

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: Installation of entire U.S.-model instrument cluster. U.S. version software must also be downloaded to ensure compliant operation of the U.S.-model instrument cluster.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: Inspection of all vehicles and replacement of the following non U.S.-model components with U.S.-model components on vehicles not already so equipped: (a) Headlamp assemblies that incorporate front side marker lamps; (b) taillamp assemblies that incorporate rear side marker lamps; (c) high-mounted rear stoplamp.

Standard No. 110 Tire Selection and Rims: Installation of a tire information placard.

Standard No. 111 Rearview Mirrors: Installation of U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of the mirror.

Standard No. 114 Theft Protection: Installation of U.S. version software to ensure that the vehicle conforms to the standard.

Standard No. 118 Power-Operated Window, Partition, and Roof Panel Systems: Installation of U.S. version software to ensure that the vehicle conforms to the standard.

Standard No. 208 Occupant Crash Protection: Installation of a warning buzzer which is wired to the seat belt latch to ensure that the seat belt warning system activates in the proper manner.

The petitioner states that the automatic restraint system installed in these vehicles consists of dual front airbags, and that the vehicles have combination lap and shoulder belts at the front and rear outboard seating positions. These manual systems are automatic, self-tensioning, and are released by means of a single red push-button.

The petitioner also states that U.S. version software must be installed to ensure that the vehicle conforms to the requirements of the Theft Prevention Standard at 49 CFR part 541.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC

20590. (Docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) Inviting Applications for the FY 2005 and FY 2006 Funding Rounds of the Bank Enterprise Award (BEA) Program

Announcement Type: Initial announcement of funding opportunity.

Catalog of Federal Domestic Assistance (CDFA) Number: 21.021.

Dates: Applications for the FY 2005 funding round must be received by 5 p.m. e.s.t. on February 14, 2005 and applications for the FY 2006 funding round must be received by 5 p.m. e.s.t. on February 14, 2006. Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOFA. Applications received after 5 p.m. e.s.t. on the applicable deadline will be rejected and returned to the sender.

Executive Summary: This NOFA is issued in connection with the FY 2005 and FY 2006 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 2005 funding round, the Baseline Period is calendar year 2003 (January 1, 2003 through December 31, 2003), and the Assessment Period is calendar year 2004 (January 1, 2004 through December 31, 2004). For the FY 2006 funding round, the Baseline Period is calendar year 2004 (January 1, 2004 through December 31, 2004), and the Assessment Period is calendar year 2005 (January 1, 2005 through December 31, 2005).

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(p)). 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(oo)).

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 Community Development Financial Institutions (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 website (<http://www.cdfifund.gov>). Instructions for registering with *myCDFIFund* are available on the Fund's website. 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.

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:

(a) A CDFI that is not an insured credit union, insured depository institution, or depository institution holding company, and that has up to \$25 million in total assets as of its most recently completed fiscal year;

(b) A CDFI that is an insured credit union that has up to \$25 million in total assets as of its most recently completed fiscal year;

(c) a CDFI that is an insured depository institution or depository institution holding company and that has up to \$500 million in total assets as of its most recently completed fiscal year; or

(d) A CDFI proposing a new level or type of activity in a CDFI Program-qualified Hot Zone (12 CFR part 1805, *et seq.*) (for further information on the CDFI Program's Hot Zones, please refer to the most recent NOFA for the Financial Assistance Component of the CDFI Program which is available on the Fund's website at <http://www.cdfifund.gov/programs>).

2.m 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 <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 p.m. e.s.t. 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 \$4 million for FY 2005

BEA Program awards, and approximately \$6 million for FY 2006 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).

H. Types of Awards

BEA Program awards are made in the form of grants.

I. 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, 2004 for the FY 2005 funding round and by December 31, 2005 for the FY 2006 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 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) 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, as of the 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, (ii) has been determined by the Fund to be in default of a previously executed assistance, award or allocation agreement(s), and (iii) the Fund has provided written notification of such determination to the defaulting entity.

(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 allocatees 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; 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. e.s.t., starting the date of the publication of this NOFA through February 10, 2005 (for the FY 2005 funding round) and through February 10, 2006 (for the FY 2006 funding round) (two business days 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. e.s.t. on February 10, 2005 until after the funding application deadline of February 14, 2005 for the FY 2005 funding round or after 5 p.m. e.s.t. on February 10, 2006 until after the funding application deadline of February 14, 2006 for the FY 2006 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 2005-2006 BEA Program application materials available on its Web site at <http://www.cdfifund.gov>. The Fund will send application materials to Applicants that are unable to download them from the Web site. To have application materials sent to you, contact the Fund by telephone at (202) 622-6355; by e-mail at cdfihelp@cdfi.treas.gov; or by facsimile at (202) 622-7754. These are not toll free numbers.

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 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 2005 funding round or FY 2006 funding round.

C. Form of Application Submission

Applicants must submit applications under this NOFA in paper form, with the exception of the required electronic submission of the Report of Transactions (see Section IV.D.3. of this NOFA). Applications sent by facsimile or by e-mail will not be accepted.

D. Application Submission Dates and Times**1. Application Deadlines**

The deadline for receipt of applications for the FY 2005 funding round is 5 p.m. e.s.t. on February 14, 2005. The deadline for receipt of applications for the FY 2006 funding round is 5 p.m. e.s.t. on February 14, 2006. Applications and other required documents and other attachments received after 5 p.m. e.s.t. on the applicable date will be rejected and returned to the sender. 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.

3. Electronic Submission of Report of Transactions

In order to expedite application review, Applicants must submit a specific section of the application, the Report of Transactions form, electronically (via myCDFIFund) per the instructions provided on the Fund's Web site, by 5 p.m. e.s.t. on February 14, 2005 (for the FY 2005 funding round) or by 5 p.m. e.s.t. on February 14, 2006 (for the FY 2006 funding round). Applicants will be unable to submit Reports of Transactions after said dates and times. Nor will Applicants have an opportunity to submit corrected Reports of Transactions after said dates and times.

V. Intergovernmental Review

Not Applicable.

VI. Funding Restrictions

Not Applicable.

VII. Addresses

Paper applications must be sent to: CDFI Fund Grants Management and

Compliance 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. In addition, as provided above, Applicants must submit completed Reports of Transactions via myCDFIFund by the applicable deadline. The Fund will not afford Applicants an opportunity to provide missing documentation after the applicable deadline.

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 website.

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. e.s.t., starting the date of the publication of this NOFA through close of business February 10, 2005 for the FY 2005 funding round (2 business days before the application deadline) and through close of business February 10, 2006 for the FY 2006 funding round (2 business days before the application deadline).

The Fund will not respond to questions or provide support concerning the application after 5 p.m. e.s.t. on February 10, 2005 for the FY 2005 funding round, until after the application deadline of February 14, 2005. The Fund will not respond to questions or provide support concerning the application after 5 p.m. e.s.t. on February 10, 2006 for the FY 2006 funding round, until after the application deadline of February 14, 2006.

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 Web site 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. People who have visual or mobility impairments that prevent them from creating Hot Zone or Distressed Community maps using the Fund's Web site 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 (such as the eligibility of specific transactions or CDFI Partners), contact a member of the BEA Program staff, who can be reached by e-mail at 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. Administrative Support

If you have any questions regarding the administrative requirements of this NOFA, contact the Fund's Grants Management and Compliance Manager by e-mail at gmc@cdfi.treas.gov, by telephone at (202) 622-8226, by facsimile at (202) 622-9625, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers.

D. 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>.

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

Dated: September 3, 2004.

Arthur A. Garcia,

Director, Community Development Financial Institutions Fund.

[FR Doc. 04-20460 Filed 9-8-04; 8:45 am]

BILLING CODE 4810-70-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas and Tennessee); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of an open meeting.

SUMMARY: This document contains a correction to a notice of an open meeting which was published in the **Federal Register** on August 24, 2004 (69 FR 52066). This notice relates to the Taxpayer Advocacy Panel's solicitation of public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1-888-912-1227 (toll-free), or 954-423-7979 (non-toll free).

SUPPLEMENTARY INFORMATION:

Background

The notice of an open meeting that is the subject of this correction is under section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988).

Need for Correction

As published, the notice of an open meeting contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of an open meeting, which is the subject of FR Doc. 04-19354, is corrected as follows:

On page 52066, column 3, under the caption **SUPPLEMENTARY INFORMATION:** lines 8 through 10, the language "12 p.m. and from 1 p.m. to 5 p.m. EDT and