

\$3.6 Billion in New Markets Tax Credits Awarded

Another \$3.623 billion in federal New Markets Tax Credits (NMTCs) authority was awarded this February by the Community Development Financial Institutions Fund (CDFI Fund). Locally, two of the seventy award recipients are headquartered in North Carolina and ten recipients listed North Carolina among the seven states in which they would likely focus their activities. The NMTC program was created to encourage investment in Low-Income Communities (LICs) and underserved populations that have historically had inadequate access to capital.

NMTCs provide a federal tax credit to investors who invest in investment vehicles known as Community Development Entities (CDEs) that have received an allocation of NMTCs. The tax credit received by the investor equals 39% of the amount invested in the CDE and is taken in increments over seven years. When combined with the anticipated return on investment, NMTCs create substantial and secure financial benefits for an investor. Although anyone with a U.S. tax obligation may invest in a CDE, NMTC investors are frequently banks.

NMTCs provide a financing tool for projects that may otherwise have difficulty obtaining capital. To receive NMTC subsidized financing, known as a Qualified Low-Income Community Investment (QLICI), a project must be a qualifying business or a real estate project known as a Qualified Active Low-Income Community Business (QALICB), which requires, among other things, that it be located in or provide services to a LIC and that it not engage in certain "sin" businesses. CDEs provide debt and equity investments to QALICBs at preferential rates and terms. All seventy CDEs

receiving allocations in February have committed to provide capital that is at least 50% below market and/or is characterized by at least five concessionary features, such as higher loan-to-value ratios and longer amortization periods. NMTCs provide a net benefit to a project generally ranging from 15% to 20% of the project's NMTC allocation, in addition to enabling the project to obtain capital that it may not have found elsewhere.

CDEs must have a primary mission of serving LICs and must maintain accountability to residents of LICs. LICs are generally defined as census tracts with a poverty rate of 20% or greater or with a median family income at or below 80% of the area median income. Each CDE selects the projects in which it will deploy its allocation, subject to the requirements set forth in its allocation agreement, which is monitored by the CDFI Fund. CDEs seek projects that will have high community impact, including creating jobs and providing needed goods or services to LICs. Some CDEs also have a particular focus for the use of their allocation. We at Schell Bray are pleased to have assisted our client, Brownfield Revitalization, LLC ("BR"), with its successful applications in three rounds of NMTC allocations, including an allocation of \$50,000,000 received in the 2011 round. BR will continue to focus on brownfields redevelopment and community facilities throughout the country and we look forward to continuing to work with them in the deployment of their allocation. The 2011 allocation round included a focus on the Healthy Food Financing Initiative's (HFFI) effort to eliminate "food deserts" – low-income urban and rural areas with limited access to affordable and nutri-



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tious food. Fifty of the seventy allocatees, including BR, indicated that they intend to devote some portion of their allocation to HFFI activities. The CDFI Fund's website, www.cdfifund.gov, includes detailed information on CDEs and a LIC mapping tool to assist in determining project eligibility.

Through 2010, nearly \$500,000,000 in QLICIs have been made in projects located throughout North Carolina. These projects include an arts center and museum, commercial real estate projects, a homeless shelter and food kitchen, a charter school, and a grocery cooperative. Although an NMTC transaction is quite complex, resulting in high transaction costs and a typical closing timeline of four to six months, in many cases the extra time, expense and complexity is justified because it enables the project to obtain capital that is otherwise unavailable, provides a net benefit to the project of 15 to 20% of the allocation, and positively impacts the community. If you think your project may qualify for NMTCs and would like to learn more, feel free to contact us.

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