

Service Activities, or Distressed Community Financing Activities, the Applicant may designate different Distressed Communities for each category of activity.

(b) *Minimum area eligibility requirements.* A Distressed Community must meet the following minimum area eligibility requirements:

(1) *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 must be 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.

(2) *Distress requirements.* A Distressed Community must be a geographic area where:

(i) At least 30 percent of the Residents have incomes which 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;

(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; and

(iii) Such additional requirements as may be specified by the Fund in the applicable NOFA.

(c) *Area designation.* An Applicant shall designate an area as a Distressed Community by:

(1) Selecting Geographic Units which individually meet the minimum area eligibility requirements set forth in paragraph (b) of this section; or

(2) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (b) of this section, provided that no Geographic Unit selected by the Applicant within

the area has a poverty rate of less than 20 percent.

(d) *Designation and notification process.* The Fund will provide a prospective Applicant with data and other information to help it identify areas eligible to be designated as a Distressed Community. Applicants shall submit designation materials as instructed in the applicable NOFA.

§ 1806.201 Measuring and reporting Qualified Activities.

(a) *General.* An Applicant may receive a Bank Enterprise Award for engaging in any of the following categories of Qualified Activities during an Assessment Period: CDFI Related Activities, Distressed Community Financing Activities, or Service Activities. The Fund may further qualify such Qualified Activities in the applicable NOFA, including such additional geographic and transaction size limitations as the Fund deems appropriate.

(b) *Reporting Qualified Activities.* An Applicant should report only its Qualified Activities for the category in which it is seeking a Bank Enterprise Award. For example, if an Applicant is seeking a Bank Enterprise Award for Distressed Community Financing Activities only, it should report only its activities for the Distressed Community Financing Activities category.

(1) If an Applicant elects to apply for an award in either the CDFI Related Activities category or the Distressed Community Financing Activities category, it must report on all types of activity within that category except if an Applicant can provide a reasonable explanation, acceptable to the Fund in its sole discretion, as to why it cannot report on such category.

(2) Exception. An Applicant may elect not to report each type of activity within the Service Activities category.

(c) *Area served.* Service Activities and Distressed Community Financing Activities must serve a Distressed Community. An activity is considered to serve a Distressed Community if it is:

(1) Undertaken in the Distressed Community; or

(2) Provided to Low- and Moderate-Income Residents or enterprises Integally Involved in the Distressed Community.

(d) *Limitations*—(1) *Low-Income Housing Tax Credits*. Financial assistance provided by an Applicant for which the Applicant receives benefits through Low-Income Housing Tax Credits, authorized pursuant to Section 42 of the Internal Revenue Code, as amended (26 U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

(2) *New Markets Tax Credits*. Financial assistance provided by an Applicant for which the Applicant receives benefits as an investor in a Community Development Entity that has received an allocation of New Markets Tax Credits, authorized pursuant to Section 45D of the Internal Revenue Code, as amended (26 U.S.C. 45D), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

(3) *Loan Renewals*. Financial assistance provided by an Applicant shall not constitute a Qualified Activity, as defined in this part, for the purposes of calculating or receiving an award if, such activity has matured and is then renewed.

(e) *Measuring the Value of Qualified Activities*. Subject to such additional or alternative valuations as the Fund may specify in the applicable NOFA, the Fund will assess the value of:

(1) Equity Investments, Equity-Like Loans, loans, grants and certificates of deposits, at the original amount of such Equity Investments, Equity-Like Loans, loans, grants or certificates of deposits. Where a certificate of deposit matures and is then rolled over during the Baseline Period or the Assessment Period, as applicable, the Fund will assess the value of the full amount of the rolled over deposit. Where an existing loan is refinanced (a new loan is originated to pay off an existing loan, whether or not there is a change in the applicable loan terms), the Fund will only assess the value of any increase in the principal amount of the refinanced loan;

(2) Project Investments at the original amount of the purchase of stock, limited partnership interest, other ownership interest, or grant;

(3) Deposit Liabilities at the dollar amount deposited as measured by comparing (i) the net change in the amount of applicable funds on deposit at the Applicant during the Baseline Period with (ii) the net change in the amount of applicable funds on deposit at the Applicant during the Assessment Period, as described below:

(i) The Applicant shall calculate the net change in deposits during the Baseline Period, by comparing the amount of applicable funds on deposit at the close of business the day before the beginning of the Baseline Period and at the close of business on the last day of the Baseline Period; and

(ii) The Applicant shall calculate the net change in such deposits during the Assessment Period, by comparing the amount of applicable funds on deposit at the close of business the day before the beginning of the Assessment Period and at the close of business on the last day of the Assessment Period;

(4) Financial Services and Targeted Financial Services based on the predetermined amounts as may be set forth by the Fund in the applicable NOFA; and

(5) Financial Services (other than those for which the Fund has established a predetermined value), Community Services, and CDFI Support Activities consisting of technical assistance based on the administrative costs of providing such services.

(f) *Closed Transactions*. A transaction shall be considered to have been carried out during the Baseline Period or the Assessment Period if the documentation evidencing the transaction:

(1) Is executed on a date within the applicable Baseline Period or Assessment Period, respectively; and

(2) Constitutes a legally binding agreement between the Applicant and a borrower or investee which specifies the final terms and conditions of the transaction, except that any contingencies included in the final agreement must be typical of such transaction and acceptable (both in the judgment of the Fund); and

(3) An initial cash disbursement of loan or investment proceeds has occurred in a manner that is consistent with customary business practices and is reasonable given the nature of the transaction (as determined by the Fund) unless it is normal business practice to make no initial disbursement at closing and the Applicant demonstrates that the borrower has access to the proceeds, subject to reasonable conditions as may be determined by the Fund.

(g) *Reporting Period.* An Applicant may only measure the amount of a Qualified Activity that it reasonably expects to disburse to an investee, borrower, or other recipient within one year of the end of the applicable Assessment Period, or such other period as may be set forth by the Fund in the applicable NOFA.

§ 1806.202 Estimated award amounts.

(a) *General.* An Applicant shall calculate an estimated award amount that it shall submit to the Fund for consideration for a Bank Enterprise Award.

(b) *Award Percentages.* The Fund will establish the award percentage for each category of Qualified Activities in the applicable NOFA. Applicable award percentages for activities undertaken by Applicants that are CDFIs will be equal to three times the award percentages for activities undertaken by Applicants that are not CDFIs.

(c) *Calculating the estimated award amount.* The estimated award amount for each category of Qualified Activities will be equal to the applicable award percentage of the increase in the weighted value of such Qualified Activities between the Baseline Period and Assessment Period. The weighted value of the applicable Qualified Activities shall be calculated by:

(1) subtracting the Baseline Period value of such Qualified Activity from the Assessment Period value of such Qualified Activity to yield a remainder; and

(2) multiplying the remainder by the applicable Priority Factor (as set forth in the applicable NOFA).

(d) *Estimated Award Eligibility Review.* The Fund will determine the eligibility of each transaction for which an Appli-

cant has applied for a Bank Enterprise Award. Based upon this review, the Fund will calculate the actual award amount for which such Applicant is eligible.

§ 1806.203 Selection Process, actual award amounts.

(a) *Sufficient Funds Available to Cover Estimated Awards.* All Bank Enterprise Awards are subject to the availability of funds. If the amount of funds available during a funding round is sufficient to cover all estimated award amounts for which Applicants are eligible, in the Fund's determination, and an Applicant meets all of the program requirements specified in this part, then such Applicant shall receive an actual award amount that is calculated by the Fund in the manner specified in Section 1806.202.

(b) *Insufficient Funds Available to Cover Estimated Awards.* If the amount of funds available during a funding round is insufficient to cover all estimated award amounts for which Applicants are eligible, in the Fund's determination, then the Fund will select Awardees and determine actual award amounts based on the process described in this section.

(c) *Priority of Awards.* The Fund will rank Applicants in each category of Qualified Activity according to the priorities described in this paragraph (c). All Applicants in the first priority category will be selected for Bank Enterprise Awards before Applicants in the second priority category. All Applicants in the first and second priority categories will be selected for Bank Enterprise Awards before Applicants in the third priority category. Selections within each priority category will be based on the Applicants' relative rankings within each such category, subject to the availability of funds.

(1) *First priority.* If the amount of funds available during a funding round is insufficient for all estimated award amounts, first priority will be given to Applicants that propose to engage in CDFI Related Activities, ranked in the order set forth in the applicable NOFA.

(2) *Second priority.* If the amount of funds available during a funding round