



Via Email and Fax

August 15, 2011

Ms. Jodie Harris, Policy Specialist
CDFI Fund
U.S. Department of the Treasury
601 13th Street, NW, Suite 200 South
Washington, DC 20005

Dear Ms. Harris:

Local Initiatives Support Corporation ("LISC") is pleased to provide comments as requested by the Community Development Financial Institutions Fund (the "CDFI Fund") on the CDFI Bond Guarantee Program (the "CBGP") created by the Small Business Jobs Act of 2010 (the "Statute"). The CBGP presents a great opportunity to CDFIs both through providing access to new capital and by freeing current sources to pursue even more lending activity. The long-term capital provided by the CBGP will enable CDFIs to pursue types of projects that were previously limited by a lack of available funding sources, as well as to help local community development groups to expand through stable, long-term financing. LISC looks forward to working with the CDFI Fund to make the CBGP a successful program.

LISC is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity — good places to work, do business and raise children. To these ends, we mobilize resources from the corporate, government and philanthropic sectors to provide local community development organizations with: loans, grants and equity investments; local, statewide and national policy support; and technical and management assistance. LISC was created in 1979 to set in motion a new, locally driven system for supporting the revitalization of low-income communities. In contrast to earlier top-down federal programs such as Urban Renewal, the theory of LISC was to organize the "three legs of the stool" -- that is: the commitment, healthy self-interest, and perseverance of nonprofit community-based organizations; the civic leadership, capital, discipline, and mission interests of major corporations and philanthropies; and the political leadership, resources, and powers of the public sector – to catalyze institutions and policies that would enable sustained bottom-up efforts to counteract decades of disinvestment in distressed low-income urban and rural communities across the nation. LISC has been a certified CDFI since 1996.

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The CBGP bond proceeds will enable LISC to achieve a multitude of goals including: refinancing existing debt in order to stabilize funding and free up capital for new project financing, expand lending options to include longer-term financing than previously possible under existing sources of capital, and expand LISC's ability to service geographic areas that do not align with the CRA needs of traditional lenders. LISC anticipates applying for authority to issue a bond in the amount of at least \$125,000,000 during the first year of the CBGP. The bond terms would include financial covenants and possible over-collateralization (if the investor requires security for the bond). In the anticipated issuance, LISC would issue the bond directly and service the underlying loans made, or refinanced, with the bond proceeds. The bond holder would have full recourse to LISC's strong balance sheet. LISC believes such a structure to be the lowest-cost alternative for the CBGP and will be the simplest to administer.

LISC understands that revenue neutrality is a primary objective of the CBGP and is committed to achieving that result in both the structure and terms of the bond. The comments presented below address that objective.

Positions in Response to Specific Issues the CDFI Fund Identified in its July 1, 2011 Request for Public Comment

1. Definitions

(a) Section 114A(a) of the Act provides certain definitions applicable to the CDFI Bond Guarantee Program. In particular, Section 114A(a)(2) of the Act defines eligible community or economic development purpose as any purpose described in section 108(b) [12 U.S.C. 4707(b)] and includes the provision of community or economic development in low-income or underserved rural areas. The CDFI Fund is interested in comments regarding all definitions found in the Act as they relate to the program, including the following:

(i) How should the term "low income" be defined as such term is used in Section 114A(a)(2)?

The CDFI Fund should use a definition of low-income geographies based on Metropolitan Statistical Area rather than census tract. Applicants to the program should be allowed to target low-income populations as well as low-income geographies.

(ii) How should the term "rural areas" be defined as such term is used in Section 114A(a)(2)? For example, is a rural community any census tract that is not located in a metropolitan statistical area (MSA)? Respondents should discuss how a particular definition would enable the program to target businesses and residents in rural areas, and discuss whether there are particular measures that should not be used because they may inadvertently disadvantage certain populations (*i.e.*,

provide examples of particular households or communities that would not qualify under specific definitions).

The CDFI Fund should use the US Department of Agriculture's 12A's definition of rural areas as defined in 7 CFR Part 3550, which defines rural area as:

- (1) Open country which is not part of or associated with an urban area.**
- (2) Any town, village, city, or place, including the immediate adjacent densely settled area, which is not part of or associated with an urban area and which:**
 - (i) Has a population not in excess of 10,000 if it is rural in character, or**
 - (ii) Has a population in excess of 10,000 but not in excess of 20,000, is not contained within a Metropolitan Statistical Area, and has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of HUD.**
- (3) An area classified as a rural area prior to October 1, 1990, (even if within a Metropolitan Statistical Area), with a population exceeding 10,000, but not in excess of 25,000, which is rural in character, and has a serious lack of mortgage credit for low- and moderate-income families.**

Additionally, "rural areas" shall include areas with a population in excess of 20,000 and less than 50,000, surrounded by predominantly rural areas, which are not associated with a Metropolitan Statistical Area, that have poverty rates greater than state averages, and that are eligible for other CDFI funding based on a high concentration of low-income census tracts.

(iii) How should the term "underserved" be defined and/or measured?

LISC recommends that the CDFI Fund look to the CDFI Fund's authorizing statute (Sec 103) and related regulations regarding "investment areas" and "targeted populations" in defining "underserved."

(iv) Should "eligible community or economic development purpose" be defined to allow a CDFI or its designated Qualified Issuer to only invest inside the CDFI Fund Target Market that it was certified to serve?

The experience and knowledge of CDFIs in their CDFI Fund Target Markets play a critical role in the success of the loans they make. Therefore, CDFIs should continue to serve the market in which they are certified.

2. Use of Funds

(a) The Act defines a loan as any credit instrument that is extended under the CDFI Bond Guarantee Program for any eligible community or economic

development purpose. Section 114A(b) of the Act states that the Secretary of the Treasury (the Secretary) shall guarantee payments on bonds or notes issued by a qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions (CDFIs) (1) For eligible community or economic development purposes; or (2) To refinance loans or notes issued for such purposes. The CDFI Fund invites and encourages comments and suggestions germane to the criteria and use of funds. The CDFI Fund is particularly interested in comments including the following:

- (i) Should there be any limitations on the types of loans that can be financed or refinanced with the bond proceeds? Are there any uses of bond or note proceeds that should be excluded or deemed ineligible regardless of the fact that the use was in a low-income or underserved rural area?

There should not be any limitations on the types of loans that can be financed or refinanced with the bond proceeds. The flexibility of the CDFI Fund's CDFI Financial Assistance Program, which permits a wide range of activities, provides an excellent model for the CBGP to emulate. (The relevant definitions appear in the CDFI Fund authorizing statute at 108(b) and are reinforced in the regulations at 12 CFR Part 1805.301.)

There should be no prohibition against using the CBGP in conjunction with other government programs such as the New Markets Tax Credit, the Low Income Housing Tax Credit, HOME funds or guarantee programs offered through the Small Business Administration or the US Department of Agriculture.

In practice, the pricing and repayment sources for bond proceeds will determine the most appropriate uses for the proceeds within the confines of "community and economic development" uses.

- (ii) Should the capitalization of: (1) Revolving loan funds; (2) credit enhancement of investments made by CDFIs and/or others; or (3) loan loss reserves, debt service reserves, and/or sinking funds in support of a federally guaranteed bond, be included as eligible purposes?

The capitalization of all credit facilities, either drawn or committed, should be included as eligible purposes. The capitalization of loan loss reserves, debt service reserves and/or sinking funds, or other items that normally are sourced from net assets, should not be included as eligible purposes, however this should not be interpreted to prevent the maintenance of a balance in the 'relending' account as long as the 90% placement test is met.

Many CDFIs conduct their lending business as a revolving loan fund and routinely capitalize their balance sheets with investments from the CDFI Fund.

CDFIs will recycle their loan assets multiple times within the term of their liabilities and, similarly, in many cases the loan facilities provided by CDFIs to borrowers are structured so that they can revolve, to enable maximum output and outcomes and minimal exposure to negative arbitrage while the funds are not being used; therefore we propose that the bond proceeds should be allowed to be used in a similar manner.

Examples of the kind of revolving loans (sometimes structured as revolving lines of credit) that could be made available by CDFIs to their borrowers using bond proceeds include but are not limited to:

- **Acquisition and predevelopment real estate loans for construction of affordable housing, health clinics, and healthy food retail outlets which are usually short term in nature and taken out by construction loans and permanent mortgage loans**
- **Small business equipment loans that amortize over a medium term and get replaced by new equipment loans**
- **Small business working capital lines of credit whose usage revolves based on the borrower's working capital needs**

(iii) Should there be any limits on the percentage of loans or notes refinanced with the bond proceeds? If so, what should they be?

Using bond proceeds for refinancing of all types is highly desirable. Compelling reasons include the following:

- **The CBGP's authorizing statute explicitly permits refinancing in sections 114A(a)(3) and 114A (b)(2), which will free capital that can be utilized for new projects.**
- **Refinancing allows lenders to more appropriately match the useful life of an asset with financing terms.**
- **Refinancing a portion of CDFIs' balance sheet with bond proceeds could lead to more stabilized balance sheets, better mechanisms for asset liability management and more financing capacity. Existing lenders and funders to CDFIs will take comfort in knowing that CDFIs have multiple sources of capital and are not dependent on a limited number of major lenders.**
- **CDFIs generally lack access to long-term funds, forcing CDFIs to structure project financing with balloon payments. Such practices subject CDFIs to significant financing risks at a time of credit crunches and tightened underwriting requirements which may make it difficult for projects to be refinanced at the current maturity dates of CDFI loans; this challenge also occurs with New Markets transactions that include hard debt.**

- **The pressure of rapid deployment as required by the capital distribution plan in the statute may mean that early bond issuances may focus more heavily on refinancing than later ones, as CDFIs build a pipeline and build up the risk reserves required.**
- **CDFIs will be able to refinance short-term loans with longer-term capital that better aligns cash flows at both the CDFI and project borrower levels.**

(iv) Should CDFIs be allowed to use bond proceeds to purchase loans from other CDFIs? If so, should the CDFI that sells the loans be required to invest a certain portion of the proceeds from the sale to support additional community development activities?

CDFIs should be allowed to use bond proceeds to purchase loans from other CDFIs. By allowing larger CDFIs to use the bond proceeds to purchase loans from other CDFIs, the benefit of the bonds is spread to smaller CDFIs that lack the ability to participate directly.

(v) Should the CDFI Fund place additional restrictions on the awardees' loan products, such as a cap on the interest rate, fees and/or late payment penalties or on the marketing and disclosure standards for the products? If so, what are the appropriate restrictions?

Additional restrictions are not required. Non-profit CDFIs such as LISC have an established track record for lending responsibly and exist to provide affordable capital to an underserved segment of the market rather than extract the highest possible interest rate and fees. The success and growth of LISC and the CDFI field over the past thirty years is based on underwriting, lending and asset managing their loan portfolios in a responsible way.

(b) Section 114A(c)(1) states that a capital distribution plan meets the requirements of the subsection if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than the cost of issuance fee) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the one-year period beginning on the issuance date of such guaranteed bonds or notes. The CDFI Fund welcomes comments regarding this provision, specifically regarding what penalties the CDFI Fund should impose if an issuer is out of compliance.

The "not less than 90 percent" requirement should be met by having 90 percent of the total bond proceeds (less any allowable deductions) deployed or committed to a borrower. Any issuer out of compliance with this requirement should face mandatory repayment of the principal amount of guaranteed bonds, without any prepayment penalty, up to an amount that brings the issuer back into compliance with the "not less than 90 percent" requirement.

Loans and investments, for purposes of this provision, should be defined as deployed if they are used for binding loan commitments, whether disbursed, committed but not yet fully drawn down (or revolving with amounts available for future drawdowns), or guarantees. CDFIs often make capital available as needed from a total commitment to small businesses and entities engaged in new construction or development in the form of revolving loans and deferred draw. Responsible use of these loan and investment products can be facilitated by flexible capital distribution concepts.

We also suggest that some consideration be given to a more flexible application of the “not less than 90 percent” test during the last two years of a bond’s term. At that time it would not be feasible to re-lend the bond proceeds, and creating a situation where there could be multiple pre-payments as project financing loans are repaid could create a significant administrative burden on both the issuer and the CDFI fund.

(c) Section 114A(c)(2) states that not more than 10 percent of the principal amount of guaranteed bonds or notes —, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount—may be held in a relending account and may be available for new eligible community or economic development purposes.

(i) How should the CDFI Fund define “relending” account as stated in Section 114A(c)(2)? How should it differ from the loans made under Section 114(c)(1)?

The CDFI Fund should define the “relending” account as the total bond proceeds less any amount deployed as defined above.

(ii) If the capitalization of revolving loan funds is deemed an allowable use of funds under Section 114A(a)(4), what activities would be eligible under the relending account?

Capitalization of revolving loans or revolving lines of credit should be deemed an allowable use of funds. An illustrative list of activities which such revolving loans or lines of credit could fund is provided in the answer to 2 (a)(ii).

(d) Section 114A(d) states that each qualified issuer shall, during the term of a guarantee provided under the CDFI Bond Guarantee Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants, of an amount equal to three percent of the guaranteed amount outstanding on the subject notes and bonds.

(i) In the event that the CDFI Fund determines that there is a risk of loss to the government for which Congress has not provided an

appropriation, what steps should the CDFI Fund take to compensate for this risk?

- a. Should the interest rate on the bonds be increased?
- b. Should a larger risk-share pool be required?
- c. Should the CDFI Fund require restrictions, covenants and conditions (e.g., net asset ratio requirement, first loss requirements, first lien position; over-collateralization, replacement of troubled loans)?

If the CDFI Fund determines that the risk of loss is greater than 3%, the CDFI Fund should work with the qualified issuer or applicants to utilize credit enhancement and other mechanisms to compensate for potential additional risk. Some possible ways to address such potential risks include the following:

- **Pledged accounts**
- **Letters of Credit or third party guarantees**
- **Affirmative covenants – including leverage limits and liquidity floors**

(ii) How should the CDFI Fund assess and compensate for different levels of risk among diverse proposals without unduly restricting the flexible use of funds for a range of community development purposes? For example:

- a. Should the CDFI Fund take into account the participation of a risk sharing partner? What should be the parameters of any such risk-sharing?
- b. Should the CDFI Fund take into account an independent, third-party credit rating from a major rating agency?

The CDFI Fund should evaluate each CDFI based on its individual merits. In evaluating a CDFI, historical data should not be considered in isolation. Rather, the CDFI Fund should take into account the nature of the loans made by the CDFI industry and compare the individual CDFI's performance to what would be expected of a typical CDFI in the context of the unique challenges the industry faces. The CDFI Fund should contrast the credit risk posed by a CDFI issuer with the credit enhancements and other assurances that such CDFI is able to bring to the table, such as the strength of the balance sheet of a CDFI applying for a direct bond issuance.

As part of the application process, applicants should be expected to quantify the risk in their proposal and demonstrate their ability to cover this risk.

- (iii) Are there restrictions, covenants, conditions or other measures the CDFI Fund should not impose? Please provide specific examples, if possible.

The CDFI Fund should work with the qualified issuer or applicants to utilize credit enhancements and other mechanisms to mitigate risk including collateral (if appropriate), affirmative covenants, and other measures.

3. Guarantee Provisions

- (a) Section 114A(a)(3) defines a guarantee as a written agreement between the Secretary and a qualified issuer (or trustee) pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible CDFI. The CDFI Fund invites and encourages comments and suggestions relating to the guarantee provisions, especially:

- (i) Should the CDFI Fund define and determine “verifiable losses of principal, interest, and call premium?”

Losses of principal, interest and call premium should be defined as failure of the issuer to make bond payments in amounts and on dates that are contractually mandated by the underlying bond documentation.

- (ii) Should the CDFI Fund permit a call upon the guarantee at any point prior to the issuer liquidating the available assets? If so, under what condition should a call on the guarantee be permitted?

Bond payments must be made as contractually due in regard to both amounts due and due dates. The investor must be insulated from any adverse financial performance or condition of the bond issuer or the loans made with bond proceeds.

When evidence exists that the issuer is unlikely to make the funds available to meet contractual obligations, then the guarantee should be exercised and the US Government should ensure payments are made as contractually required, much like bond insurance operates. The US Government should exercise all rights, remedies, and restructuring opportunities before the bond structure is collapsed, assets liquidated or the bond balance reduced, including working closely with the bond issuer to flexibly address the impact of any problems with the portfolio of loans funded with the bond proceeds.

- (b) Section 114A(e)(1) indicates that the Treasury guarantee shall be for the full amount of a bond or note, including the amount of principal, interest, and call premiums not to exceed 30 years. The Treasury may not guarantee any amount less than \$100 million per issuance.

- (i) Should the CDFI Fund set specific guidelines or prohibitions for the structure of the bond (e.g., callable, convertible, zero-coupon)?

Generally, the CDFI Fund should not set specific guidelines or prohibitions for the structure of the bond. However, the bonds should be callable to allow partial prepayments, without penalty, when necessary due to the requirement that issuers keep not less than 90 percent of the bond proceeds deployed. An issuer might need to prepay as either penalty for a failure to maintain deployed funds at the 90 percent mark, or in order to comply with the 90 percent placement test during a period when it is not possible to lend the bond proceeds responsibly due to an unavoidable temporary (or longer term) decrease in underwritable lending opportunities.

- (ii) Should bonds that are used to fund certain asset classes be required to have specific terms or conditions? Should riskier asset classes or borrowers require additional enhancements?

The bonds should not require standard terms and conditions for different types of project investments. When a CDFI makes a direct issuance of bonds, the organization as a whole should be analyzed and particular risks associated with the underlying asset classes are not relevant to the repayment of the bond due to the full-recourse nature of the bond. Furthermore, the bond proceeds will be recycled many times over the term of the bond and specific terms or conditions based on asset classes would unduly hinder the flexibility of capable, nimble CDFIs to respond to changing capital needs in underserved neighborhoods.

4. Eligible Entities

- (a) Section 114A(a)(1) defines an eligible entity as a CDFI (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or that has been granted by a qualified issuer, a loan under the program. The CDFI Fund welcomes comments on issues relating to eligible entities, particularly with respect to the following questions:

- (i) Should the CDFI Fund require one qualified issuer (or appointed trustee) for all bonds and notes issued under the program?

The CDFI Fund should allow more than one qualified issuer due to the existence of multiple CDFIs that could each issue and service \$100,000,000 or more.

- (ii) Should the CDFI Fund permit an entity not yet certified as a CDFI to apply for CDFI certification simultaneous with submission of a capital distribution plan?

New entities should be certified CDFIs for at least two years in order to be eligible to participate in the CBGP. New entities should also demonstrate a significant and sustained track record of investing in low-income communities consistent with eligible community and economic uses contained in 12 CFR Part 1805.301.

- (iv) The Act states that a qualified issuer should have “appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes.” How should the CDFI Fund determine that a qualified issuer meets these requirements?

The CDFI Fund has over 15 years of experience in measuring the expertise and capacity of CDFIs. Along with the criteria already utilized by the CDFI Fund in measuring CDFIs, CDFIs should:

- **Have strategies and operations align strongly with their community and economic development mission;**
- **Deploy operational and financing resources effectively in pursuit of their mission; and**
- **Accurately track appropriate output data and continuously track outcome measurements.**

- (v) What penalties should be imposed in the event that a CDFI participating in the program ceases to be a certified CDFI? What remedies and cure periods should the CDFI Fund allow in the event of a lapse in CDFI certification?

CDFIs that lose their certification while participating in a CBGP bond issue should be given 12 months to recertify. Because of the complexity of bond issuances, these CDFIs should receive expedited consideration during the recertification process if possible.

If a CDFI fails to recertify, that CDFI should be denied participation in any new CBGP issuances. Requiring that any currently outstanding bonds to such CDFI be prepaid is not feasible since 90% of the proceeds of such bond(s) will have already been reloaned by such CDFI. A potential remedy could be requiring a decertified CDFI to prepay its bond as project loan payments (under non-revolving facilities) are received by such CDFI, rather than being able to place such proceeds in new project financing.

- (b) Section 114A(a)(5) defines a master servicer as an entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

- (i) Should the CDFI Fund require one servicer for all bonds and notes issued under the program?

The CDFI Fund should not require only one servicer. Each CDFI should service its own loans. CDFI loans are dynamic and the relationship between lenders and borrowers requires close monitoring and occasional modifications that the CDFI itself is most qualified to manage.

- (ii) Should the CDFI Fund require the master servicer and servicers to have a track record of providing similar services? How should the CDFI Fund evaluate the capabilities of prospective servicers and master servicers?

Servicers should be able to show a successful track record of managing the cash flow and performance of a portfolio of loan assets, as defined in 114A(a)(5) and 114A(f)(3).

- (iv) Should a CDFI issuer be allowed to serve as its own servicer?

CDFI issuers should be allowed to serve as their own servicers.

- (c) Section 114(a)(8) defines qualified issuers as a CDFI (or any entity designated to issue notes or bonds on behalf of such CDFI) that meets certain qualifications: (1) Have appropriate expertise, (2) have an acceptable capital distribution plan, and (3) be able to certify that the bond proceeds will be used for community development.

- (i) How should a CDFI demonstrate its expertise?

If the issuer is a CDFI, the same criteria used to determine Eligible CDFIs in Section 4 of this letter should govern qualified bond issuers. They should demonstrate a significant and sustained track record of investing in and supporting economic development in low-income areas. At a minimum, a qualified issuer should be a certified CDFI in good standing and can be a for-profit or non-profit. The CDFI Fund should structure the CBGP in a manner that advantages applicants whose organizational activity aligns closely and consistently with eligible community and economic uses contained in 12 CFR Part 1805.301.

The CDFI Fund has over 15 years of experience in measuring the expertise and capacity of CDFIs. Along with the criteria already utilized by the CDFI Fund in measuring CDFIs, CDFIs should:

- **Have strategies and operations align strongly with their community and economic development mission;**
- **Deploy operational and financing resources effectively in pursuit of their mission; and**
- **Accurately track appropriate output data and continuously track outcome measurements.**

Consideration should be given to the CDFI's history of structuring and managing its capital, including its demonstrated track record in borrowing and repaying indebtedness.

New entities should be certified CDFIs for at least two years in order to be eligible to participate in the CBGP. New entities should also demonstrate a significant and sustained track record of investing in and supporting economic development in low-income communities consistent with eligible community and economic uses contained in 12 CFR Part 1805.301.

- (v) Should the CDFI Fund require the issuer to have a minimum net capital (real equity capital) and require a set amount of net capital be held for the term of the bond? If so, what is a reasonable level to require?

Liquidity and leverage covenants should be negotiated as part of the bond issuance process.

- (vi) Should qualified issuers be required to obtain an independent, third-party credit rating from a major rating agency?

The major third-party ratings industry is not familiar with the CDFI industry and LISC is highly skeptical of their ability to accurately rate bonds issued by CDFIs. Furthermore, the cost of rating many smaller CDFIs would be prohibitively high.

5. Capital Distribution Plan

- (a) Section 114A(a)(8)(B)(ii)(II) states that a qualified issuer shall provide to the Secretary: (aa) an acceptable statement of the proposed sources and uses of the funds and (bb) a capital distribution plan that meets the requirements of subsection (c)(1). The CDFI Fund seeks comments relating to the capital distribution plan requirement, specifically:
 - (i) What elements should be required in an acceptable statement of proposed sources and uses of the funds? How should the CDFI Fund measure acceptability?
 - (ii) What elements should be required in a capital distribution plan? Are there examples of such plans, Federal or otherwise, upon which the CDFI Fund should model the CDFI Bond Guarantee Program's capital distribution plan requirements and application materials?
 - (iii) Should the CDFI Fund require specific intended uses of all the bond proceeds in the capital distribution plan or should the qualified issuers just be required to demonstrate an intended pipeline of underlying assets?

This answer applies to all of the questions listed above.

In general, applicants should be able to demonstrate a track record of deployment of funds for eligible projects under the CBGP. They should also be able to demonstrate a history of lending activity that will demonstrate that the amount of their application can be properly deployed.

While the bond proceeds should be used in ways that meet the intent of the CBGP, the specific uses of the funds may be unknown at the time of application by the CDFI; this is especially the case because of the tight timeframe to place the funds in order to meet the 90 percent requirement and the length of time it often takes to put together all of the financing pieces for community or economic development projects.

However, applicants should be able to show general uses of the funds including the demonstrated ability to lend to projects in potential underserved or low income neighborhoods and rural areas, the types of projects that the applicant has previously funded that meet the mission of the CDFI and fall within the scope of the CBGP, and reliable projections that demonstrate the applicant's ability to comply with the requirement that it place 90% of the funds in a one year period.

A specific detailed pipeline of loans should not be required.

- (iv) Should the CDFI Fund set minimum underwriting criteria for borrowers? Should applicants be required to demonstrate satisfaction of those criteria in the capital distribution plan?

The CDFI Fund should not set minimum underwriting criteria for end-borrowers. The CDFI Fund should rely on the unique expertise of CDFIs by continuing to allow CDFIs to make the best decisions regarding the needs of their target areas. The maturity dates of the financing to the end-borrowers should not be after the maturity date of the bond financing such loans.

6. Accountability of Qualified Issuers

- (a) The CDFI Fund welcomes comments on how to monitor the use of proceeds and financial performance of qualified issuers, particularly with respect to the following questions:
 - (a) What tests should the CDFI Fund use to evaluate if 90 percent of bond proceeds have been invested in qualified loans? Should reports be required from the qualified issuer more frequently than on an annual basis?

The CDFIs should provide a summary of the types of loans with details to be available upon request. To enable maximum responsiveness to borrower needs and provide maximum flexibility in managing liquidity and asset-liability matching, the 90% deployment test should not be applied more frequently than once per year.

- (c) What types of tests should the CDFI Fund use to evaluate satisfaction of the low-income or rural requirement set forth in Section 114A(a)(2)?

The CDFI which issued the bond should certify that the proceeds of the bond have been appropriately used, and should provide a summary of the types of loans and other project financings made with the bond proceeds, as well as the locations of such projects, and the purposes of such projects, with further details to be available upon request.

- (d) What support, if any, would applicants and awardees like to receive from the CDFI Fund after having issued a bond?

We do not believe that extraordinary support is necessary; establishing a relationship with a designated contact person at the CDFI Fund, and regular communications should be sufficient.

- (e) What specific industry standards for impact measures (businesses financed, units of affordable housing developed, etc.) should the CDFI Fund adopt for evaluating and monitoring loans financed or refinanced with proceeds of the guaranteed notes or bonds?

CDFIs should provide standard reports including the types of projects financed and their location, as well as information about the units of housing developed, square feet of retail, commercial space and community facilities, number of jobs created or preserved, etc. In addition if a CDFI that issued a bond prepares or issues publications about the impact of its work, the CDFI Fund should be provided with a copy of all such publications along with a brief narrative explanation from the CDFI as to the connection between the availability of the proceeds from the bond and the CDFI's ability to achieve the impact and outcome described in such publications.

- (g) Are the approval criteria for qualified issuers as listed in Section 114A(a)(8)(B) adequate? If not, what else should be included?

Yes, they are adequate.

7. Prohibited Uses

- (a) Section 114A(b)(5) provides certain prohibitions on use of funds including, “political activities, lobbying, outreach, counseling services, or travel expenses.” The CDFI Fund encourages comments and suggestions germane to prohibited uses established in the Act, specifically as to whether there are other prohibited uses that the CDFI Fund should include.

We do not believe that any additional prohibitions are necessary.

8. Servicing of Transactions

- (a) Section 114A(f) states that, in general, to maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified program administrators, bond servicers, and a master servicer. This section further outlines the duties of the program administrator, servicers, and the master servicer. Comments regarding the servicing of transactions are welcome, specifically:

- (iii) If so, should the servicer be eligible to serve as a program administrator for a qualified issuer?

No. This would present a conflict of interest.

- (iv) Who should be responsible for resolving troubled loans?

The servicers themselves should be responsible.

9. General Compliance

The CDFI Fund welcomes comments on general compliance issues related to monitoring the guarantee portfolio, particularly with respect to the following questions:

- (i) What types of compliance measures should be required by the CDFI Fund? Should the CDFI Fund mandate specific reports to be collected and reviewed by the servicer and ultimately the master servicer? If so, please provide examples.

Annually, CDFIs should submit a list of loans funded by bond proceeds sorted by borrower, geographic area, type of loan and the purpose of the project. Examples include housing, education, healthcare, and foreclosure prevention or the remediation of the adverse impacts of foreclosures on a neighborhood.

- (ii) The Act states that “repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).” How should the CDFI Fund enforce this requirement?

In the event of non-compliance by a qualified issuer, there should be a cure period of at least 90 days. If the CDFI Fund must enforce repayment of the bonds due to the expiration of all potential cure periods associated with the failure to meet the 90 percent requirement, it should do so in a way that preserves the outstanding balance of the bonds at the original terms (same coupon, term, etc.) and release a proportional amount of risk share or other credit reserves to maintain the original risk profile of the guaranteed bond. The CDFI Fund should reserve the right to permit extensions of the cure period, based on facts and circumstances, upon reasonable request. As noted above, we believe the efficiency of the overall program would benefit by having a more flexible placement standard during the last two years of a bond's term.

(iii) What penalties should the CDFI Fund impose if a qualified issuer is deemed noncompliant?

In the event of non-compliance of a qualified issuer, there should be a cure period of at least 90 days. If the CDFI Fund enforces repayment of the bond due to expiration of all cure periods associated with failure to meet the 90 percent requirement, it should do so in a way that preserves the remaining outstanding amount of the bond at its original terms (e.g., same coupon, same remaining term, etc.) and releases a proportional amount of risk share or other credit reserves to maintain the original risk profile of the guaranteed bond. The Secretary of Treasury should reserve the right to permit extensions of the cure period, based on facts and circumstances, upon reasonable request.

(iv) The Act provides that the qualified issuer pay a fee of 10 basis points annually. What penalties should be imposed for failure to comply?

The failure to pay the annual fee of 10 basis points should be considered a default which, if not promptly cured, should result in the issuer being ineligible to apply for future bond issuances. The issuer should also be required, if the default continues, to prepay the bond as the underlying project financing is repaid.

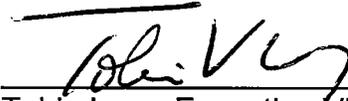
10. General Comments

The CDFI Fund is also interested in receiving any general comments and suggestions regarding the structure of the CDFI Bond Guarantee Program that are not addressed above.

The presence of the Federal Financing Bank as the sole investor of CDFI guaranteed bonds has many benefits in the beginning years of the CBGP. We strongly request that if the FFB has rules, requirements, structures or constraints that could affect how the CBGP will work, that discussions among potential bond applicants, the CDFI Fund and representatives of the FFB occur shortly so that

LISC and other potential applicants can better understand, and consider the impact of, any such requirements, structures or constraints.

Sincerely,

A handwritten signature in black ink, appearing to read "Tobin Levy", written over a horizontal line.

Tobin Levy, Executive Vice President
and Chief Financial Officer