set for when affordability restrictions expire.
    - Some CDFIs create affordable homeownership opportunities by using interest-only or soft second mortgages due at maturity of mortgage or sale of property.
    - Some CDFIs offer mortgages with a 10-year balloon as a mechanism to allow borrowers to establish their credit history and build equity in the property before “graduating” into traditional financing. Such shorter-term lending not only meets the needs of the customers, but also allows CDFIs

to align their balance sheets with the terms of the capital they are able to attract.

- Both HUD and USDA offer loans with terms in excess of 30 years. To the maximum extent possible, the Fund should align its requirements to those of other federal programs.
  - While NeighborWorks is sympathetic to the Fund’s concerns about predatory lending, there are sufficient guardrails embedded elsewhere in the application to provide adequate protection. Given the costs they would impose on CDFIs’ ability to serve their customers, these proposed restrictions cannot be justified.
- **FE-A4.2 and FE-AS2.1:** NeighborWorks is puzzled by the Fund’s proposal to exclude development services from the list of assets or staff time allocations that are directly related to provision of Financial Products. On the one hand, it is a requirement to provide Development Services to maintain certification. On the other hand, their exclusion from the Financing Entity test effectively excludes this vital customer pipeline feature from the approved CDFI business model. While the shift from a 50% standard to a “predominance” standard is helpful, this is still highly problematic. Development services are one of the key differentiators between CDFIs and other financial institutions. By providing development services, CDFIs are able to reach, develop, and serve their customers. Development services are a core component to the comprehensive approach that CDFIs employ, and excluding them from this calculation will serve to limit the extent to which CDFIs can invest in financial education, counseling, and other supports that have proven effective at bridging the access gaps that CDFIs are intended to address. In recent comments to the Fund on Minority Lending Institutions, NeighborWorks encouraged the Fund to consider regulatory and administrative measures to support deeper efforts to establish relationships and build the pathways needed to reach harder-to-serve populations. Recognizing the essential relationship between provision of development services and Financial Products is a prime example of the type of measure we intended.
- **Target Markets:** NeighborWorks has significant concerns about the methodologies for assessing Target Markets. These concerns will be raised in a follow-up letter in response to the Fund’s stand-alone request for comment on these issues.
- **Customized Investment Areas:** NeighborWorks is concerned that a customized investment area threshold of 85% of financing activity could be a barrier to focused place-based work. Such a high threshold inhibits CDFIs’ ability to engage in “viability lending” that can balance or offset some of the risk and/or costs of focused investments. Furthermore, the proposal to only count activities within individually qualified census tracts poses a significant challenge for rural geographies, where the size of census tracts can blur variations in the populations. In areas of low population density, it is common for residents to travel great distances for ordinary services, meaning that lending to small

businesses or supportive services even beyond qualified census tracts directly impacts qualified track populations and should be counted as impacting the entire investment area.

- **DS02-DS03:** NeighborWorks is concerned about proposed limitations to development services. Development services are the key to CDFIs' ability to broaden their reach to underserved populations. Limiting CDFIs' ability to provide these critical services will force them to serve only the most creditworthy and loan-ready customers, cutting off their ability to engage in the deep outreach and provide the gap-filling services that are the keys to CDFIs' unique successes. In addition to not being eligible for consideration to meet certification requirements, this programming could no longer be financed through FA awards, threatening its financial viability. For example, limitations on service to children would exclude existing financial literacy and education programming targeted at youth from families who are not connected to the traditional financial sector. This early education and intervention can be a powerful tool for driving lifelong outcomes. Loan packaging, which is an effective strategy for improving access to loan capital, especially in rural communities, would also be excluded. The proposed definitions would also limit CDFIs' ability to provide housing and financial counseling to customers who do not go on to become borrowers from their institution, creating a tension between offering the highest quality advice and the interests of the CDFI to maintain the customer and potentially leading to a RESPA violation. Finally, the discussion of eligible services creates uncertainty about the types of services that can be provided to small businesses, including supports around workforce development and marketing and outreach.
- **Native CDFIs:** NeighborWorks, in consultation with Native CDFIs from within our network and beyond, is concerned about some of particular requirements around documentation of Native status. Like all other minority groups, Native peoples should be given the option to self-identify without requirement for further documentation. Furthermore, the restrictions on serving Native Hawaiians and Native Alaskans outside of their ancestral homelands are unwarranted. The Native CDFI program was established as part of the fulfillment of the federal governments trust responsibility to Indian Tribes, offering them an avenue to increase financial education and lending throughout Indian Country. Because the changes outlined in this PRA notice would have significant Tribal implications, NeighborWorks recommends that the Fund engage in additional consultation with Native CDFIs.

## **Conclusion**

In a world characterized by rapidly evolving innovation in the financial sector – some for the better, some for the worse – NeighborWorks appreciates the Fund's efforts to shore up the CDFI program. However, change always comes with costs and can result in unintended consequences. We encourage the Fund to carefully consider the effects that these proposed changes would have on

existing and emerging CDFIs. We also urge the Fund to direct its resources to maximally assist organizations in meeting the new certification criteria, including developing the infrastructure necessary to complete the required reporting.

We greatly appreciate the opportunity to engage with the Fund on changes to the certification application. We would be happy to answer any questions or offer additional information if needed.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Johnson-Obey', enclosed within a blue oval scribble.

Kirsten T. Johnson-Obey  
Senior Vice President, Public Policy and Legislative Affairs  
NeighborWorks America