

Illinois New Markets Development Program (NMTC) Guidelines

Only an Applicant Community Development Entity that is certified by the Federal NMTC program and has entered into an allocation agreement with the Community Development and Financial Institutions Fund from the U.S. Treasury Department is eligible for the Illinois NMTC Program.

Per P.A. 095-1024, Sec 25(f), the applicant must submit a non-refundable \$5,000 application fee.

An business that derives or proposes to derive 15 percent or more of its annual revenue from rental or sale of real estate is not a qualified active low income community business.

Definitions:

Credit Allowance Date: the date on which the investment is initially made, and each of the six anniversary dates of that date.

Long-Term Debt Security: any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date.

Purchase Price: the amount paid to the issuer of a qualified equity investment for that qualified equity investment.

Qualified Active Low-Income Community Business (QALICB): Under IRC 45D(d)(2), any corporation (including a nonprofit corporation) or partnership, for any taxable year:

- At least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community.
- A substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community.
- A substantial portion of the services performed for such entity by its employees are performed in any low-income community.
- Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in IRC 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business; and
- Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in IRC 1397C(e)).

Any business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate is not considered to be a qualified active low-income community business.

Qualified Community Development Entity (CDE): Under IRC 45D(c)(1), any domestic corporation or partnership if:

- The primary mission of the entity is serving, or providing investment capital for, Low-income communities or low-income persons.
- The entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity, and
- The entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions (CDFI) Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, that includes the State of Illinois within the service area set forth in that allocation agreement.

Qualified Equity Investment (QEI): any equity investment in, or long-term debt security issued by, a qualified community development entity that:

1. Is acquired after the effective date of this section at its original issuance solely in exchange for cash
2. Has at least 85% of its cash purchase price used by the issuer to make qualified low-income community investments in the State of Illinois; and
3. Is designated by the issuer as a qualified equity investment under this definition and is certified by the Department Commerce and Economic Opportunity (DCEO) as not exceeding the statutory limitation of this program.
4. This term includes any qualified equity investment that does not meet the provisions of item (1) of this definition if the investment was a qualified equity investment in the hands of a prior holder.

Qualified Low- Income Community Investment (QLICI): any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in that business, on a collective basis with all of its affiliates that may be counted towards the satisfaction of paragraph (2) of the definition of qualified equity investment, shall be \$10,000,000 whether issued to one or several qualified community development entities.

Tax Credit: means a credit against any income, franchise, or insurance premium tax under Illinois law.

PROCESS:

Only an Applicant CDE that is certified by the Federal NMTC program and has entered into an allocation agreement with the CDFI is eligible to apply for the Illinois NMTC Program.

- The Applicant CDE will apply to the Department of Commerce and Economic Opportunity (DCEO) on a first come, first serve basis, with a non-refundable \$5,000 application fee.
- Applications received on the same day shall be deemed to have been received simultaneously.
- DCEO will review the application for eligibility. DCEO may deny the application in full or in part.
- If denied in part, the Applicant CDE will have 15 days from notice of denial to complete its application. If approved it shall be considered completed on the original date of submission.
- Once eligibility is determined, DCEO will issue a preliminary letter of approval to the Applicant CDE which will include an allocated amount of Illinois NMTC contingent upon QEIs being made within 30 days of the date of the preliminary letter of approval.
- The CDE must provide DCEO with evidence of the receipt of the cash investment within 10 business days after receipt.
- Applicants not successful in gaining proof of investment, or allowing their certification to lapse, may not issue QEI and will be required to reapply to DCEO for certification.
- Approved Applicant CDEs are required to submit an annual report/description of the investment activity into QALICB prior to the anniversary dates of the Credit Allowance Date.

A person or entity that makes a QEI earns a vested right to tax credits. On each credit allowance date of the QEI, the purchaser of the QEI, or subsequent holder of the QEI, is entitled to a tax credit during the taxable year including that credit allowance date.

The tax credit amount shall be equal to the applicable percentage of the purchase price paid to the issuer of the QEI:

- 0% for each of the first 2 credit allowance dates
- 7% for the third credit allowance date
- 8% for the next four credit allowance dates

The amount of tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year which the tax credit is claimed. The tax credit is not refundable or transferable. Any amount of the credit that cannot be used in the taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

Tax credits earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity for their direct use in accordance with the provision of any agreement among the partners, members, or shareholders.

The issuer of the QEI shall certify to DCEO the anticipated dollar amount of such investments to be made in Illinois during the first 12-month period following the initial credit allowance date. DCEO shall limit the monetary amount of the QEI to no more than will produce \$10 million dollars of tax credits in any fiscal year. The limitation of QEI shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

POLICY:

The Illinois Department of Revenue has the right to recapture under the following provisions:

- Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible under this program is recaptured under the federal NMTC program.
- The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment.
- The issuer fails to invest at least 85 percent of the cash purchase price of the QEI in QLICI in the State of Illinois within 12 months of the issuance of the QEI and maintain such a level of investment in QLICI in Illinois until the last credit allowance date for such QEI.

New Markets Tax Credit allocations will be made on a first come, first serve basis. All applications will be date and time stamped. In the event that DCEO receives more requests for allocation than the statutory limits allow on the same day and time (mail delivery), all applications received will on that day will be considered simultaneously received and will be apportioned pro-rata.

DCEO has the right to request supplemental information from the applicant.

QEI shall not be made following fiscal year 2012, unless the program is reauthorized by the general assembly.

Send Application to:
New Markets Development Program
Illinois Department of Commerce and Economic Opportunity
100 W. Randolph St. Suite 3-400
Chicago, IL 60601
312.814.5769
Justin.Lee@illinois.gov