

Memorandum



DATE January 16, 2009

TO Members of the Economic Development Committee: Ron Natinsky (Chair),
Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane,
Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Using New Market Tax Credits to Increase Investment in Southern Dallas**

At your January 20, 2009 meeting, you will be briefed on "Using New Market Tax Credits to Increase Investment in Southern Dallas." A copy of that briefing is attached.

Should you have any questions, please contact me at (214) 670-3314.



A.C. Gonzalez
Assistant City Manager

C: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom Perkins, City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
Forest Turner, Interim Assistant City Manager
Ramon Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Director, Budget & Management Services
David Cook, Chief Financial Officer
Karl Zavitkovsky, Director, Office of Economic Development
Hammond Perot, Assistant Director, Office of Economic Development
Helena Stevens-Thompson, Assistant to the City Manager

Using New Market Tax Credits to Increase Investment in Southern Dallas

Economic Development Committee

January 20, 2009



Overview

- **New Market Tax Credits (NMTC) attract private investment** for business and real estate developments in **Low Income Neighborhoods**
- NMTC is **federal tax credit** program created in 2000 and renewed through 2009
 - **U.S. Treasury** administers
 - **Allocations made directly** to local Community Development Entity (**CDE**)
 - **Tax credit** is **39%** of original investment over **7 years**
- Two part application process
 - Creation and **certification of CDE** which **applies for NMTC allocation** (must be legal entity with board that represents Low Income Community residents) – **February 2009**
 - Application for **NMTC allocation** – **April 2009**

Overview, cont.

- Allocation award process complicated and competitive requiring an **external consultant to provide technical support and strategic guidance**
- NMTC program offers **additional financial tool** to achieve Dallas' development goals, particularly in southern Dallas
- Funds can be used for **debt or equity financing in combination** with **Public Private Partnership** and **TIF subsidies**
- Targets commercial, industrial, not-for-profit and operating businesses and mixed use (rental housing less than 80% of income)
- If granted an allocation, funding would be available no sooner than October 2009

Briefing Purpose

- **Describe** the federal New Market Tax Credit (NMTC) program
- **Identify** potential **benefits** to the City of Dallas
- **Explain** the **steps** the City must complete to use this program
- Review Council and staff responsibilities and outline next steps

What is the New Market Tax Credit Program?

- Federal income tax credit induces **private investment** in business and real estate developments in **low income neighborhoods**
- Tax credit is taken over a **7-year period**
 - Total credit is **39%** of original investment
 - **First three years**, credit is **5%** of the original investment
 - In the **final four years**, the credit is **6%** of the original investment
- A local community development entity (**CDE**) must be formed to **administer the program**
- To participate in 2009, Dallas will have to complete a **rigorous application** in a very **short time**

NMTC Program History

- Created by Congress in 2000 and administered by CDFI Fund of U.S. Treasury
- \$22 billion authorized since inception and \$3.5 billion for 2009
- In 2008, 29% of applicants received NMTC capital
- Typical maximum allocation is \$125 million

Community Development Entity (CDE)

- A **CDE applies** for a **NMTC allocation** and:
 - **Identifies** development **projects**
 - **Identifies investors**
 - **Allocates tax credits** to investors, **certifies project eligibility** and **integrity** of the **credits/funding** involved
 - Serves as the **vehicle** to **provide loans, investments** or **financial counseling** in Low-Income Communities (LICs)
- The CDE **must meet qualifying conditions**:
 - A primary mission to **serve or provide capital** to **low-income persons**
 - Demonstrated **accountability to the residents** of the low-income communities it serves
- **Ability of CDE to meet** ongoing **compliance requirements** is critical to **attract private investors** who risk losing their tax credits otherwise

NMTC Application Process

- **Allocations applications** are made to **U.S. Treasury (CDFI Fund)**
 - Deadline anticipated to be April 2009
- The award process is very competitive
- Pursuing this opportunity will require a substantial commitment of resources given the time frame and technical complexity of the analysis required
- **External consultant** needs to be engaged to support **technical aspects** of the application process and provide **strategic guidance**

NMTC Awards and Uses

- **Award amounts relate to the amount of investment that can receive a credit (not \$ value of credits awarded)**
 - **\$125 million** is the **maximum** considered for an award
 - City of Chicago received \$100M (06) and Atlanta received total of \$80M (07/08)
 - Other cities that received credits include Los Angeles, Phoenix, Milwaukee, St. Louis, Wayne County/Detroit and Greenville
- **Private investors accept lower rates of return** because of the federal tax credit
 - **Commercial banks receive the majority of credits** awarded through their investments in the CDE

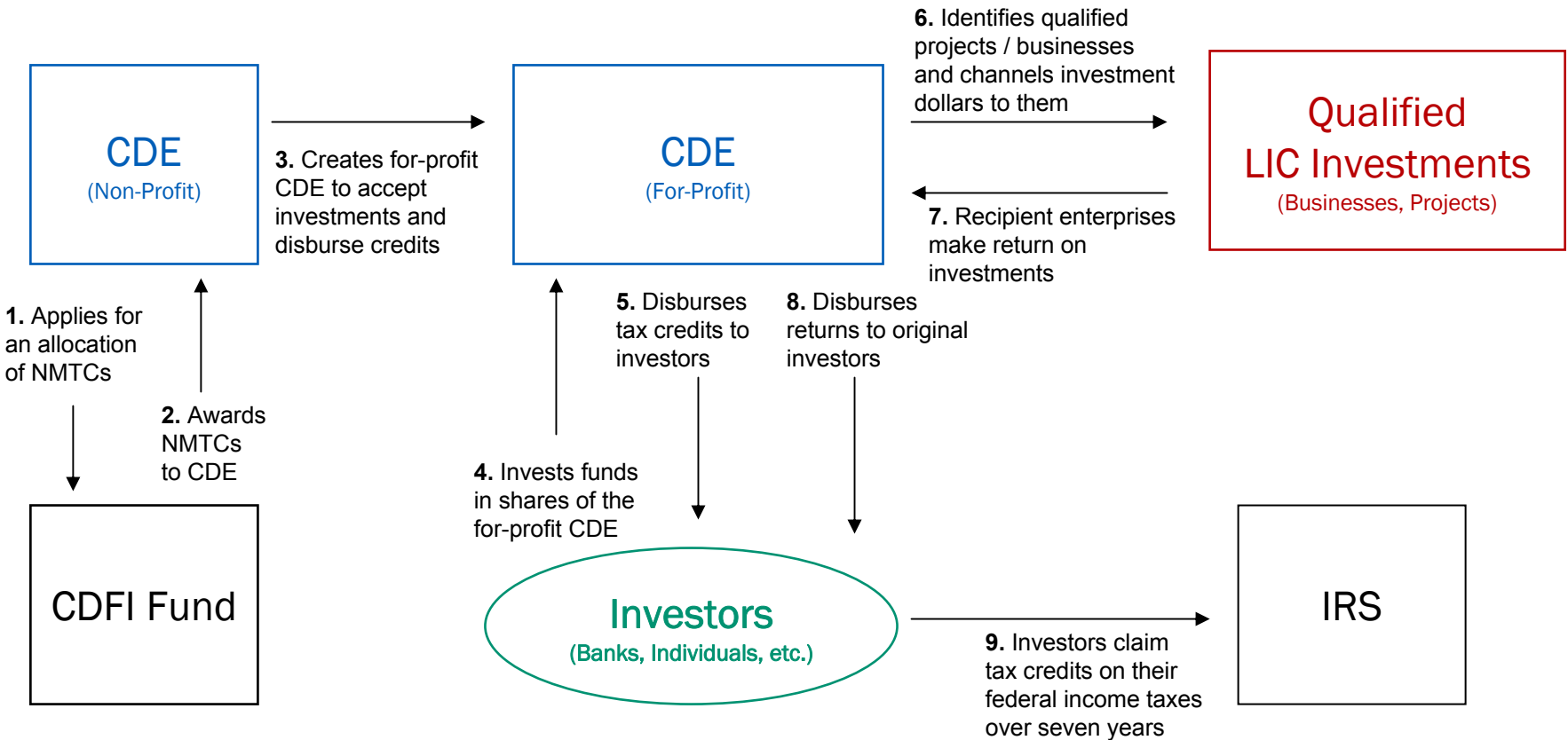
Benefits of the NMTC program

- An **additional financial tool** to achieve Dallas' development goals, particularly those in **southern Dallas neighborhoods**
 - Focuses on (federally defined) **Low-Income Communities** and **Low-Income Populations** (see Appendix A)
- Funds can be **used for debt, equity or “hybrid” financing**
 - Projects include **commercial, industrial, institutional, not-for-profit**
 - For-sale housing (challenging due to 7-year time frame)
 - **Mixed-use projects**, with **rental housing less than 80% of income**
 - **Operating businesses**
- An important **supplemental layer** that complements conventional debt and equity financing as well as existing city subsidy programs.

Types of Eligible Projects

- **Allocation award depends on applicant's strategy to use the tax credits** to support eligible development projects
- Dallas' written development plan, *Strategic Engagement*, identifies several initiatives and programs that would qualify under the program, for example:
 - **Transit-oriented development in low-income areas**
 - **Business development in low-income areas**
- Several types of projects are **not eligible**:
 - Those that derive more than **80% of gross rental income from rental dwelling units**
 - Golf courses, race tracks, gambling facilities, country clubs, massage parlors, hot tub facilities, suntan facilities, liquor stores

Illustrative NMTC Use



Potential Risks of NMTC Program

- A **CDE** that **does not properly manage program** compliance can **create additional tax liability for investors** related to credit previously claimed plus interest
- **Three things** can **trigger a recapture event**:
 - CDE ceases to be certified as a CDE
 - CDE does not satisfy the requirement to invest a minimum of 85% of their qualified equity investments within 1 year of receiving investment
 - CDE redeems the investment
- A Dallas CDE will **require experienced program administrators** that can be **funded from investor proceeds**

Steps to Receive an Allocation

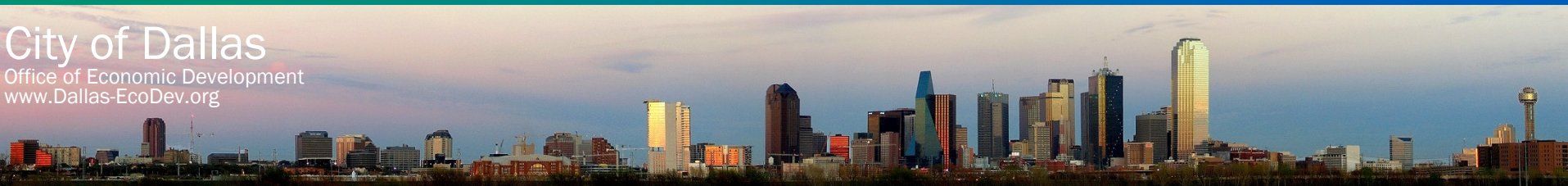
- Exact dates have not yet been set by the CDFI Fund, but based on last year's cycle:
 - **Apply** to CDFI Fund **by mid-February** to have a Dallas **CDE certified**
 - **Apply** by **early April** to receive a **NMTC allocation**
 - **Fund announces CDEs** to receive NMTC allocations **in October**
 - Sign binding Allocation Agreement with CDFI Fund after award announcement

Next Steps

- Engage City Attorney's Office, to **create a non-profit entity** and **apply** for its **CDE designation**
 - Prior to designation, Council action will be required to establish board and authorize incorporation (**Council action: February 11th**)
 - CDE certification deadline will be February 2009
- **RFP** seeking professional and technical assistance for the NMTC allocation
- **OED recommends contract for NMTC consultant to Council for approval February 25th**
- Consultant and OED will work together to submit application for NMTC allocation for the City of Dallas
 - **Application submitted prior to April 2009 deadline**

Appendix A

Acronyms and Definitions



Acronyms

- CDE– Community Development Entities
- CDFI– Community Development Financial Institutions Fund
- LIC– Low-Income Communities
- QEI-- Qualified Equity Investments

Definitions

- Low Income Communities:
 - Eligibility for Census tracts in Dallas
 - At least 20% poverty rate; OR
 - The median family income does not exceed 80% of the area median family income
- Low Income Persons
 - For Dallas, an individual (adjusted for family size) with an income no larger than the greater of
 - 80% of the statewide median family income OR
 - 80% of the metropolitan area median family income

Definitions

- Qualified Equity Investments
 - An equity investment (stock in a corporation or any capital interest in a partnership) in a CDE
 - The equity investment must be acquired by the investor at its original issue solely in exchange for cash
 - Must be designated by the CDE

CDE Certification Process

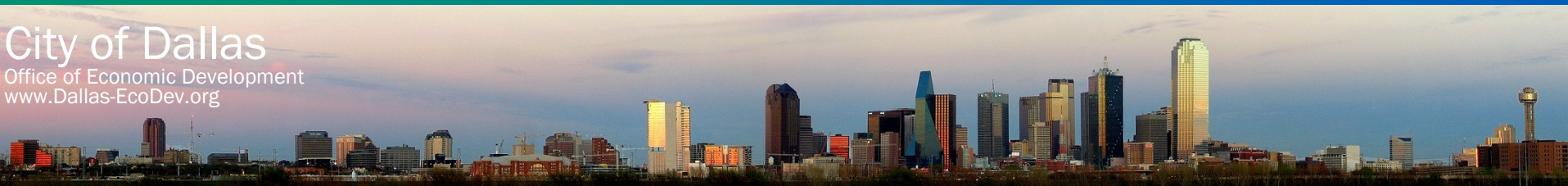
- An applying CDE can be a non-profit or a for-profit entity, but to receive an allocation of funds, the CDE must have a for-profit subsidiary
- To be designated, CDE must be a legal entity prior to the time of application. Application must include:
 - Employer Identification Number from the Internal Revenue Service
 - Articles of Incorporation as filed at the state level, with amendments

CDE Certification Process

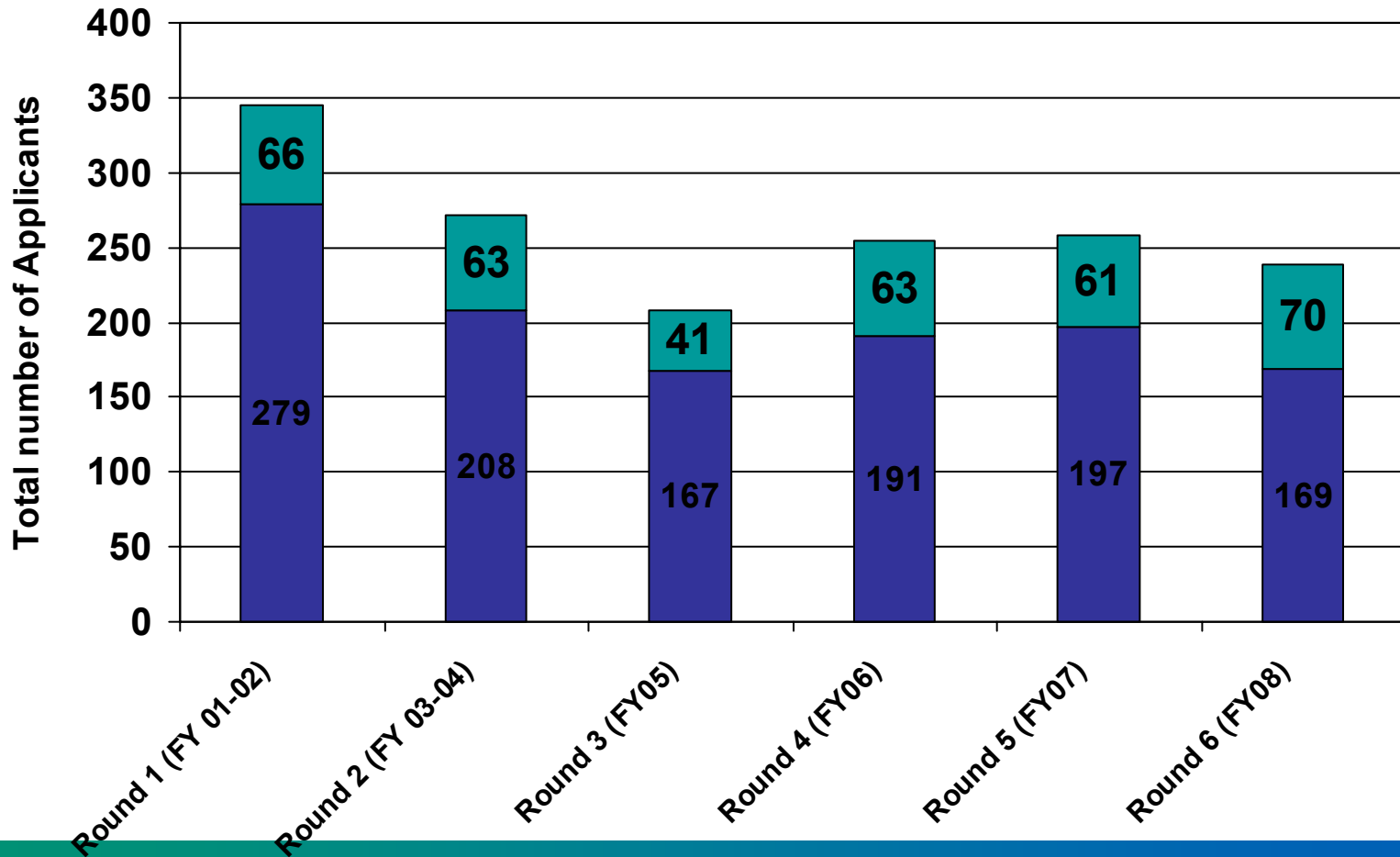
- Governing Board must be established prior to submitting certification documents
- The CDE must have a primary mission of serving or providing investment capital to Low Income Communities (LIC) or Low Income Persons and at least 60% of its activities target Low Income Persons or Communities.
- At least 20% of the board must represent LICs to demonstrate accountability to residents
 - Reside in a LIC within designated service area OR
 - Represent interests of residents of LICs, for example:
 - Small business owner with business in LIC, employee or board officer of a community-based or charitable organization serving the community
 - If using a board officer designation, solely serving on the CDE itself does not count

Appendix B

Historical Data on Award Recipients



Applicants and Number of Awards



Amount Requested v. Amount Awarded

