Agency: Community Development Financial Institutions Fund

Action: Notice and request for comment

COMMENTS ON: CDFI TARGET MARKET ASSESSMENT METHODOLOGIES

BY THE NATIONAL DISABILITY FINANCE COALITION December 19, 2022

Who we are: The National Disability Finance Coalition (NDFC) is the only national organization in the United States supporting community development financial institutions (CDFIs) that serve the historically underserved target market of persons with disabilities (PWD), their families, and the communities in which they live, work, and go to school. Launched in 2015 and incorporated in 2017, NDCF operates as a 501c3 membership network of CDFIs, financial institutions, disability service providers, and individuals with disabilities addressing the unique set of challenges faced by people with disabilities and their families. The NDFC network represents over 100 organizations across the United States, including over 40 organizations that have received dedicated funding from the CDFI Fund (DF-FA) to advance lending and development services to people with disabilities.

About The Disability Target Market: According to 2021 Centers for Disease Control data, 61 million Americans are disabled, which is defined as having a physical, mental, intellectual, or sensory impairment that hinders their full effective participation in society on an equal basis with others (United Nations Convention on the Rights of Persons with Disabilities). Between 1990 and 2000, the number of Americans with disabilities increased 25%, outpacing any other subgroup of the U.S. population during that timeframe. The majority of PWD are poor and underemployed largely due to inequitable opportunities. The National Disability Institute and FDIC Household Survey provides in-depth data outlining the elevated poverty rates and in among households with a disability versus those without a disability.[1];[2]

While the majority of PWD face unequal access to financial products and services, even those PWD who can hold a good paying job experience disproportionate financial vulnerabilities due to the high costs of living with a disability, such as the expenses of accessible van conversions, assistive technology, and home renovations. CDFIs serving persons with disabilities understand that "disability does not discriminate." The disability target market includes all geographies within the U.S. (urban/suburban/rural/native), all races, genders, religious beliefs, and socio-economic conditions.

[1] https://www.nationaldisabilityinstitute.org/wp-content/uploads/2021/12/income-inequality-factsheet.pdf

[2] FDIC 2019 Household Survey https://www.fdic.gov/analysis/household-survey/2019report.pdf

Despite the wide range of disabilities (physical, intellectual, neurological, sensory, and psychological), there is a consistent need for appropriate housing, assistive technology, transportation, education and training, employment, and specialized health and community facilities. Addressing these needs requires capital, thereby constituting an important target market for CDFIs to address with appropriate assessment methodologies.

Target Market Assessment Methodologies Questions from Federal Register

NDFC provides the following comments in response to the CDFI Fund's notice for comments in the Federal Register seeking feedback from the public on the proposed list of pre-approved Target Market assessment methodologies.

Overall comments from NDFC:
Overall, the proposed Target Market assessment methodologies address a very narrow segment of a CDFI's potential disability finance target market. The National Disability Finance Coalition recommendations for modifications to the CDFI Fund's proposed framework would capture a more complete level of service of financing and financial services to the 61 million underserved Americans with Disabilities.

Our recommendations align with commitments by the Biden Administration to incorporate Accessibility into Diversity, Equity, and Inclusion strategies across all federal departments. (See https://www.whitehouse.gov/wp-content/uploads/2021/11/Strategic-Plan-to-Advance-Diversity-Equity-Inclusion-and-Accessibility-in-the-Federal-Workforce-11.23.21.pdf) This strategy recognizes the need to incorporate accessibility and social justice for PWD into housing, community facilities, opportunities for employment and education, transportation, and commercial enterprises.

Through-out this document, we offer specific comments within the CDFI Fund's proposed assessment methodology framework. The following key themes run across all our comments:

- Disability finance is broad, diverse, and ultimately could be part of every financed project. It covers all segments of finance that CDFIs serve – consumer finance (assistive technology), housing (rental, supportive, renovation, and ownership), transportation, health centers, commercial enterprises and main street revitalization, and small business. Hence our comments are intended to broaden the types of activities and transactions that potentially serve the OTP of PWD and more accurately capture the level of service to PWD as an OTP.
- Disability finance, like traditional CDFI financing, is most impactful when it steps into the gap that other lenders fail to meet. As such, it is vital that those CDFIs serving the PWD market are able to provide their critical financial products and services flexibly, quickly, and without undue administrative burden. Hence, like other CDFI programs we recommend more extensive use of borrower and lender attestation rather than the administratively intrusive process of collecting end-user documentation.

Specific comments on the Pre-Approved Target Market Assessment Methodologies

Question (a) from the Federal Register: Do each of the listed Target Market assessment methodologies, if used, provide sufficient confidence as to the level at which an Applicant or Certified CDFI is serving an Investment Area, LITP, or OTP? If no, please identify the methodology, the reason it may inaccurately capture the level of service to an Applicant's or CDFI's Target Market, and how the methodology could be strengthened.

Response from NDFC:

National Disability Finance Coalition believes the current assessment methodologies can be strengthened to reflect the level of services more accurately by CDFIs to Persons with Disabilities as outlined in our recommendations below:

Recipient Type Eligibility

- **Proposed Individual:** At least 50% of the individuals named as recipients in the Financial Product and/or Financial Services transaction agreement are assessed as a person with a disability.
    - **NDFC Recommendation:** We **strongly recommend** that this be modified to read: "At least 50% of the individuals and/***or their family members or legal guardians*** named as recipients of the Financial Product and/or Financial Services transaction agreement are assessed as a person with a disability."
    - **Rationale:** For loans made to individuals, it is common that the applicant and/or co-applicant is a family member or legal guardian. This supports the underwriting and/or streamlines the application process. Disability households are far more likely to be extremely low income versus non-disability households, and as a result almost twice as likely to be denied credit. As such, by allowing family members or legal guardians to be the borrower, it provides greater flexibility for the CDFI to make a loan for needed assistive technology, transportation, or home renovations. By adding "their family members or legal guardian" the assessment methodology will capture loans made for the benefit of PWD, even when the borrower or co-borrower is the family member or legal guardian of the PWD.

    - **Sources:** National Disability Institute: disparity in household income with 65% of disability households extremely low income (under $30,000) version 15.8% for non-disability households. FDIC Household Survey 2019 40% of working-age disabled households were denied credit, offered less than they applied for, or did not apply for fear of being turned down, compared to 23% of working-age nondisabled households.

- **Proposed For-Profit Entity:** If all parties named as recipients in the Financial Product and/or Financial Services transaction agreement are for-profit entities that are wholly owned by one or more individuals (i.e., are not owned in whole or in part by another entity) and are not tax exempt, at least 50% of the owners named as recipients are assessed as persons with disability.

- **NDFC Recommendation:** We **strongly recommend** this be modified to add an additional characterization of Eligible For-Profit Entity: "**Also eligible are for-profit entities that serve PWD, employ PWD, finance assistive technology, or use financial product and/or financial services to build or renovate facilities to have accessibility and/or assistive technology features."**
- **Rationale:** The current definition limits the range of financing activities that for-profit entities provide to support greater accessibility and opportunities for PWD, and potentially harms PWD by limiting their access to affordable financial products and/or services. The proposed modification would capture within the assessment methodology such financing activities as loans to increase accessibility in office and commercial buildings, encourage employment of PWD and growth of businesses that serve PWD. The spirit of the ADA 32 years ago, and all federal guidelines since, including the June 2022 statement by the White House, focus on inclusivity for PWD. Within the context of this assessment methodology, that translates into a broader definition of target market entities and activities as recommended above.
- **Sources:** https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/26/fact-sheet-the-biden-%E2%81%A0harris-administration-marks-the-anniversary-of-the-americans-with-disabilities-act/

- **Proposed Nonprofit Entity:** If all parties named as recipients in the Financial Product and/or Financial Services transaction agreement are tax exempt, at least 50% of the end user recipients of the Financial Product and/or Financial Services transaction are assessed as persons with disabilities.
    - **NDFC Recommendation:** We **strongly recommend** that this eligibility criteria be amended as follow: ***Delete***: "at least 50% of end user recipients of the Financial Product and/or Financial Services transaction are assessed as persons with disabilities. ***Replace with***: "the non-profit entity offers services that benefit PWD, is developing a project that is accessible to and/or serves PWD, and/or it is expected that at least 50% of end user beneficiaries will be PWD."
    - **Rationale:** Much of the unmet financing gaps for nonprofit entities providing housing, or community facilities that serve PWD are in the acquisition, pre-development, and/or construction phases. During those phases, there are no end-user recipients, thus a 50% end user requirement is premature, unnecessarily disqualifying this financing from inclusion in the target market calculation. In addition, even for projects where the end-users are not primarily PWD, the assessment methodology should credit those non-profits that build and renovate facilities to be fully accessible and incorporate assistive technology as serving PWD**.**

- **Proposed For-Profit or Nonprofit Entity**: All parties named as recipients in the Financial Product and/or Financial Services transaction agreement are entities whose sole purpose is to produce/deliver disability related adaptive technology or disability related accessibility modifications.

  - **NDFC Recommendation**: We **strongly recommend** this criteria be amended as follows: "All parties named as recipients in the Financial Product and/or Financial Services transaction agreement are entities whose sole purpose is to produce/deliver disability related ***assistive*** technology, equipment, or disability related accessibility modifications."
- **Rationale:** This modification would align the language in the assessment methodology to the language as enshrined in federal legislation. Per numerous acts of legislation referenced below, Assistive technology (AT) is defined as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability. AT includes the services necessary to get and use the devices, including assessment, customization, repair, and training.
- **Sources**: The Technology Related Assistance to Individuals with Disabilities Act of 1988 (Tech Act) and The Technology Related Assistance for Individuals with Disabilities Act (P.L. 100-407). The Act was amended in 1994 (P.L. 103-218). In 1998 Congress enacted the Assistive Technology Act (P.L. 105-394) and in 2004, the AT Act was amended. See the Assistive Technology Act of 2004 (P.L. 108-364).

Pre-Approved Assessment Methodologies

- **Proposed OTP-PWD.1 –** Individual, owner, or end-user self-reports as a person with a disability.
  - **NDFC Recommendation:** We **strongly recommend** that this methodology be amended as follows: "Individual, owner, or end-user self-reports as a person with a disability,…" to add " **or the entity self-reports that the intent of the work being financed is to provide services and increase accessibility to persons with a disability."**
  - **Rationale:** This broadened definition of self-reporting allows for the full range of financing that supports PWD at all stages of project development. As examples of how this modification will accurately capture the level of service by CDFIs to the OTP of PWD:
    1. This modification will allow supportive housing developer borrowers to attest that housing will support individuals with autism or mental/behavioral health conditions during the much needed early stages of financing (i.e. acquisition, predevelopment, construction) even before residents move in;
    2. This modification will allow business borrowers to report that the financing will help them add an elevator or incorporate other accessibility features and/or assistive technologies so their facilities are more accessible to employees and clients;
    3. This modification will allow entrepreneurs to finance businesses owned by, serving, or employing PWD, as well as financing inclusive customer experiences.

- **Proposed OTP-PWD.2 –** The financing entity visually assesses an individual/owner/end-user's status as a person with disability in-person or via the collection of acceptable documentation.
    - **NDFC Recommendation:** We recommend that this methodology be amended as follows: "The financing entity visually **or auditorily** assesses and individual/owner/end-user's status as a person with a disability in-person**, via phone, or video conferencing,** or via the collection of acceptable documentation."
    - **Rationale:** We agree with the assessment methodology proposed, but would like to offer additions that are specific to the needs of the disability community. Many financing entities are working remotely and assess disability status via phone conversations or video conferencing. Working remotely is especially important for financing entities working with PWD as there are many barriers (transportation, geographic, mobility, etc.) that make offering in-person services challenging or impossible. During interactions with the financing entity, many will self-disclose disability or impairment-related issues or barriers, or have a specific disability that is identifiable auditorily. We feel it would be prudent to add the ability for the financing entity to assess status as a PWD auditorily. We think this is especially important since many PWD are not able to be assessed visually as having a disability. To limit the assessment methodology to a visual assessment will exclude many people that experience disabilities that would benefit from targeted financing.

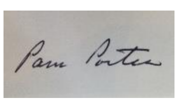
- **Proposed OTP-PWD.3** – The sole purpose of the Financial Product is for the purchase/production/delivery of disability related adaptive technology or disability related accessibility modifications.
    - **NDFC Recommendation:** We recommend the replacement of the term "adaptive technology" with "assistive technology".
    - **Rationale:** This modification would align the language in the assessment methodology to the language as enshrined in federal legislation. Per numerous acts of legislation referenced below, Assistive technology (AT) is defined as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability. AT includes the services necessary to get and use the devices, including assessment, customization, repair, and training.
    - **Sources:** The Technology Related Assistance to Individuals with Disabilities Act of 1988 (Tech Act) and The Technology Related Assistance for Individuals with Disabilities Act (P.L. 100-407). The Act was amended in 1994 (P.L. 103-218). In 1998 Congress enacted the Assistive Technology Act (P.L. 105-394) and in 2004, the AT Act was amended. See the Assistive Technology Act of 2004 (P.L. 108-364).

Proposed Guidance

- Nonprofit end-user verification - the nonprofit entity must assess the percentage of end users who receive the service that are members of the Target Market. The financing entity must verify that the nonprofit is using one of the pre-approved methods to count the transaction as Target Market directed.
    - **NDFC Recommendation:** We recommend that this guidance be replaced by attestation practices currently in practice by CDFIs working with their borrowers. Borrowers may attest at application, closing, and annually while the loan is outstanding to ways in which the financial product and/or service is serving PWD.
    - **Rationale:** This change preserves the flexibility for CDFIs to work quickly and flexibly with nonprofit borrowers to acquire property or other resources, conduct pre-development, and construct facilities that serve PWD. During these phases, there are no end users, although the borrower can attest to their proposed purpose. CDFIs report that by the time the project is operational and serving end-users, the permanent financing has been arranged by another party, and the CDFI thus has no standing to obtain personal information about the end-users.

Thank you for your attention to and support of our comments.

Sincerely,



Pam Porter, Executive Director on behalf of

National Disability Finance Coalition and its Board

Charles D. Hammerman, Disability Opportunity Fund, Board Chair
Susan Tachau, Pennsylvania Assistive Technology Foundation, Board Vice Chair
Greg Maher, Leviticus Fund
Angela Dowell, Chicago Community Loan Fund
Danny Housely, Shepherd Center
Emerson Sekins, Northwest Access Fund, Board Treasurer
Lisa Williams, IFF, Board Secretary
Roxane Herrerra, Camino Financial