

Ohio New Markets Tax Credit: Round 7 Revised Program Guidelines

1. Application Process and Timeline:

- 1.1. The Ohio Development Services Agency (“ODSA”) may allocate the full amount of authorized tax credits for each fiscal year through an annual competitive application process.
- 1.2. ODSA will accept applications on an annual schedule (rounds) for Application Periods for State of Ohio fiscal years starting in 2011 (beginning July 1, 2010). Distinct application review and approval periods shall be referred to as rounds. The following schedule will guide Round 7:
 - **Round 7**
 - Application Released – August 22, 2016
 - Application Submission Deadline – October 7, 2016
 - Application Review Period – October, 2016
 - Approved Applicants Announced – Subsequent to announcement of Federal awards
- 1.3. The Applicant must submit one completed original application and one electronic copy to the Ohio Development Services Agency, Office of Strategic Business Investments, Attn: John Werkman, 77 S. High Street, 28th Floor, Columbus, Ohio 43215.
- 1.4. To be considered, the Applicant will be required to pay a non-refundable application fee as established in these guidelines by the application submission deadline.
- 1.5. Once an application has been submitted, it may not be amended during the application submission period. However, an applicant may withdraw its application and submit a new application prior to the final day of the application submission period.
- 1.6. Applications must be received by close of business (5 p.m. Eastern Time) on the final day of the application submission period to be considered in that evaluation period. Any application received after the last day of the application submission period will not be evaluated.
- 1.7. An application review period will follow the application deadline. During this review period, applications will be reviewed for completeness. ODSA may request that applicants provide additional information. Applicants may only submit additional information in direct response to correspondence from ODSA. If the applicant does not submit the requested information within 10 business days of the request, the application will be evaluated as submitted.
- 1.8. Applications will be evaluated based on the criteria outlined in the application, but it is not the sole determinant for the selection of allocatees. The Director will balance the program objectives, program guidelines and products offered to ensure that all program goals will be met.
- 1.9. For Round 7, selection of allocatees will occur subsequent to announcement of Federal tax credit allocation authority by the Community Development Financial Institutions Fund, which is anticipated in the fourth quarter of 2016. In order to comply with the requirement under Ohio Revised Code (ORC) section 5725.33(A)(5)(c), applicants will be required to prove the existence of available Federal tax credit allocation authority prior to receiving an Ohio new markets tax credit award.
- 1.10. All applicants are eligible to re-apply in any subsequent round. Applicants are required to submit a new application to be considered for subsequent rounds.

2. Allocation Agreements:

- 2.1. Approved applicants (“State Allocatees”) are required to sign an allocation agreement with ODSA prior to initiating any business activities related to the Ohio New Markets Tax Credit program. The allocation agreement will describe in detail the investment parameters agreed to by the applicant during the application process. These include, but are not limited to:
 - 2.1..1. Investments shall meet the program objectives as identified by the applicant in the application.
 - 2.1..2. All financial products must be offered as described in the application.

- 2.1..3. Investments shall meet the community impact measures (poverty level, median family income and unemployment rate) identified by the applicant in its application.
 - 2.1..4. Investments shall meet the percentage of planned investments of their allocated federal New Markets Tax Credits in Ohio.
 - 2.1..5. Investments shall meet the identified commitment levels to Qualified Active Low-Income Community Businesses as identified by the applicant in the application.
 - 2.1..6. Approved applicants are required to make 85% of Qualified Equity Investments within the 12-month allocation period established in administrative rules applicable to the program under Ohio Administrative Code (OAC) section 122:22-1-02 (E).
 - 2.1..7. Approved applicants are required to maintain a minimum of 85% of Qualified Equity Investments throughout the seven-year credit allowance period.
- 2.2. Allocation agreements may be amended only in writing. Any applicant that desires to amend an allocation agreement may submit a request in writing, signed by an Authorized Representative of the State Allocatee. Requests to amend will be reviewed by ODSA and a determination will be made within 30 calendar days of receipt of such request. The Director may request additional information. If the State Allocatee does not respond to a request for additional information within the time permitted by the Director (which shall not be less than 30 calendar days), the Director will decide on the requested amendment based on the information originally provided. No amendment will be effective until signed by the Director.
 - 2.3. As indicated by OAC section 122:22-1-02 (E), the Director may extend the period of time during which an investment may be made upon the written request of a State Allocatee. The request must be made at least 30 days, but not more than 60 days, before the scheduled expiration date of the allocation agreement. The Director may extend the allocation agreement for up to six months if the State Allocatee demonstrates that an investment commitment has been made but will not be closed prior to the scheduled expiration of the credit allocation award. Due to statutory limitations regarding the amount of new markets tax credits that can be claimed in any fiscal year, only one extension will be considered per allocation agreement.

3. Notices and Reporting:

- 3.1. State Allocatees are required to file an annual report with ODSA within 180 days following the end of the Community Development Entity's ("CDE") fiscal year as published in OAC 122: 22-1-04(A) for each of the seven years of the Ohio New Markets Tax Credit investment period. The State Allocatee shall submit an annual report to the Director with respect to each allocation agreement to which the State Allocatee is a party. The annual report shall include a complete copy of any report submitted by the State Allocatee to the Community Development Financial Institutions Fund (or any successor fund or agency administering the federal new markets tax credit program) for the corresponding reporting period, together with an Ohio annual report supplement.
- 3.2. All State Allocatees are required to comply with reporting requirements as further described in the administrative rules for the program (OAC 122:22-1-04(A)). The Director shall publish the form of annual report supplement on ODSA's website. Unless otherwise expressly indicated in the annual report supplement form or accompanying instructions, all requested information is required.
- 3.3. State Allocatees who do not file required annual reports within 180 of the end of the CDE's fiscal year will be subject to fines of up to \$100 per day. The application of these fines is at the discretion of the Director.
- 3.4. ODSA has established and published on its website a standard notification of qualified equity investment form. State Allocates must complete the standard notification form for each qualified equity investment in accordance with program rule OAC 122:22-1-02(E).
- 3.5. ODSA has established and published on its website a standard notification of qualified low-income community investment form. State Allocates must complete the standard notification form for each qualified low-income community investment in accordance with program rule OAC 122:22-1-03(A).
- 3.6. ODSA has established and published on its website a standard determination form. State Allocatees may request a determination to determine if a business is a qualified active low-income community business ("QALICB") as that term is defined in ORC 5725.33(A)(4). ODSA will request information about the business including: management structure, organizational charts, financial statements, prior year tax returns, rental and lease agreements, operating agreements and other necessary information.
- 3.7. If a business is a special purpose entity formed consistent with ORC 5725.33(A)(4), the business will be treated as a QALICB throughout the entire seven year period of the investment if it demonstrates, through a

signed letter from the authorized representative, that it reasonably expects to remain a QALICB at the time the CDE makes the investment. The QALICB shall continue to be treated as satisfying the requirements of ORC 5725.33(A)(4) notwithstanding information which may be disclosed in any annual reporting materials or other required information submitted to ODSA throughout the seven year period of investment.

- 3.8. In accordance with Sub. H.B. 182 of the 131st General Assembly, which becomes effective September 13, 2016, the QALICB restriction under ORC 5725.33(4) which excludes any business that derives or projects to derive fifteen per cent or more of annual revenue from the rental or sale of real property will no longer apply. Accordingly, State Allocatees will not be required to provide supporting documentation evidencing that the QALICB does not derive or project to derive fifteen per cent or more of annual revenue from the rental or sale of real property. Information about the QALICB will be collected as part of the notice of qualified low-income community investment required by program rule OAC 122:22-1-03(A).

4. Schedule of fees (effective January 1, 2011):

- 4.1. The application fee will be \$1,500 per application. The fee is non-refundable and must be submitted with the application.
- 4.2. The servicing fee will be \$17,500 per State Allocatee (\$2,500/year for seven years). The servicing fee is non-refundable and must be paid in full upon execution and delivery of the allocation agreement by the State Allocatee.
- 4.3. Request for QALICB determination fees will be \$100 per determination. The determination fee is non-refundable and shall be paid upon submission of the request for determination.